City of Ramsey
Agenda
Regular City Council
Tuesday, March 22, 2022
7:00 pm
Council Chambers, 7550 Sunwood Drive NW

Remote Attendance available at www.cityoframsey.com/meetings. To maximize social distancing due to the COVID-19 Pandemic, those that can join remotely are encouraged to do so. Those joining remotely and requesting to speak are asked to use a webcam when speaking.

1. Call to Order

2. Presentation

1. Presentation of 2021 Photo Contest Winners

3. Citizen Input

4. Approve Agenda

5. Consent Agenda

1. Approve the Following Meeting Minutes:
1. City Council Special Work Session dated 3/01/2022
2. City Council Work Session dated 3/08/2022
3. City Council Regular Session dated 3/08/2022

2. Approve Business Licenses

3. Authorization to Hire a Planning Manager

4. Adopt Resolution #22-079 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of March 3, 2022 through March 16, 2022

5. Adopt Resolution #22-063 Approving the Transfer of Excess General Fund Revenues to the Equipment Revolving Fund, Facilities Construction Fund, Capital Maintenance Fund and Public Improvement Revolving (PIR) Fund.

6. Adopt Resolution #22-064 Electing Standard Allowance under the Revenue Loss Provision of ARPA

7. Adopt Resolution #22-057 Approving Joint Funding Agreement with United States Geological Survey

8. Adopt Resolution #22-065 Authorizing Staff to Apply for Water Efficiency Grant Funds through the Metropolitan Council for 2022-2024

9. Adopt Resolution #22-068 Proclaiming April 29, 2022 as Arbor Day and the Month of May as Arbor Month

10. Adopt Resolution #22-069 Accepting Additional Drainage and Utility Easement Over a Portion of 15153 Vicuna St NW15153 Vicuna St NW; Case of Preserve at Northfork LLC

11. Adopt Resolution #22-070 Approving an Amendment to the Development Agreement for Site Improvements at 7912 Sunwood Drive NW (Project No. 22-101); Case of Northstar Marketplace Station LLC

12. Adopt Resolution #22-071 Approving Revised Assessment Agreements for Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive

13. Adopt Resolution #22-073 Approving Plans and Specifications and Authorizing Advertisement for Bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01

14. Adopt Resolution #22-074 Approving Plans and Specifications and Authorizing Advertisements for Bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06

15. Adopt Resolution #22-075 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04

16. Adopt Resolution #22-076 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Crack Seal Improvements, Improvement Project #22-08

17. Adopt Resolution #22-078 Accepting Proposals for Fire Station No.1 Water Service Stub

6. Public Hearing

7. Council Business

1. Consider Request to Amend a Home Occupation Permit for Peace Keepers, Inc. at 6025 177th Ln NW; Case of Derek Trout

2. Adopt Ordinance #22-15 Rezoning a Portion of the Property Located at 7633 161st Avenue NW to Public/Quasi-Public (Project No. 22-107); Case of PACT Charter School

3. Adopt Ordinance #22-16 Establishing Boundary Lines for the City of Ramsey Ward System

4. Consider Resolution Establishing Precinct Boundary Lines and Polling Places for the City of Ramsey

5. City Attorney Report

6. Adopt Resolution #22-072 Accepting Bids and Awarding Contract for Improvement Project #22-05, Riverdale Drive Trunk Utility Improvements, Llama Street to Bowers Drive

7. Introduce Ordinance #22-17 Amending the City Charter of the City of Ramsey, Minnesota Prohibiting Membership on the City of Ramsey Charter Commission of City Council Members and Providing for Other Restrictions Thereof

8. Review Charter Amendment via a Petition of the Voters per Mn Statute 410.12

8. Mayor/Council/Staff Input

9. Adjournment

CC Regular Session **2. 1.**

Meeting Date: 03/22/2022

Information

Title:

Presentation of 2021 Photo Contest Winners

Purpose/Background:

The purpose of this presentation is to present the winners and awards of the 2021 Photo Contest. The fifth annual photo contest is intended to engage residents in showcasing Ramsey, and their talents as photographers, as well as to collect images for use in City publications.

Entries were to be submitted in four categories and judged and evaluated based on creativity, quality, composition, and expression of category theme. Category themes are outlined as:

- **Nature of Ramsey:** Viewing landscapes, plants, animals, weather.
- **Parks and Trails:** Enjoying parks and trails in Ramsey, highlighting favorite outdoor spaces
- **Industry and Commerce of Ramsey:** Displaying diversity of industrial, commercial and agricultural operations in Ramsey
- **Life in Ramsey:** Celebrating the community through events, recreation, arts, culture, sports, and gathering places.

Recreation Specialist Marla Martinez-Flynn will present a brief slideshow, featuring the winning photo(s) by category and the Overall Grand Prize winning photo.

Attachments

Photos

Form Review

Inbox	Reviewed By	Date
Mark Riverblood	Mark Riverblood	03/14/2022 08:52 AM
Grant Riemer	Grant Riemer	03/15/2022 11:55 AM
Kurt Ulrich	Kurt Ulrich	03/16/2022 10:56 AM
Form Started By: MaryJo Warner		Started On: 03/11/2022 10:20 AM
Final Approval Date: 03/16/2022		

City of Ramsey Photo Contest Entries

Industry and Commerce



Jon Poepke

Life in Ramsey



Libby Krueger



Jeff Branch



Ruth Becker



Ruth Becker



Jenna Martin



Keith Marks



Linda Schlueter



Linda Schlueter



Linda Schlueter



Libby Krueger



Libby Krueger

Nature of Ramsey



Melissa Knoblauch



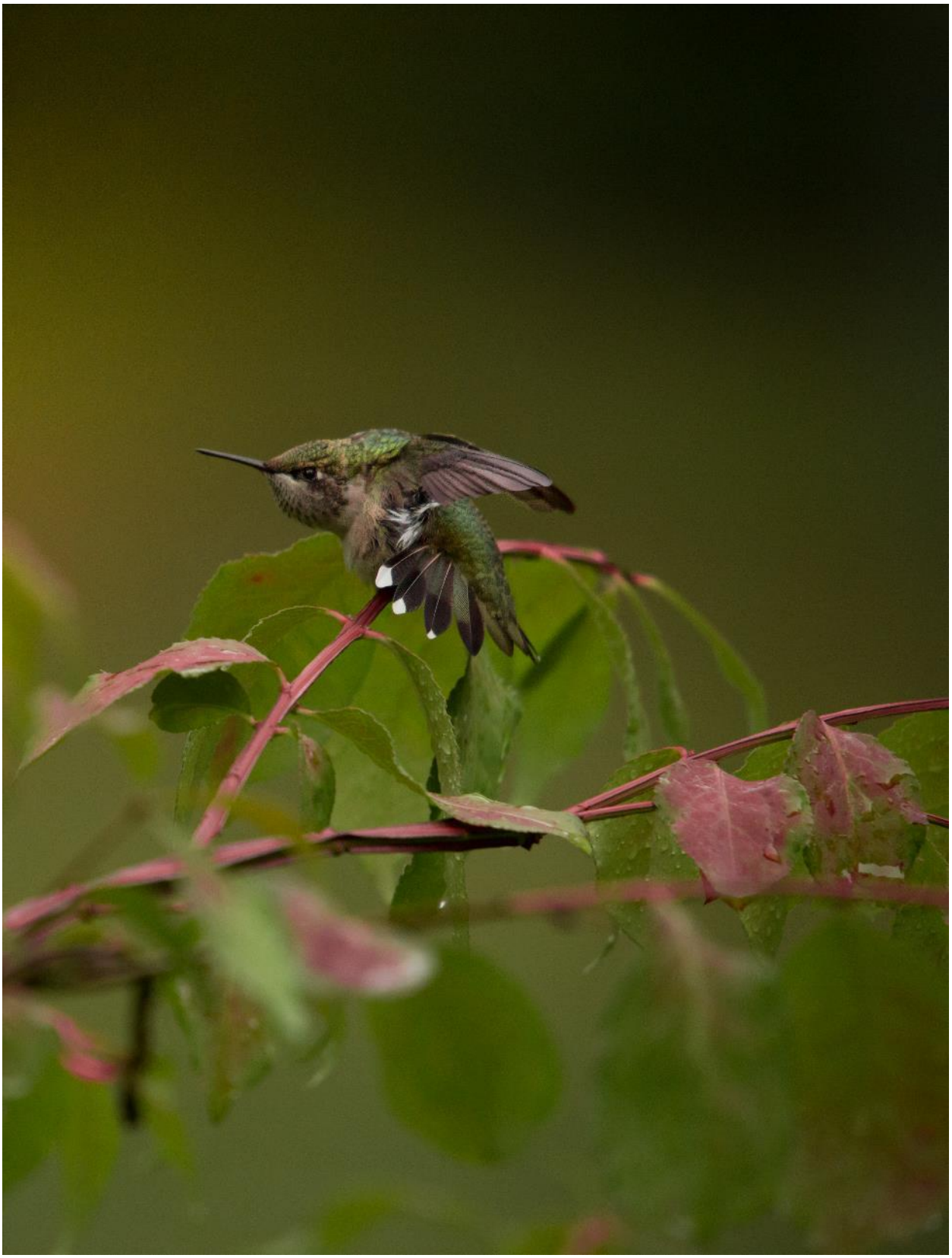
Jenna Martin



David Korzeniowski



Jenna Martin



Jenna Martin



Jenna Martin



Jenna Martin



Jenna Martin



Ruth Becker



Ruth Becker



Ruth Becker



Ruth Becker



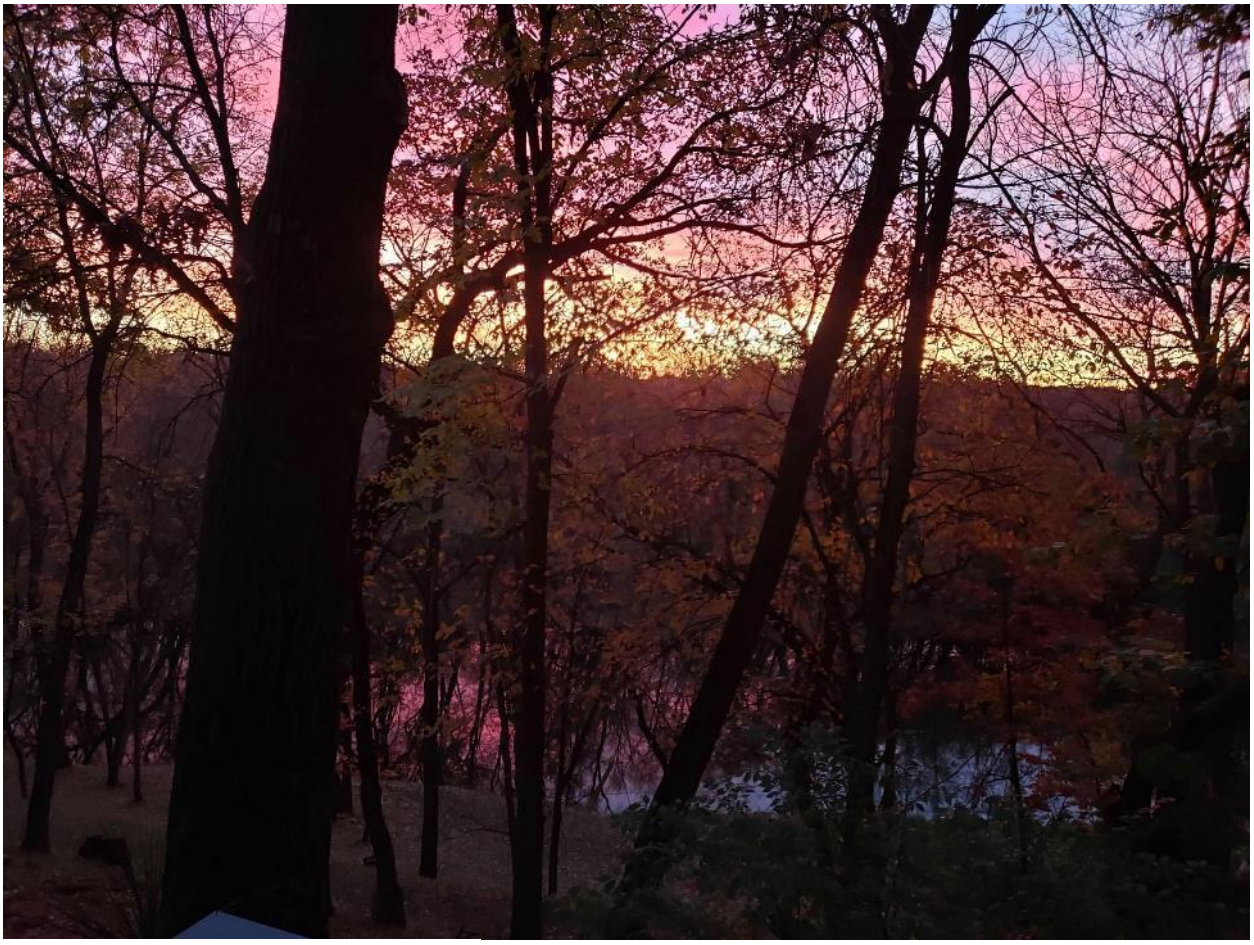
Jenna Martin



Linda Schlueter



Linda Schlueter



Linda Schlueter



Linda Schlueter



Melissa Knoblauch



Jenna Martin



Jenna Martin

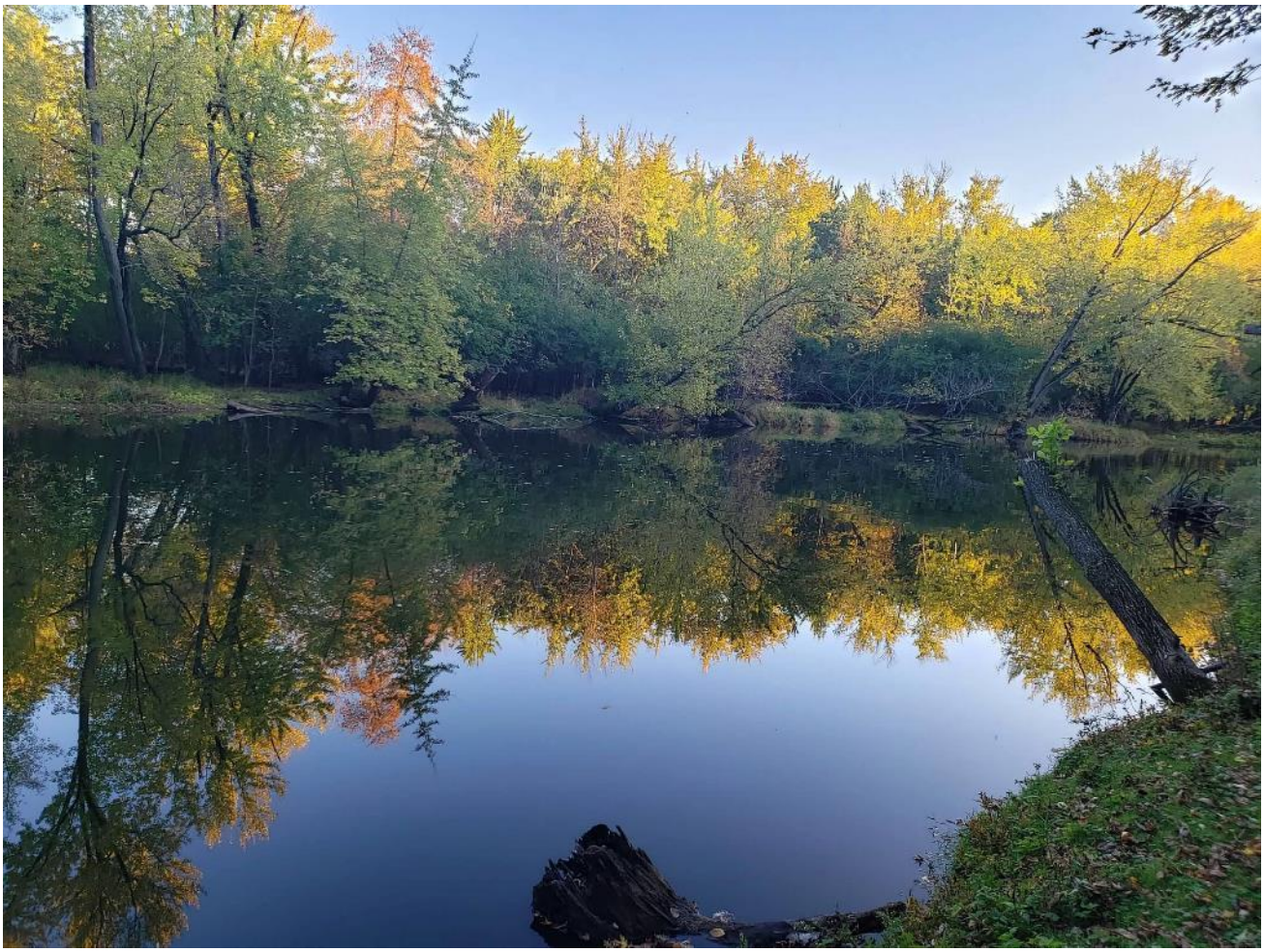


Libby Krueger

Parks & Trails



Linda Schlueter



Linda Schlueter



Keith Marks



Keith Marks



Rebecca Padhy



Kathy Rosenow



Ruth Becker



Dana Smith



Dana Smith



Jenna Martin

CC Regular Session **5. 1.**

Meeting Date: 03/22/2022

By: Katie Schmidt, Administrative Services

Information

Title

Approve the Following Meeting Minutes:

1. City Council Special Work Session dated 3/01/2022
2. City Council Work Session dated 3/08/2022
3. City Council Regular Session dated 3/08/2022

Purpose/Background:

Purpose: The purpose of this case is for Council review and approval of meeting minutes.

Background: Attached are the meeting minutes referenced above.

Recommendation:

Approve the meeting minutes.

Action:

Motion to approve the following Council meeting minutes:

1. City Council Special Work Session dated 3/01/2022
2. City Council Work Session dated 3/08/2022
3. City Council Regular Session dated 3/08/2022

Attachments

3-1-22 Special WS

3-8-22 CCWS

3-8-22 Mtg

Form Review

Inbox	Reviewed By	Date
Colleen Lasher	Colleen Lasher	03/17/2022 03:45 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:23 PM
Form Started By: Katie Schmidt		Started On: 03/17/2022 03:17 PM
Final Approval Date: 03/17/2022		

CITY COUNCIL SPECIAL WORK SESSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey City Council conducted a City Council Special Work Session on Tuesday, March 1, 2022, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present:	Mayor Mark Kuzma Councilmember Ryan Heineman Councilmember Chelsee Howell Councilmember Debra Musgrove Councilmember Dan Specht Councilmember Matt Woestehoff
Absent:	Councilmember Chris Riley
Also Present:	City Administrator Kurtis Ulrich Deputy City Administrator/ Community Dev. Director Brian Hagen City Attorney Fritz Knaak Administrative Services Director Colleen Lasher Deputy City Clerk Katie Schmidt (attended remotely)

1. CALL TO ORDER

Mayor Kuzma called the City Council Work Session to order at 5:35 p.m.

2. TOPICS FOR DISCUSSION

2.01: Discuss Redistricting City Wards and Precincts

Administrative Services Director Lasher presented the case for discussion for the City Council to establish or reestablish ward and precinct boundaries in order for an ordinance to be introduced on March 8, 2022 and adopted on March 22, 2022; in time for the March 29, 2022 deadline. She presented the staff report along with proposals and the supportive response from the County.

Civil Engineer IV Linton stated he has been doing the technical work behind the maps in the staff report and is present to answer questions. He referenced an example which was circulated and has sent a letter to the judges that decide the master district redrawing because in looking at it, he thought they could have done a better job. He noted Hwy 10 by the mobile park where, they came in the west driveway, went up the railroad tracks and then back out the east driveway to Hwy 10 enclosing a small area in Congressional District Three with the remainder staying in Congressional District Six. He believed there was a lot of ridesharing there so people have to go to two different polling places on election day. He wrote a letter to them but he understood it may take a year to resolve. He stated the judge and staff were just looking at numbers and didn't realize that this area is a tight knit mobile home community with a lot of dependencies in it.

Mayor Kuzma asked if that could get changed.

Civil Engineer IV Linton stated it is possible to get changed, he sent something similar to an appeal process, but they are dealing with the whole State so it may take a while. He referenced an exhibit with a rectangle with Elk River School District inside District 11, north of 173rd Ave. He stated the line looks like it may go through an existing house which is around 40 acres. The school districts do their lines after the City gets done. He stated he thought it would be a good time to ask the School District to clean that up. By giving up some land, there isn't enough land for the Elk River School District to achieve 100 houses to bolster their population. It is also outside the MUSA so it is guided by large lot development so not very many lots could go there. He stated if it stays where it is, it requires having two sets of ballots at the polling place and determining which district the voters live in to ensure they get the right ballot. He stated he has spent a lot of time on this.

Councilmember Musgrove asked Civil Engineer IV Linton if he thought that could be resolved with the next election or if that is also a long-term discussion between the school districts.

Civil Engineer IV Linton replied he thought it should be simple. He stated he knows school districts are very possessive of their territory but he didn't feel there was enough there.

Councilmember Musgrove commented it would require a good argument as to why that would be a good thing for both districts and the Ramsey voters.

Civil Engineer IV Linton confirmed this.

Administrative Services Director Lasher commented that the deadline for the school districts to get their maps done is 15 weeks before the primary which is April 26, 2022. She also followed up on a comment she had made the last time they met regarding. She stated she had commented that one of the polling places, Independent Baptist, is a little tight with there only being one entrance. She stated she talked to Paul Linnell at the County about this and he felt that to introduce as little change as possible, with this change would be the wisest thing to do. Given all of the circumstances right now, she asked that that be delayed.

Councilmember Woestehoff asked if the polling places set on an annual basis.

Administrative Services Director Lasher confirmed this.

Councilmember Musgrove referenced the information provided listing the population numbers for each ward. She commented that Ward Three and Ward Four are pretty close but Ward One and Ward Two are not. She asked if the numbers proposed acceptable.

Administrative Services Director Lasher confirmed this.

Councilmember Musgrove asked even if there is a wide swing between two of them.

Administrative Services Director Lasher replied they have been reviewed by Paul Linnell, the manager, at the County and he felt it is an excellent layout and within the allowable spread.

Councilmember Musgrove commented that Administrative Services Director Lasher had forwarded an email from him with the wording "as much as practicable." She thought there was a section of Ward One that could easily go to Ward Two but she wasn't sure how the percentages were worked out. She thought there was a difference and recalled him staying within 5%.

Councilmember Specht replied he called that the numbers should be a little closer.

Councilmember Heineman commented he thought it was around 5%.

Councilmember Musgrove agreed and stated they are at 6% and 4% so maybe it is close.

Councilmember Specht asked if future development was considered or if it was only from the current census. He stated he was thinking about the Riverstone South development coming in and if there are other areas of Ward Three that would be changed.

Councilmember Musgrove thought it was based on current census numbers.

City Attorney Knaak confirmed this, and added although when they are doing the adjustments they can anticipate a likely population increase if they can articulate it. If an increase is being seen in one particular ward because that is where the development is, it can be accounted for within reason.

Civil Engineer IV Linton referenced a sheet and stated they could see where changes were made to get to where it is now. He stated regarding Ward One when all the Councilmember's suggestions were received in an email, instead of having the boundary go up Hwy 47, north of Green Valley Road, the boundary between Wards One and Two, shifts and goes across Green Valley Road which balances things out. He stated along the river in Ward One, Precinct Two, the boundary moved down farther south. He stated in Ward Four, Precinct One the boundary was shifted west to move population into Ward Four, Precinct Two. In Ward Three, Precinct One, the boundary was shifted south to put more population into Ward Two. He stated roads were used as a deciding factor.

Councilmember Howell commented that there is a big variance between Ward One and Ward Two, and between Ward Two and all the other wards. She stated how she reads it is a 10% spread.

Civil Engineer IV Linton confirmed this but stated all of these are compared to the average. He stated he took 27,646 and divided that by four and that works out to about 6,000 people. He stated from the standard they are plus or minus the average, not between each one.

Councilmember Musgrove referenced the map in the case and asked if they are close to the boundaries they had before regarding Ward Three and Ward Four.

Councilmember Specht pointed out where they were changed.

Councilmember Musgrove referenced the greater portion of Ward Four into Ward Three and asked why that was done if it is anticipated that Ward Three is going to increase in potential housing over the next ten years. She also asked why it wasn't left where it was so those residents in Ward Three, Precinct Two, and Ward Four, Precinct One don't have any changes. She proposed that be kept the same, noting there would still be an awkward boundary line area but there would be consistency for those residents with existing boundary lines. She felt there would be growth in Ward Three and Ward Two to the north so the proposals are calculating for some growth in Ward Two but not in Ward Three. She noted that Ward Two is six points lower than the average and they will see an increase in growth over the next ten years but Ward Three will see growth but it is a plus one. She didn't want to take away from Ward Four any more than what is already being done and why it would need to be changed.

Civil Engineer IV Linton replied that before the adjustments, Ward Four was greater than 5%, closer to 10%, above the average. By doing the adjustments and moving some of it to Ward Three brought it below that. He stated continuous streets were used as much as possible in making the adjustments. He stated it is known that Ward Three is growing and will continue but it isn't known how much. He emphasized that the City Attorney recommended to be reasonable in the estimates.

Councilmember Woestehoff asked what the population break would be.

Civil Engineer IV Linton replied he didn't know off the top of his head.

There was brief discussion among the Council with Civil Engineer IV Linton as they looked at the map together.

Councilmember Woestehoff stated the population counts are listed in each of the districts on the previous case. He agreed with avoiding as much change as possible but expressed concern that in keeping that particular piece in Ward Four it looks roughly like an additional 400 or so.

Councilmember Specht replied that it looked to him like he would be losing.

Councilmember Heineman agreed, Councilmember Specht would be losing and Councilmember Musgrove would be gaining.

Councilmember Heineman commented that in looking at the map, when it comes to Ward One, they have north of Alpine and that triangle north of Alpine between Sunfish and County Road 5, that is a chunk that Ward One could give up to lower the number that could go to Ward Four.

Mayor Kuzma replied that is a lot of people.

Councilmember Heineman replied or Ward One could lose some to Ward Two because in looking at south of Nowthen Blvd, west of Sunfish Blvd that is a new addition to Ward One that used to be a different ward.

Councilmember Specht asked if it would make sense to give a little bit of Ward Three to Ward Two, given the addition of the Riverstone South development, even the stuff that borders it.

Councilmember Woestehoff stated that he felt other areas are under development and will continue to grow and Ward Two will end up with all of the Trott Brook North which is a sizable jump.

Councilmember Heineman commented that the biggest discrepancy is between Ward One and Ward Two so to give some of One to Two based on what is proposed would even it out the most.

Councilmember Specht added that Wards Two and Three are most likely going to grow the most at least short term so that is something to think about. He thought giving Ward Two Ward Three and take the whole river section.

Councilmember Musgrove proposed keeping Wards Three and Four the same given the division between them, noting it is easier with the Alpine line straight as a nice clear cut break. She had one other suggestion that would bring Ward One to 7,014 and Ward Two to 6,723 so it would balance by 172 houses but wasn't sure if that was enough.

Councilmember Woestehoff commented that one thing he liked about the map as presented is a lot of the main artery roads are really good dividers now instead of little side streets.

Councilmember Howell stated that she liked Councilmember Musgrove's idea.

Councilmember Musgrove replied she didn't know if that was enough but tried to stay to main streets and some of the other areas had too many houses.

Civil Engineer IV Linton asked for clarification that the Council is comfortable with Wards Three and Four as they are drawn but would like to see more balance between Wards One and Two to see if they can cut out the 10% between top and bottom.

Councilmember Woestehoff replied the discussion that yes, Wards One and Two need a little bit of a shift and it seems the consensus is to keep the border between Wards Three and Four as similar to what it was before, just that particular line.

Councilmember Musgrove replied one for the voters and two for the potential growth.

Mayor Kuzma asked if this is adjusted if it needs to go back to the County to get reapproved so a timing problem is created.

Administrative Services Director Lasher replied it does not have to go back to the County but she would send a courtesy email to get their buy-in so there isn't an issue as the deadline approaches.

Mayor Kuzma commented that it seems like it's pretty simple.

Councilmember Specht asked why does Ward Two go passed Hwy 10.

Civil Engineer IV Linton replied that is the school district boundary. Ward Two, Precinct One, followed the school district boundaries so they don't have a precinct with two separate ballots.

Councilmember Specht commented that it makes sense to get a big development and he is getting a big development but to play with the line probably doesn't really matter.

Councilmember Woestehoff commented that it may have less impact on voters because they may have not voted in an election because they are newer houses.

Councilmember Specht referenced the map and asked how many areas are in the area and if a couple hundred are shifted from Ward Three to Ward Two in the area of Puma Street to balance it out a little more depending on how the numbers come out.

Civil Engineer IV Linton replied that could be possible.

Councilmember Woestehoff replied it would be around 200.

Civil Engineer IV Linton suggested starting at where Ramsey Blvd comes off Nowthen Blvd and down southeast, then to the west, move some of Ward One over into Ward Two, and look at moving Ward Three west of Puma Street into Ward Two. He stated that based on what he was seeing with the numbers, Ward Four was top heavy. He referenced the map and stated this represents the compromise to bring Ward Four down closer to the others. He went over to Sunfish Lake Blvd with the boundary the first time, and that dropped Ward Four way down. He stated he will look at it.

Councilmember Musgrove commented that one of the maps was in the case but she thought it would be good to have them all included or to make a note that updated case files will be in the presentation when they come before the Council so that they have this information for the record.

Civil Engineer IV Linton asked if the Council would like to see three different alternates of numbers. The next meeting to stay on schedule is for introduction of the ordinance.

Councilmember Musgrove agreed with three because that would have more opportunity for discussion and choice.

City Administrator Ulrich stated one would be the original, two would be the amendments made tonight.

Civil Engineer IV Linton agreed they could do that.

Councilmember Musgrove asked if the one with the census numbers could be added to the case and maybe a note that it isn't 100% accurate.

Mayor Kuzma asked if he had the discussion notes on Ward Three and Ward Four.

Civil Engineer IV Linton confirmed this.

Councilmember Woestehoff asked regarding the polling places and using the municipal center for the destination for two different precincts. He stated he could see it being efficient but also confusing at the same time. He asked if the County gave any feedback on it based on what they have seen across the rest of the County.

Administrative Services Director Lasher she didn't have information on that nor has she gotten any feedback on it. When she talked to Paul Linnell, he thought it was a good plan and but didn't comment on that. She stated with early voting, people are used to coming to the municipal center. She stated there may be some confusion but none she was aware of.

City Administrator Ulrich replied the County is planning to mail a postcard to every voter explaining their polling location and asked if it could be taken down to the level of which room to help clarify it. He stated there would probably be a map at the entrance with the two different precincts.

Administrative Services Director Lasher confirmed this.

Councilmember Woestehoff stated that it shows Ward Three, Precinct One and Precinct Three, yet precinct two is the Fire Station which looks like it is outside of the mile boundary. He asked if Precinct Two should be at the Municipal Center instead of the Fire Station.

Councilmember Specht replied he has always voted at the Fire Station and it would hard for people to change.

Councilmember Woestehoff asked if it has changed.

Councilmember Specht replied it has been like that.

Councilmember Musgrove commented on the two precincts being at the same location and that if people are go to the wrong location for their precinct that they would be happier not to have to drive somewhere else instead of just walking down a hallway. She thought that kind of confusion could be easily managed.

Councilmember Woestehoff agreed.

Deputy City Clerk Schmidt commented that the one mile boundary is per ward, not per precinct, so the boundary should be okay.

The consensus of the Council was that the Council was comfortable with Wards Three and Four as they are drawn but would like to see more balance between Wards One and Two. Also to include maps and information associated with this case in the ordinance introduction case for the next meeting.

2.02: Discuss the Recruitment Timeline and Advertising for the City Administrator Vacancy

Administrative Services Director Lasher stated the purpose of this discussion is to consider a detailed recruitment process and timeline for the City Administrator position. In addition, the City Council may wish to look at ways to consider a shortened recruitment schedule in order to reduce the amount of time the city functions without a city administrator. She reviewed the staff report including the advertising outlets. She stated that given Staff capacity the position has not been posted yet as outlined on the timeline in the case.

City Administrator Ulrich stated he received comments from Councilmember Riley who asked if the requirements could be tightened up, the education and experience acceptable to Council in that it is really broad. He stated Councilmember Riley also asked if the number of days in the position is the number of the days that the position is advertised open enough.

Councilmember Specht replied he is comfortable with the education requirement and with the timeline, as it made sense. He stated he appreciated the work that went in to that.

Councilmember Howell commented that she liked Councilmember Riley's point in making sure it is open long enough. She asked if there was a way to extend applications through the entire month of March to ensure everyone is captured. She read where it says "agreement negotiated" and there is a five day window after that between May 5, 2020 May 10, 2022 if there is a way to tighten that up to gain days on the front end.

Administrative Services Director Lasher replied that negotiating the agreement would include the City Attorney and asked if the request was to shorten the negotiation.

Councilmember Howell corrected she is asking if there is way to shorten the days after the negotiation when the person is actually hired.

Administrative Services Director Lasher replied they have to align the authorization to hire with a Council meeting, which is how she arrived at that date.

Councilmember Howell thanked her for answering her question.

Councilmember Musgrove commented that she liked how the City profile was done with the use of the City photos, which was a nice way of presenting the information. She felt it was really done well. She agreed with Councilmember Howell to leave the application window open through the end of March. She cited two reasons, one being to accommodate Staff time to get all of the positions posted on the different sites acknowledging that the different sites have different deadlines; and, closing it on March 20, 2022 versus leaving it open another week would open another week that people could potentially see the ad and apply.

Councilmember Heineman commented that if the process is being moved along, going from March 2, 2022 or March 3, 2022 to March 20, 2022 is still 17 days, over two weeks and is two weeks too short.

Councilmember Musgrove replied the question is if the paper doesn't publish it until a week later then how many days is that, so then its more like ten days.

Councilmember Heineman replied he didn't think two weeks was too short a period of time.

Councilmember Musgrove asked how long the City Planner position was posted for.

Administrative Services Director Lasher replied she believed it was four or five weeks.

Councilmember Musgrove asked how many hits and how many applications did it get.

Administrative Services Director Lasher replied she estimated 350 hits and six applicants.

Councilmember Musgrove replied that is another reason to have a longer time frame to have people see it in the different sources.

Councilmember Woestehoff asked when the six applicants apply, if it was early in the process.

Administrative Services Director Lasher replied of the six applicants she thought two or three applied early in the process and the others applied close to the deadline. She stated they were hoping to have a few more applicants if it was extended a few more days, and letting applicants know about the extension, but no more applications came in.

Councilmember Woestehoff asked about the Deputy City Administrator position, how long that was open and what the application distribution was.

Administrative Services Director Lasher replied she didn't remember, but thought it was typical to get several at first and more at the end.

Councilmember Woestehoff replied that was fair.

Administrative Services Director Lasher commented that originally when she was looking at a way to shorten the recruitment period, she didn't cut down the amount of time the application was open nearly this much but the best she could get it was that the applicant would start on or near June 27, 2022. She stated if the Council's direction is to extend this eleven days to bring it though March 31, 2022, that is going to get it around the end of June.

Councilmember Howell commented she had an idea to work around that. She suggested proposing a start date but for the right candidate, they could start as much as a month later. She asked Administrative Services Director Lasher for feedback.

Administrative Services Director Lasher replied absolutely, that is how it would be done. As soon as they have authorization to hire, it could be the next day or as long as they would require. She stated some people at this level may be required to give a 30-day notice.

Councilmember Musgrove asked what if it was extended to March 25, 2022, which would give Administrative Services Director Lasher until Thursday March 3, 2022 for posting and then have it open for three weeks instead of the end of the month but it would still allow for more time.

Councilmember Heineman replied he liked that idea and added that there may be a good amount of people who wait until the end to apply because they are trying to figure out their options. He thought people would apply before the deadline, whenever that is set.

Councilmember Woestehoff agreed but stated the problem is that on the calendar, there are two weekend days between that so that gives March 27 and March 28, 2022 to schedule interviews. Depending on the number of applicants, it could be a stressful time to schedule the applicants.

Councilmember Musgrove suggested the evening of March 23, 2022.

Administrative Services Director Lasher replied normally they like to allow through 11:59 p.m. Sunday evenings because if it is closed on a Friday, Staff is not there over the weekend and a lot of time Fridays are busy with other activities. She likes to give ample opportunity for people because most applicants are home over the weekend to complete it. Then Staff can get into in Monday morning.

Mayor Kuzma asked if it would be March 27, 2022.

Administrative Services Director Lasher confirmed this, or March 20, 2022 but that was discussed as not a good idea.

Mayor Kuzma recommended March 27, 2022 as being fair.

Councilmember Musgrove asked if that would allow enough time to do first interviews on March 29, 2022.

Administrative Services Director Lasher replied no, that would have to be adjusted.

Councilmember Musgrove asked if it was closed Wednesday March 23, 2022 that would still give more time on the front end to get it posted, a little more time for people to see it and apply and then still be able to do interviews on March 29, 2022.

Administrative Services Director Lasher replied depending on the makeup of the interview panel that is too tight. When it is determined who would want to sit on the panel, those individuals may want to come in and because Staff doesn't know exactly who Council will want to interview from the applicant pool it takes time to schedule. She stated she couldn't go from closing the position to interviewing within four days.

Mayor Kuzma suggested going to March 27, 2022 and adjusting the timetable to what is needed because this has to be done right.

Councilmember Howell referenced the timeline where it says second interviews and the assessment where there is a ten-day window and asked if that is the window during which the work style assessments occur and then answers come back on April 15, 2022 or do the assessments start on April 15, 2022 according to the schedule.

Administrative Services Director Lasher replied she thought she could tighten that up because she listed it "by April 15, 2022." She stated sometimes appointments are not available but she could request a placeholder appointment so it could possibly be shortened to say "by April 12, or April 13, 2022."

Councilmember Howell replied that would save a couple days.

Councilmember Woestehoff agreed that it would save a little time but thought because of when Council meetings are, it wouldn't change the end date.

Councilmember Howell stated it would save time on the front end to allow anyone to apply who wanted to.

Councilmember Woestehoff agreed.

Administrative Services Director Lasher stated Council may want to consider a special meeting at the beginning of May 2022.

Councilmember Musgrove stated she wasn't opposed to a special meeting. She commented that April 15, 2022 is a holiday weekend so it may be easier to make the deadline April 14, 2022 because work style assessments may not be done.

Administrative Services Director Lasher replied she indicated "by April 15, 2022." She understands and wants to expedite this so tomorrow she could call to see what their schedule looks like.

The consensus of the Council was to extend the application deadline to March 27, 2022.

Councilmember Howell commented that in thinking about March 8, 2022 and establishing the process, the meetings they have before the regular work sessions are time constrained and not very many people like to stay late when that happens. She wondered if the process could be set up now as far a who wants to be on the panels. She thought the more that is done now, the more direction Administrative Services Director Lasher would have going forward.

Councilmember Musgrove replied she thought that was going to be included tonight and not just the deadlines.

Administrative Services Director Lasher replied she is open to that and thought it would be helpful for her in terms of who wants to serve on the interview panel. She stated it would be similar to Deputy City Administrator/Community Dev. Director Hagen's hire. She suggested not having a quorum as with the first time with Deputy City Administrator/Community Dev. Director Hagen's position. She wouldn't want to lose candidates because their names are public from the beginning and asked that the interviews be done during the day so Staff are not working 14 hours and it is also difficult for candidates.

Councilmember Woestehoff left the meeting at 6:40 p.m.

Councilmember Heineman commented he thought the process worked well last time.

Mayor Kuzma asked if there will be two rounds of interviews. Administrative Services Director Lasher confirmed this.

Mayor Kuzma stated he would like to sit in on the second round of interviews.

Administrative Services Director Lasher replied it was her assumption that the full Council would sit in on the second interview.

Mayor Kuzma replied then he would want to be in on the first round then.

Councilmember Howell commented she would be on the first round if no one objects.

Councilmember Musgrove stated she would be willing to be in on the first round also and asked about the dates.

Administrative Services Director Lasher replied she wasn't able to work that out yet that she doesn't have her calendar. She asked if it would be acceptable to email dates and times tonight or tomorrow.

Mayor Kuzma confirmed this and asked that they just be given time to set their calendars.

Councilmember Musgrove asked if Administrative Services Director Lasher had the framework that was used for Deputy City Administrator/Community Dev. Director Hagen's position. She thought it was part of the record.

Councilmember Specht asked who all was there.

Councilmember Musgrove replied there were three on the first and five on the next. She asked if inclusion of the department heads would be done the same as last time.

Councilmember Heineman commented last time there were three for the first one to not have a quorum and then seven for the second one.

Councilmember Musgrove commented that for the second interview there was a set of department heads.

Councilmember Heineman replied they interviewed with the Council and the Staff separately.

Councilmember Musgrove asked if the same Staff members would be there for the first round. Administrative Services Director Lasher confirmed this.

Councilmember Musgrove asked if the question was who from the Council would want to be on the first panel.

Administrative Services Director Lasher confirmed this.

City Administrator Ulrich commented the Planning Commission Chair was also included.

Administrative Services Director Lasher replied the Planning Commission Chair and EDA.

City Administrator Ulrich suggested a Commission Chair or two, or a community member, and EDA member, someone outside of the Council and not Staff be included to give a different perspective.

Councilmember Specht asked City Administrator Ulrich if he would want to be included.

City Administrator Ulrich replied he wouldn't and unless Council really wanted him to, he would step back.

Councilmember Howell summarized, that last time the process for the first round was three Councilmembers, Staff, the Planning Commission Chair, the EDA Chair. Councilmembers were allowed to review all of the applications with the understanding that two Councilmembers could move someone forward even if Staff didn't recommend them as an option. After the first round, Council could put through who they wanted for the next round, and then it goes to the full Council. She asked if that was correct.

Administrative Services Director Lasher confirmed this.

Councilmember Howell suggested adding this time that two Councilmembers sit in on the negotiation process for salary and benefits.

City Administrator Ulrich suggested that a model contract be developed that would be presented to the candidate. If there are things that the Council would want included in the new contract that Council or a subcommittee work out the new details to be negotiated.

Mayor Kuzma replied he liked that, that it be pulled together.

Councilmember Musgrove agreed.

Mayor Kuzma stated it could be done during a special Work Session and Staff could pull together what is currently being offered and it could be worked on from there.

Administrative Services Director Lasher asked that if it is correct that two Councilmembers would like to be involved in negotiating the agreement and the City Attorney would draft it.

Councilmember Musgrove asked if that will be discussed at a Work Session.

Mayor Kuzma replied they will pull together at a Work Session what would be offered.

Administrative Services Director Lasher asked if it would be a closed meeting because it is a contract negotiation.

City Attorney Knaak asked if the individual would be present.

Administrative Services Director Lasher replied no.

City Attorney Knaak replied they could do that.

City Administrator Ulrich asked to clarify that they are not talking about specific candidate agreement at this point, just a model contract.

City Attorney Knaak replied a general contract would be a public document and public conversation, but if talking about negotiating terms with someone that would be done more discretely.

City Administrator Ulrich commented when the candidate is identified if they push back on a couple of items on the model contract it could be brought back to the Council during a closed session, just as when negotiating a union contract.

City Attorney Knaak commented that Administrative Services Director Lasher had pointed out there is a standard contract that people are going to know and what the parameters are from the beginning. He thought the process should be quick.

Councilmember Musgrove asked about a policy that says the salary of the top three employees needs to be public and asked if that negotiation needs to be public record or just the salary posting.

City Attorney Knaak replied the salary posting would be, yes, but they could decide whether or not the negotiation would be.

Administrative Services Director Lasher stated the public profile lists a salary range progression and the home page of the website lists the top three wages earners. She stated it is not the wage scale but the actual wage that is posted.

The consensus of the Council was to extend the application deadline to March 27, 2022 and direct Staff to draft a revised schedule for the Council, to include Mayor Kuzma, Councilmembers Howell and Musgrove on the first round of interviews, with the full Council being present for the second round of interviews, and that two Councilmembers would like to be involved in negotiating the agreement that the City Attorney would draft. Terms of the model contract will be discussed at a Work Session.

3. ADJOURNMENT

The Special Work Session of the City Council was adjourned at 6:53 p.m.

Respectfully submitted,

_____
Kurtis G. Ulrich
City Administrator

ATTEST:

_____
Katie M. Schmidt
Deputy City Clerk

Drafted by Joni Helmeke
TimeSaver Off Site Secretarial, Inc.

CITY COUNCIL WORK SESSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey City Council conducted a City Council Work Session on Tuesday, March 8, 2022, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Mark Kuzma
Councilmember Ryan Heineman
Councilmember Chelsee Howell
Councilmember Debra Musgrove
Councilmember Chris Riley
Councilmember Dan Specht
Councilmember Matt Woestehoff

Also Present: City Administrator Kurtis Ulrich
Deputy City Administrator/ Community Dev. Director Brian Hagen
Finance Director Diana Lund

1. CALL TO ORDER

Mayor Kuzma called the City Council Work Session to order at 5:30 p.m.

2. TOPICS FOR DISCUSSION

2.01: Contained Solutions Legislative Proposal (Veteran's Housing Project)

Deputy City Administrator/ Community Dev. Director Hagen introduced the housing project and stated Contained Solutions Executive Director Shawn Towle and his Deputy Executive Director, Kurt Lutzow, were on the call.

Contained Solutions Executive Director Towle stated that because there is a VA clinic in the community, they have a great interest in bringing veterans that need housing to the community. He stated that part of the proposal would be a community center which would focus on workforce development, a veteran building for veterans similar to Habit for Humanity. He stated they are intentionally bringing a new taxpayer base by establishing veterans in permanent housing. He stated they are willing to meet all of the requirements if they build in The COR.

Contained Solutions Deputy Executive Director Kurt Lutzow stated they looked at 12 to 14 communities and each community is slated with this legislation to get it which would be around $8 million dollars.

City Administrator Ulrich asked if Contained Solutions Executive Director Towle had a chance to talk to Representative John Heinrich and Representative Peggy Scott and if they are supportive of the legislation.

Contained Solutions Executive Director Towle stated he has spoken to Representative Heinrich and asked him to sign on the bill but he deferred, stating next year may be better. He stated Representative Heinrich also serves on the committee and that they will be heard on Thursday and will see which way he votes but he expected support. As to Senator Abler, he is on the bill in the Senate.

Councilmember Musgrove asked Towle if there are any building locations already established.

Contained Solutions Executive Director Towle replied there are not any established yet but what is established is a contractor that has built many buildings across the State. He stated there are plans underway with the City of St. Paul, which is a tough place to get through and is being used to work out details.

Mayor Kuzma asked Deputy City Administrator/ Community Dev. Director Hagen where the City is with this.

Deputy City Administrator/ Community Dev. Director Hagen replied Staff has met with Towle and have selected a location that is close to the VA Clinic. They haven't gotten into great detail on site selection but there is land available. He stated it could progress as far as legislation. If it goes through, it would go through the EDA, Planning Commission, and Council for a full review process.

Contained Solutions Executive Director Towle commented that plans haven't been fully formulated but they are looking for the level of interest by the City. He stated there are opportunities to work with other community partners such as the community college.

Councilmember Heineman asked Contained Solutions Executive Director Towle about the plans for the community center he mentioned including a farmer's market. He also asked if there was a focus on vocational rehab for veterans.

Contained Solutions Executive Director Towle replied as far as manufacturing or carpentry work if there are places veterans could plug in. He stated every veteran has a fund they could tap into as well as workforce development grants. There are also federal level veterans job trainings available for certifications and such. He stated the plan is to ask the veterans what they want.

Mayor Kuzma asked Contained Solutions Executive Director Towle if there was something specific other than support that he is seeking from the City.

Contained Solutions Executive Director Towle replied the question is if the City is interested in this project and would want it in the City.

Mayor Kuzma replied it sounds like an interesting project but it comes down to economics.

Contained Solutions Executive Director Towle commented they are looking for a favorable vote.

Mayor Kuzma commented that he thought it sounded like a great project.

Contained Solutions Deputy Executive Director Lutzow responded to the question about vocation, stating he anticipated the people qualifying for masonry or carpentry and they could get training to help build their own house. He stated they have a holistic approach regarding the vets.

Councilmember Musgrove stated she thought this was a good cause but without a lot of detail, she couldn't support it. She wouldn't want to get a work plan that isn't self-sustaining and left to the community to support so she would like to see more of a work plan.

Contained Solutions Executive Director Towle replied he understood her concerns but stated he would need community input for fleshing out the details for the plan. He stated the intention in coming to Ramsey is because of the VA clinic and this takes a process. He stated they will come back after hearing from the State, which may not happen until May 25, 2022.

Councilmember Heineman asked for consensus to direct Staff to monitor and provide details on this project.

Councilmember Musgrove replied she would be okay with that but there are some things that she wouldn't agree with that Contained Solutions Executive Director Towle mentioned.

Contained Solutions Executive Director Towle asked which things she didn't agree with.

Councilmember Musgrove replied she was against public dollars going toward solar because it could have problems.

Contained Solutions Deputy Executive Director Lutzow replied it is not public money, there are funds from a lot of funds. The corporation will own it and have the contract with the power company. He stated they are not asking for money from the City of Ramsey at the moment and don't anticipate that. He stated they are trying to get them in on the ground floor.

Mayor Kuzma stated there is agreement that the Council would like to get more information on it.

The consensus of the Council was to direct Staff to continue to be in communication with Contained Solutions Executive Director Towle and receive updates on legislative decisions and information about the project as it develops.

2.02: Review of Current Policy Allocating Excess/ Deficient General Fund Revenues

Finance Director Lund reviewed the staff report regarding the excess funds and requested direction on allocation. She stressed that the Equipment Fund funds the Capital Equipment within the General Fund budget so it isn't put against the Levy.

Councilmember Musgrove asked, for the benefit of the Council, whether the reluctance of changing the funds in the past has not only been the fact that the funds go into four different funds, that if there is a deficit it comes out of those same ones.

Finance Director Lund confirmed this.

Councilmember Musgrove asked if there is a deficit for facilities that they could borrow funds from the Public Revolving Fund.

Finance Director Lund corrected, for example, if there is a need in a given year that wasn't in the budget, the Facility Fund or the Capital Maintenance Fund could be used to fund those improvements.

Councilmember Specht referenced a discussion about moving excess funds to the Pavement Management Fund to get ahead on that. He questioned if that is a good idea because it would have to be taken from the levy.

Councilmember Riley replied putting it toward the Pavement Fund would sound great but then turning around and having to put something on the levy for facility doesn't make sense. He is comfortable with how things are, as he didn't see it as piling up a lot of money but that it is for a specific purpose and is being used.

Mayor Kuzma commented there is a lot coming in 2023 so he would support keeping it as is.

Councilmember Heineman asked if there is a portion that goes to the Pavement Management Fund.

Finance Director Lund replied, not as a part of this transfer, that goes to the Public Improvement Revolving Fund and then the Equipment Revolving Fund, the Capital Maintenance Fund, and the Facility Fund. She stated when they have the American Rescue Plan Act (ARPA) Funds discussion, then the Pavement Management could be discussed.

Councilmember Riley agreed, adding that might be a good discussion on one-time money, to put it toward trying to get ahead.

Councilmember Musgrove commented that a better job has been done this year to meet needs and not have a lot of excess but there is some excess and because of the ARPA Funds, she is in favor of not making adjustments this year. She felt the ARPA Funds discussion could impact this discussion.

Finance Director Lund asked if they could come back to this after the ARPA Funds discussion because she has to have it formalized at the next meeting with the audit at the end of the month.

Councilmember Musgrove commented there may be a consensus.

Mayor Kuzma asked for a show of hands in favor of keeping it where it is at this point.

The consensus of the Council was not to make adjustments to the funds.

Finance Director Lund thanked the Council and stated this will be on the March 22, 2022 agenda.

Councilmember Specht asked if this should be reviewed every year.

Councilmember Musgrove replied she thought it depended on the amount and where the fund balances are in relationship to the amount of allocation.

Mayor Kuzma stated it comes up every year.

Finance Director Lund agreed, adding there is a transfer every year because there is either an excess or deficient amount.

2.03: Update on Possible Uses of American Rescue Plan Act (ARPA) Funds

Finance Director Lund reviewed the staff report and asked for Council consensus on the standard deduction, which would be $3 million, that could be used for operating budget.

Councilmember Riley replied it seems like an easy decision and asked why they would consider not doing that.

Finance Director Lund replied she has to get Council approval, noting this will be a resolution at the next Council meeting.

Mayor Kuzma asked how fast that would have to be spent.

Finance Director Lund replied they would have to have commitments by December 2024 and would have until December 2026. For example, if there was a contract for a fire truck in December 2024, they could receive the fire truck sometime over the next two years.

Councilmember Specht asked about paying ahead for some of the road funding and if logistically they could do two years' worth of road work if there was enough staff.

City Engineer Westby asked if the question was about timing to prepare the projects.

Councilmember Specht asked if there is an ability of the staff to get two years' worth of work done in one and push things forward and speed things up.

City Engineer Westby replied if they start early enough in the spring, yes, they could do two years' worth of projects in one year.

Councilmember Riley asked about doing a large purchase for police cameras and suggested that be dedicated first and then talk about road funding after.

Finance Director Lund replied when they spoke about the budget when it was adopted funds were dedicated for police cameras.

Councilmember Riley asked if that has already been done.

Finance Director Lund confirmed this and added there has been talk in the legislative session that there may be grants for police cameras.

Councilmember Musgrove asked if Finance Director Lund was looking for consensus on the standard deduction and there will be another case on other potential items.

Finance Director Lund replied the budget discussion will be a good time because there may not be enough time to do two years of road work in 2022.

City Engineer Westby agreed.

Mayor Kuzma suggested putting some of this toward parks because there is a levy for the roads.

Councilmember Riley commented that what was said is that they wanted additional money to be put towards the roads so he thought there was agreement on that. He suggested considering using this, in conjunction with other funding, to pave the last of the unpaved roads.

City Administrator Ulrich clarified that they will need to replace the $3 million dollars for the water treatment plant if they make this decision.

The consensus of the Council was to move ahead with the standard deduction.

2.04: Consider an Ordinance Amending the City Charter of the City of Ramsey, Minnesota Prohibiting Membership on the City of Ramsey Charter Commission of City Council Members and Providing for Other Restrictions Thereof

City Attorney Knaak stated he was requested to draft an ordinance to amend the City Charter prohibiting a Councilmember from serving on the Charter Commission.

Councilmember Riley commented he had suggested that they couldn't sit on the Charter and a Commission at the same time.

City Attorney Knaak stated that would be easy to fix and asked if he was saying that anyone on a Committee such as the Planning Commission couldn't be on the Charter.

Councilmember Riley confirmed this.

City Attorney Knaak replied that would be an easy fix.

Councilmember Musgrove asked for clarification.

Councilmember Riley replied no one could sit on two things, not just Councilmembers.

Councilmember Heineman asked for clarifying language "current Councilmembers" be added.

Councilmember Woestehoff replied it reads "while serving the Council" so it's implied. He agreed and added a question about the line "unless such membership is otherwise required by law," asking if that would include things like Joint Powers agreements.

City Attorney Knaak replied, yes, that is intended to cover situations to which are covered by law.

Councilmember Woestehoff commented on prohibiting those serving on Boards and Commissions from serving on the Charter, that he agreed to a certain extent but pointed out there is a difference between a recommending body versus one that can make policies.

Councilmember Specht asked about someone being on more than one committee or is it that the Charter is different because it is a governing body.

City Administrator Ulrich replied it could be added to the ordinance.

Councilmember Heineman commented he could see that there are different levels, that a Commission member is lateral in their recommendation to the Council. He thought avoiding Charter, Council, and Commission would be good.

Mayor Kuzma asked if they are suggesting that someone couldn't serve on two Commissions.

Councilmember Heineman replied that is the question and he was saying he didn't care because Commissions are lateral to each other. He thought saying no to that could create more community involvement.

Mayor Kuzma replied he liked the fact that it could mean more community involvement.

Councilmember Heineman added, and less concentration of power.

Councilmember Musgrove commented that if they go this route, it is dead on arrival, they can vote this in but when it goes to the Charter Commission, they won't vote for it. So, even though she liked it, she didn't know if there would be a unanimous vote so it would be a moot point. She asked if it would be looked at retroactively.

City Attorney Knaak replied the question is if this would apply to someone sitting on the Council and the answer is yes, because there would be a Charter that is being enacted and the day after that, if there is a sitting Councilmember who is on the Charter Commission that would be in violation of the Charter so the right thing for the Councilmember would be to resign.

Councilmember Musgrove commented she is aware of three Charter Commission members that are in this position and asked that those three people are being asked to vote themselves off the Charter Commission.

City Attorney Knaak stated if the question is that three members of the Charter Commission are also Board members other than Councilmembers, yes, someone who is in violation of the Charter would have to resign.

Councilmember Musgrove asked if this goes to the Charter Commission, would they vote for themselves to be off the Charter Commission.

City Administrator Ulrich commented that the vote at the Charter Commission doesn't need to be a unanimous vote.

City Attorney Knaak agreed that it does not.

City Administrator Ulrich commented it needs to be a majority vote and it is a nine member body.

Councilmember Woestehoff asked about the process and if it was best for the Council to draft the ordinance, then it goes to the Charter, and then it comes back to the Council.

City Attorney Knaak confirmed this.

2.05: Discuss Referendum for Proposed Charter Amendment

Councilmember Woestehoff asked if there was another route that would lead to a referendum on a vote.

City Attorney Knaak confirmed this.

Councilmember Woestehoff asked for City Attorney Knaak to explain those.

City Attorney Knaak asked if consensus is that they want language that states a member of a Commission or Board cannot also serve on the Charter Commission. He explained that in looking at a Charter Amendment, the second part of the case, that says the Charter can be modified in a way in which the Charter Commission proposes an ordinance with a majority and then the Council considers and passes it unanimously and it becomes part of the Charter. Another way is to go to the voters.

Councilmember Howell asked if they send it to the Charter Commission, they have 60 days and can ask for another 90-day extension.

City Attorney Knaak replied yes, that's if the ordinance is passed.

Councilmember Howell asked what happens in 150 days if there aren't people sitting on the Council who want to make that separation of powers. She stated there has been some hostility from some Charter Commission members and asked about the wisdom of bringing it to the voters. She also asked City Attorney Knaak about the process if they would need to pass an ordinance if they were going to bring it to the voters as well as if they were going to bring it to the Charter Commission.

City Attorney Knaak explained the ordinance is passed by the Council and it goes to the voters or the Charter Commission proposes the ordinance. He stated the 90 days she referred to is that in 90 days, it becomes effective under the statute.

Mayor Kuma asked if the Council sends something to the Charter Commission and it is rejected, could the Council send it out for a referendum.

City Attorney Knaak replied they can if they pass an ordinance.

Councilmember Musgrove asked if that is the only way to get it in front of the voters.

City Attorney Knaak replied no, you could have someone do a petition.

Councilmember Heineman stated with a petition, it needs 50% of people registered to vote in the last election.

City Attorney Knaak replied it is a percentage, but not insurmountable.

Councilmember Woestehoff suggested politely suggesting to the Charter Commission that they draft an ordinance to prohibit just the Councilmembers, because that is the major concern. Then it can come to the Council and if approved unanimously and within the timeframe, and doesn't get to a referendum. He thought some things could be done through policy when it comes to selecting Boards and Commissions. He asked if there was interest in putting the relationship of the Charter and Council and put the other things second.

City Attorney Knaak replied that the only way to prevent a Councilmember from sitting on the Charter Commission is via the Charter. That isn't true of the Planning Commission or others which can be done by ordinance, and that is the point Councilmember Woestehoff is making. What matters in getting to the issue is putting it in the Charter.

Councilmember Heineman asked if the concern was that it would be dead on arrival if Commissioners were excluded from the Charter Commission so to increase the likelihood that it will go through, is to address Councilmembers now and address Commission members at a later time through policy. He noted when the Council is selecting Commission members, they could keep it from happening in the future.

Councilmember Howell replied if a policy is trying to be more permanent, doing the Boards and Commissions later will be a less permanent change.

Councilmember Heineman replied if they are afraid that members of the Charter Commission will kill it because they don't want to give up a Commission spot, the Council could increase the probability they don't kill it by removing Commission members from this language.

City Attorney Knaak commented that strong arguments have been made and maybe they could see the merits of that.

Councilmember Musgrove commented she isn't hopeful based on public discussion. She stated that would delay it and drag out the opportunity to get it before the voters. She thought it was too personal for some Charter Commission members so the petition would be the easiest way.

Councilmember Riley asked if she thought the Councilmember would be too personal.

Councilmember Musgrove replied yes, she didn't think they saw the same issue with it or valued the same position.

Councilmember Heineman commented his preference would be to put it on a referendum but asked if they could get it on a referendum if it is delayed 150 days.

City Administrator Ulrich replied the ballot question has to be decided by August, for the general election, so it would be tight. It could also be on a special election for a cost.

Councilmember Howell commented if they are going the route of the Charter and there is hostility and the Chair of the Charter Commission thinks it's dead on arrival, then they would have to go back to the petition route and collect signatures in time for the general election to not have an extra expenditure.

Councilmember Heineman suggested they should pursue all of the above options but not limit themselves.

City Administrator Ulrich stated the recommendation to the Charter coming back to the Council is the most risky in terms of a timeline being extended to the next general election. He asked what is the most expedient way for the Council to lock in a referendum question, and is it the passing of an ordinance which could open the door to going right to the referendum.

City Attorney Knaak replied the quickest way is to have it come directly from the Charter Commission. Otherwise, pass the ordinance and start the process.

Councilmember Heineman commented regardless, it needs to come from the Charter Commission to the City Council and asked why they don't just pass the ordinance and even if they wait the 150 days, it could still be added to the ballot.

Mayor Kuzma asked if it has to be a 7-0 vote from the Council.

City Attorney Knaak replied the Charter Commission could approve it but it would come back to the Council and then could go to the voters. If the Charter Commission suggests a change, then the Council could decide which of the two options they would put in front of the voters.

Mayor Kuzma asked what happens when it comes back to the Council.

City Attorney Knaak replied it would come back to the Council either way, but if the Charter Commission proposes the ordinance, they wouldn't have to go through that, it's much quicker, and it is in the Charter once it's adopted and is a way of avoiding a vote.

Mayor Kuzma asked if it has to be unanimous.

City Attorney Knaak replied the only time it has to be unanimous is when the Charter Commission suggests something to the Council and the Council accepts it.

Mayor Kuzma asked if it comes back to the Council and someone doesn't vote for it, then it becomes a referendum.

City Attorney Knaak replied if the Council approves it and sends it out for a vote.

Mayor Kuzma replied it seems like an extra step to him.

Councilmember Riley commented he liked the easy way and doing it with the Charter Commission proposing it and the Council approving it, then they are done.

Councilmember Heineman asked if they did it that way but it doesn't pass the Council, would it go on the referendum.

City Attorney Knaak replied no, then they have to pass the ordinance which makes it longer and is a chance they take.

Councilmember Heineman stated the only way to ensure it goes to referendum is to propose an ordinance to the Charter Commission, which is what he thought they should do.

Councilmember Howell asked if there would be anything against voters starting to collect signatures for a petition.

City Attorney Knaak replied not at all. He stated that with the system of having a first reading and second reading, even if they were in the process of formally adopting the ordinance, if they were to come to the council in the meantime and it was something they liked, it could be passed and not have to go to a referendum.

2.06: Discuss Ordinance Governing Commission Member Appointment Process

City Administrator Ulrich stated he will take comments and noted that if the Council wanted to introduce the ordinance tonight, it would need to be added to the agenda. He stated it could be "as discussed at the Work Session."

Councilmember Woestehoff commented he would be comfortable if it was limited only to Councilmembers and felt it would be a more comfortable decision for the Charter Commission to make and would most likely pass.

Councilmember Howell commented she would like to keep both of them because if the idea is to keep the Charter Commission separate from everything else, it would be nice to have both come back to the Council.

City Administrator Ulrich summarized the consensus direction is to let the Charter Commission know that they are going to be asked to consider just Councilmembers or Councilmembers and Commission and Board members. He stated that direction could be given to the Charter Commission to get them working on it and then the Council will have to decide on the ordinance and approve that as well.

Mayor Kuzma asked if that is something that could get done tonight.

City Administrator replied they could take consensus direction from the Work Session and then if the Council wants to add the introduction of the ordinance, that would be an action in approving the agenda tonight.

Councilmember Riley commented there is a long agenda already.

City Administrator Ulrich added otherwise it could come back at the next meeting.

Councilmember Heineman asked when the next Charter Commission meeting was.

City Administrator Ulrich replied it is scheduled as needed.

Councilmember Woestehoff replied he imagined one would be scheduled.

3. TOPICS FOR FUTURE DISCUSSION

3.01: Review Future Topics/ Calendar

Noted.

4. MAYOR / COUNCIL / STAFF INPUT

None.

5. ADJOURNMENT

The Work Session of the City Council was adjourned at 6:56 p.m.

Respectfully submitted,

_____
Kurtis G. Ulrich
City Administrator

ATTEST:

_____
Katie M. Schmidt
Deputy City Clerk

Drafted by Joni Helmeke
TimeSaver Off Site Secretarial, Inc.

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CITY COUNCIL
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey City Council conducted a regular meeting on Tuesday, March 8, 2022, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Mark Kuzma
Councilmember Ryan Heineman
Councilmember Chelsee Howell
Councilmember Debra Musgrove
Councilmember Chris Riley
Councilmember Dan Specht
Councilmember Matt Woestehoff

Members Absent: None

Also Present: City Administrator Kurtis Ulrich
Deputy City Administrator/ Community Dev. Director Brian Hagen
Administrative Services Director Colleen Lasher
Senior Planner Chris Anderson
City Attorney Fritz Knaak
City Engineer Bruce Westby
Civil Engineer IV Leonard Linton
Police Chief Jeff Katers
Public Works Superintendent Grant Riemer

1. CALL TO ORDER

Mayor Kuzma called the regular meeting of the Ramsey City Council to order at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Kuzma.

2. PRESENTATION

2.01: Oath of Office- Patrol Officer

Police Chief Katers introduced Kayla LaTarte.

Mayor Kuzma administered the Oath of Office for new Officer LaTarte.

3. CITIZEN INPUT

Jim Gutzwiller, 16651 Quicksilver Street NW, asked for updates on the north entrance to Elm Crest Park and issues related to code enforcement.

City Administrator Ulrich replied they continue to meet with property owners to negotiate purchase of the property while concurrently working on code enforcement, per Council direction.

City Attorney Knaak stated the code enforcement process is ongoing but couldn't discuss specifics.

4. APPROVE AGENDA

Motion by Councilmember Woestehoff, seconded by Councilmember Specht, to approve the agenda as presented.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Woestehoff, Specht, Heineman, Howell, Musgrove, and Riley. Voting No: None.

5. CONSENT AGENDA

Motion by Councilmember Riley, seconded by Councilmember Woestehoff, to approve the following items on the Consent Agenda:

5.01: Receive January 2022 Financial Reports- General Fund and Enterprise Funds
5.02: Receive Cash and Investments for Period Ending February 28, 2022
5.03: Note the Following Boards, Commissions, and Committee Meeting Minutes:
    1) Planning Commission Meeting Minutes Dated November 18, 2022
    2) Planning Commission Meeting Minutes Dated January 27, 2022
    3) Economic Development Authority Meeting Minutes Dated January 13, 2022
5.04: Approve the Following Committee Meeting Minutes:
    1) City Council Special Work Session Dated 2/15/2022
    2) City Council Work Session Dated 2/22/2022
    3) City Council Regular Session Dated 2/22/2022
5.05: Approve Business Licenses
5.06: Authorization to Temporarily Increase a Part-time Administrative Assistant to Full-time
5.07: Adopt Resolution #22-061 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of February 17, 2022 through March 8, 2022
5.08: Adopt Resolution #22-058 Approving Acquisition of Land Required for Riverdale Drive Construction, Improvement Project #20-05
5.09: Adopt Resolution #22-062 Approving Reimbursement of Riverstone South Development Fees

Further Discussion:
Councilmember Musgrove stated, for the record and the audience, that a Councilmember has been appointed to the Charter Commission. She stated the City Attorney has stated the Charter is a constitutional convention, noting the process of his appointment will be discussed later in the agenda. She asked the City Attorney Knaak and City Administrator Ulrich if Councilmember Woestehoff's vote on consent agenda items would be a conflict of interest between the two governing bodies.

City Attorney Knaak replied he believed it would not because the statue allows for a Councilmember to sit on the Charter Commission.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Riley, Woestehoff, Heineman, Howell, Musgrove, and Specht. Voting No: None.

6. PUBLIC HEARING

None.

7. COUNCIL BUSINESS

7.01: Adopt Ordinance #22-13 Vacating Drainage and Utility Easements at 5280 161st Ave NW

Deputy City Administrator/Community Dev. Director Hagen reviewed the staff report stating this ordinance was introduced at the meeting on February 22, 2022. The request is for adoption of the ordinance. He stated this ordinance includes a variance that was accepted by the Planning Commission.

Motion by Councilmember Riley, seconded by Councilmember Musgrove, to waive the Charter requirement to read the ordinance aloud and adopt Ordinance #22-13 Vacating Drainage and Utility Easements at 5280 161st Ave NW.

A roll call vote was performed:

Councilmember Heineman	aye
Councilmember Woestehoff	aye
Councilmember Specht	aye
Councilmember Musgrove	aye
Councilmember Howell	aye
Councilmember Riley	aye
Mayor Kuzma	aye

Motion carried.

7.02: Consider Request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment, Related to a Proposal Second School Campus for PACT Charter School on the Property Located at 7633 161st Ave NW (Project No. 22-107); Case of PACT Charter School

Senior Planner Anderson reviewed the staff report. He stated that a couple of letters from residents came in after the agenda was updated so hard copies were available and included in the public record. He stated the Planning Commission recommended approval of the Comprehensive Plan Amendment and Zoning Amendment, contingent upon an approved Preliminary Plat. The

Environmental Policy Board (EPB) recommended denial because of concerns raised by residents. He stated that he failed to invite the applicant to that meeting but typically applicants are not invited because Staff fields questions and it is a public meeting. He stated Staff is requesting direction via a motion to approve Resolution #22-050 granting a Comprehensive Plan Amendment to re-guide a portion of the subject property to Public/Institutional, and a motion to introduce Ordinance #22-15 to rezone a portion of the subject property to Public/Quasi-Public, both contingent upon approval of Preliminary Plat or a motion to deny.

Mayor Kuzma stated he is a member of St. Katharine Drexel Church but he has no financial interest or benefit in this case so he will be allowed to vote.

Councilmember Heineman commented that his children attend PACT Charter School but it is a publicly funded school and his children are already enrolled so he has no legal reason not to be allowed to vote.

Councilmember Woestehoff stated that the guidance according to the Minnesota Department of Education states that a school of this size is suggested to be on approximately 45 acres of land. He also stated the gross building size was roughly 150,000 square feet for this type of population. He stated this proposal looks like it is closer to 115,000 square feet. He asked if the plans indicate a two story building. He also referenced the requirements for a stadium according to the Minnesota Department of Education (MDE) and asked how the applicant or Staff feels all of that could fit into an 18 acre parcel.

Senior Planner Anderson replied he would defer to the applicant regarding the size of the project in relation to the recommended guidelines. He replied the conceptual layout does include two stories which would account for the 115,000 square feet. He stated the conceptual sketch includes two areas which would account for potential future expansion but he didn't know the square footage of those areas.

Councilmember Woestehoff referenced the sketch plan and asked how much of the 18 acres would be an impervious structure or parking lot and how that would compare to other districts.

Senior Planner Anderson replied part of it will be addressed if it gets to the next step with a detailed site plan. He stated Zoning restricts building covered surface, not impervious coverage with the exception of the overlay districts along the Mississippi and Rum Rivers.

Justin Fincher, JB Vang Partners representative, the development managers hired by PACT Charter School, thanked the Council, Mayor, and residents for comments as it impacts the PACT development plan. He stated they welcome community input because with other projects they have done, it allows them to address areas of concern. He responded to Councilmember Woestehoff's question by explaining the difference in funding from a district school and a public charter school and the process that has gone through by PACT Charter School. He stated a public charter school is drastically different from a public school. MDE is provided with all informational details they require. He stated he has not been a part of a project that has not been approved by the MDE and feels fully confident that MDE will approve this one as well.

Councilmember Heineman referenced Senior Planner Anderson's statements that part of the reason this parcel would have to be rezoned is because there are strict zoning guidance for schools. He asked about other attempts that PACT Charter School has made for different locations and what options they have after that.

Senior Planner Anderson replied his understanding was that PACT Charter School engaged in conversations with the City for property in the southeast corner of The COR. That was something considered but the City wanted to preserve that real estate to draw retail and restaurants to the community. He wasn't aware of other discussions between PACT and the City regarding other locations they have looked at.

Councilmember Heineman stated during the Planning Commission meeting residents raised concerns regarding light pollution, noise pollution, and traffic studies. He stated he understood answers would be coming if this is approved but asked if the studies show undesirable outcomes, if the City could use that information as justification to cancel the project.

Senior Planner Anderson replied that is correct, adding traffic studies have already been provided to the applicant per the Planning Commission to incorporate into the analysis. He stated if issues couldn't be resolved based on that study and if they couldn't comply with code, that would allow for denial of the project.

Councilmember Howell asked about the rezoning proposed tonight compared to what would have been done for Brookside Elementary.

Senior Planner Anderson replied the two rezoning and Comprehensive Plan requests were similar for the two projects, however the Brookside request was larger than the current proposal.

Councilmember Musgrove noted the motion that Mr. Anderson had in his presentation is not the one listed in the case with the Planning Commission's attachment with a contingency. She wanted that noted for the record. She stated residents were concerned about the buffer zones and asked if the EPB had discussed that. She also asked about the size of the buffer and the materials that could be used to mitigate some of these concerns.

Senior Planner Anderson replied that applying the general business standards, which was done for Brookside Elementary School, there would be a 40-foot-wide minimum buffer requirement along the northern property line. He stated they would look at the overall required landscaping for the property and additional 30% of the required landscaping would need to be installed within the buffer area to provide buffer and screening between the two different types of uses.

Councilmember Musgrove asked if 161st Avenue is a Municipal State Aid (MSA) road and if it gets Minnesota State funding.

Senior Planner Anderson confirmed this.

Councilmember Musgrove asked for an explanation in regard to funding and how that works with regard to the source of funding as far as that funding potentially being relieved from taxpayer funding for road and upkeep.

City Engineer Westby replied that is an MSA street so when repairs are needed on that street, MSA dollars can be used. He explained that up to 20% of streets can be added to the Municipal State Aid system. Those streets generate needs based on population and infrastructure. He stated every year about $1.5 million comes in as State Aid Funds which can be allocated across the entire system. The $1.5 million can be used to reconstruct or maintain the streets as needed, this is done through the Capital Improvement Fund. When those roads are done they use the MSA funds and not taxpayer funds.

Councilmember Musgrove asked Mr. Anderson for information on the group of students that would be served by the school.

JB Vang Partners Representative Fincher replied that PACT is currently a K-12 public charter school. They intend to keep that facility but change it to house their K-5 program so the proposal would house 6-12 grades. He stated there is a long wait list and demand for PACT Charter school so this expansion would allow PACT to increase enrollment and reduce the waitlist for the elementary campus.

Councilmember Musgrove commented she wanted to highlight that they were separate buildings with a different student population.

Councilmember Heineman commented on concerns raised by residents during the Planning Commission meeting regarding a school shouldn't be in a residential area. He referenced the zoning map and the the zoning for the surrounding area. He asked Senior Planner Anderson to explain the zoning for Brookside Elementary and Ramsey Elementary and if the zoning differed.

Senior Planner Anderson replied the surrounding area with Brookside Elementary, to the north and south of Brookside as well as to the west, is zoned R-1 Residential, MUSA-80. On the east side of Brookside it is zoned R-1 Residential Rural, which are larger lots with private well and septic.

Councilmember Heineman asked if this proposed site would maintain the balance of R-1 Rural and R-1 MUSA as Brookside currently has.

Senior Planner Anderson replied yes generally speaking although the Brookside site is larger than the current proposal.

Councilmember Woestehoff stated Brookside is on roughly 36 acres and Ramsey Elementary is on 57 acres and both have an enrollment of around 700 students.

Senior Planner Anderson replied the acreages sound right for each of those schools but he couldn't speak to the enrollment numbers.

Danielle Holder, 7826 161st Avenue NW, stated she appreciated the Council listening to the comments. She stated she understood that PACT wants to expand and agreed with that but commented that the decision on zoning isn't based on if expansion is good but rather if this spot fits a school of that size. She stated that Brookside is on a much larger lot and is just elementary students with no stadium. There is a huge buffer between neighboring houses, wells and septic. She stated Ramsey Elementary is the same. She stated in this case, a stadium would be near housing with a buffer of 40 feet. She stated B-1 zoning doesn't include outdoor activity that would occur at a stadium with outdoor lighting and noise concerns. She stated other schools don't exit onto residential roads but onto a county road.

Jeff Lubarski, 7826 161st Avenue NW, stated the street is currently dark and expressed concerns about a two-story school with lights and the noise from the stadium in a residential area.

Allison Pust, 6051 145th Lane NW, stated she moved the Ramsey for PACT Charter school with three daughters who attend and one who just graduated. She supported the expansion and asked for consideration of doing the studies.

Kelsie Buchanan, 6738 153rd Lane NW, stated she understood the concerns but that eight different sites were considered and that the City had encouraged the purchase of the land to support the church and add a high school which wouldn't be a cost for the taxpayers. She thought it would be a small school with traffic impacts twice a day only during the workweek and school year. She thought JP Vang could address the concerns.

Ron Lindenberg, 7600 163rd Lane NW, described his property's location and expressed concerns about erosion and water run off if rainwater that usually drains slowly into the fields and runs into the wetlands is covered up with hard surfaces.

Male resident, 166 177th, stated he has been a long time 40-year resident. He moved to Ramsey because of the country feel, easy living, and few regulations. He expressed concerns about the impact to Ramsey resident's quality of life, high schoolers not respecting the area, and private property.

Scott Weineger, 14450 Rhinestone Street NW, supported the project and stated that he moved to Ramsey so his children could attend PACT. He stated children who attend a high school continue to live in the area. He supported development and felt that PACT will bring many families to Ramsey.

Mike Stuedemann, 1478 159th Avenue NW, Andover, stated he is a trustee for St. Katharine Drexel Catholic Church. He outlined reasons for approval. He stated the block already has Central Park and the church building, the addition of PACT would add a community benefit to the area. The addition of a high school would increase the likelihood of bringing in new families. He stated as property owners, if the request is denied he was unsure how they would maximize their investment. He stated that development in the area is inevitable.

Councilmember Musgrove stated the PACT Charter School wants the 18 acres. The farthest outlot to the north is where most of the wetlands are and where the water run off concerns are from. She

asked Mr. Stuedemann about St. Katharine Drexel's thoughts on the section of land and the use of it.

Mr. Stuedemann replied their intent is leave the outer outlot as wetlands.

Dan Goepfert, 7601 163rd Lane NW, stated the location chosen for the PACT Charter School expansion doesn't seem reasonable because of the concerns already given about putting a commercial operation in a well established neighborhood.

Kathy Reed, 21543 Jarvis Street NW, stated she is a long time resident of Ramsey and a member and trustee of St. Katharine Drexel Catholic Church. She stated the Planning Commission approved the rezoning on February 24, 2022, contingent on approval of the preliminary plat. She stated that the preliminary plat would include responses to the concerns raised over drainage, tree preservation, noise and light pollution. She was surprised to learn the EPB met on February 28, 2022 and voted against this proposal. She stated that representatives from neither PACT Charter School nor St. Katharine Drexel attended and were unable to respond. She stated more environmental studies need to be done. She pointed out the land will be used for something and all of this will need to be addressed. She stated with Central Park on one side and the church on the other, the addition of the school seems a good fit. She stated the church is committed to creating a long-term plan for the parcel of land that respects its natural resources and the surrounding community.

Jason Patrow, 16209 Sapphire Street NW, stated no one is against the PACT Charter School expansion but it isn't wanted in an area where it is going to create difficulties for families who live there. He stated he is an engineering project manager for a large design build contractor. He stated he deals with facilities of these and much larger every day. He knows these require a retention pond. He wasn't sure if the church will require a retention pond also and by selling this much land to PACT they aren't leaving themselves enough land to build. He stated this property is different from the other schools because of the wetlands. He commented on the traffic and stated it will be considerable. The site plan also allows for 55 vehicles which he feels isn't going to be enough. He also sited issues with the site plans for the stadium with a 13-foot elevation change.

Gary Van Scoy, 5851 147th Lane NW, stated he is on the Planning Commission and is also a member of St. Katharine Drexel Church and is the Chair of the Building Committee and a member of the Finance Council. He stated that in discussions with the City regarding PACT Charter School that Chair Bauer and himself have abstained from the discussions even in Work Sessions. He commented that this is being seen as a benefit both to the school and the church because of sharing of parking and storm water retention ponds. He emphasized that this property will eventually get developed. If the land is used as it is currently zoned there would be 54 units on the 18 acres. He stated there are issues being highlighted that will need to be addressed no matter how it is developed. He stated the property has been sitting there for many years and open to the neighbors but recently had to have signs posted because of damage and noise pollution by neighborhood children in unstructured activities such as four-wheelers. He was in support of this project despite the validity of the concerns raised.

Jessica Bush, 17720 Baugh Street NW, stated she shared concerns of the neighboring residents because of the values of rural Ramsey. She stated her four children attend PACT Charter school and she sent an email with concerns. She stated this opportunity will create around 100 new jobs, increase home values, and create a desire to live in Ramsey. She thought there were a lot of opportunities for shared use that will benefit the community. She felt that the expansion would create healthy competition and will help with overcrowding in the schools.

Jacqueline Washburn, 325 Harrison Street, Anoka, she stated she is renting and actively looking for a home in Ramsey. She stated her children attend PACT and her husband will be working in Ramsey. She asked that comments by those who are not current Ramsey residents but hope to be will be considered. She stated that PACT and JP Vang have considered eight other locations but none worked. She stated that Anoka has several schools in residential areas. She supported PACT as a quality Charter school and felt the expansion would allow for even more opportunities.

Amber Cuevas, 7474 163rd Avenue NW, stated she attended St. Katharine Church and had considered PACT Charter school for her children. She expressed concerns about the drainage going into her back yard as well as the noise. She questioned the validity of raising home values for her home with the school so close.

Michael Johnson, 7494 163rd Avenue NW, stated he is a long time Ramsey resident and an educator. He understood that there is a desire for a new school but stated that community is typically built up around a school instead of a school being placed in the community. He stated he raised his children in Ramsey and expressed concerns about losing the small-town feel. He shared concern about drainage as his property has already seen flooding.

Matt Bowl, 7650 163rd Lane NW, shared concerns with the stadium that would be in his backyard.

David Berg, 16210 Uraninite Street NW, shared concerns with the quality of life in the area and the loss of the small-town feel. He stated he would be right across from the proposed church and expressed concern with the size of the lot for the school when other schools are on much larger lots. He also expressed concerns about plans to share the park with the school because it would mean expanding beyond the 18 acres and redoing streets that were just done last year. He stated his grandchildren attend PACT Charter school, he had to get there 20 minutes to drop off children at the current location, and felt the proposed area couldn't support the needs.

Sara Smith, 7480 159th Avenue NW, shared concerns with other neighbors. She stated that Variolite Street is a residential street and the residential development has only one access onto Variolite. She challenged the argument that traffic wouldn't impact the neighborhood that much and asked that current residents be protected and have options for road access.

Josh Nyquist, 14852 Peridot Street NW, Executive of Building Operations at PACT Charter School, stated PACT was started in Anoka and moved to Ramsey in 2004. He stated PACT has honored children and families and values their input. He stated there are over 500 students and a large wait list. He stated this expansion would allow the school to continue to benefit Ramsey, especially at the high school level. He stated they are not able to access the same funding as public schools who can afford to purchase 30+ acres but are able to do more with less.

JB Vang Partners Representative Fincher responded to the comments, which he stated were appreciated. He asked the Mayor and Council to allow the opportunity to conduct due diligence in detail including the issues raised. He stated this issues will be addressed in the upcoming site plan review submission, which is pending tonight's vote. He stated regarding rainwater runoff and stormwater management they intend, once the experts are involved, these would be addressed which will require a separate watershed approval process. He explained why the site was chosen and stated the first priority is that PACT Charter wants to remain in Ramsey and that the site would need to be at least 15 acres to accommodate the projected enrollment. The outdoor space and amenities were considered and it must be on City sewer and utility. This site was also financially affordable.

Chad Glader, 16415 Quartz Street, stated he attends St. Katharine Drexel Church and has children who attend Brookside Elementary because he felt PACT was too small of a school and didn't feel there was a chance for his kids to be accepted. He asked that school be allowed to expand and for site analysis to be done to determine rightness of fit for the community.

Michalena Holder, 8100 153rd Lane NW, stated her son goes to a charter school so she isn't against PACT. She challenged the point that the land will be developed anyway because if houses go in per the zoning there wouldn't be a stadium with the amount of noise. She stated she doesn't leave the house much but she can hear sounds from the park which is several blocks away. She expressed concerns about the school sharing the park space because it will get taken over by the school. She challenged rezoning it first and then working out the details. She asked that the current residents be considered because the area is already busy.

Josh Loren, 6174 146th Avenue NW, stated he has lived in Ramsey his whole life. He stated that there is an adjustment that needs to be made with any change. He stated his children attend PACT and supported the expansion and taking steps to do research on the project.

Jason Tossey, 14417 Bowers Drive, stated he is a teacher at PACT and is a member of the board of directors. He stated he knows change isn't easy but promised the neighboring residents that they will be great partners and will work to address and mitigate the issues raised.

Councilmember Musgrove thanked the residents for coming out to speak. She asked about the motion and what happens if the conditions aren't met and what the conditions are in the Preliminary Plat.

Senior Planner Anderson replied the intention for the contingent approval is that there wouldn't need to be any specific conditions tied to the Preliminary Plat, it would be a project coming forward that would be reviewed under the guidance and codes in the zoning ordinance. Staff would come forward with recommendations to say the project is meeting the standards or it is not. He stated if the Preliminary Plat were to not be approved the zoning would revert back to the current zoning.

Councilmember Musgrove asked if it was correct that it wasn't tied to any specific conditions in the Preliminary Plat with regard to resident concerns, it was more about the whole process and if it doesn't pass it would revert back to the current zoning.

Senior Planner Anderson replied that is correct.

Councilmember Musgrove asked Police Chief Katers to respond to resident concerns about traffic and student driving and asked about any issues with current traffic issues around the current PACT Charter School.

Police Chief Katers replied he didn't have any comments on student driving but has worked with PACT Charter School on traffic issues relating to dropping off students. He stated PACT has been receptive to it and resolved the issues.

Councilmember Musgrove referenced the concern about a turn off of Variolite and asked if the plan is to have traffic come off of Variolite and asked if it was just the buses. She stated she thought the presentation had said traffic would come in and out of 161st Street.

Senior Planner Anderson replied from the conceptual plan, the student drop off would access the site from Variolite Street, would travel south and west to drop off students at the school and then do a U-turn through the parking lot and exit back on to Variolite Street. The buses would circulate through the eastern entrance off of 161st and exit off of the western exit off of 161st Street. The students driving themselves would enter and exit off of the western entrance off of 161st Street.

Councilmember Musgrove suggested a right turn out only and consider another way of traffic flowing in and out of there. She stated regarding water runoff that it goes through a lot of different committees before that is determined and that there are some new concepts with Riverstone South development with a unique way to manage water runoff. She asked for an explanation of the ability of engineers to mitigate concerns regarding the landscape and water runoff.

Senior Planner Anderson replied there is no doubt that there could be a solution engineered regarding water runoff, both the retention and infiltration, but the question would be how expensive that would be and noted that would be borne by the school. He stated for the benefit of the public, that it is not only reviewed by City Staff but also by the Lower Rum River Water Management Organization so there are multiple agencies involved to verify that storm water management are meeting the standards.

Councilmember Specht stated, for full disclosure and because there were questions about it, that several years ago he was the Chair of PACT Charter School although he is not currently and his children don't go there. He thanked everyone for their feedback on both sides. He felt that PACT had a really good relationship with the City and appreciated the benefit. He saw having another church and school in Ramsey as a benefit to the community to draw families to the community. He addressed the question of the school of if the school would be able to manage things well and if the site is big enough by stating that charter schools don't have to follow all the rules of the MDE yet. He stated this expansion would have to be approved by MDE and that the expansion would be for the school and MDE to work out, the Council's decision is rezoning. He stated that he supported this as a benefit and felt the concerns raised will be addressed.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to adopt Resolution #22-050 granting a Comprehensive Plan Amendment to re-guide a portion of the Subject Property to Public/Institutional.

Further Discussion:
Councilmember Specht asked if there were any comments online. Councilmember Heineman commented that he understood the residents' apprehension and stated he has been a long time Ramsey resident as well and has seen the development in the City. He stated he will be voting in support of this and responded to the concerns raised. He mentioned the word "stadium" but stated the field where kids will be playing sports with a track and bleachers is categorized as a stadium that may be presenting a false reality. He played football in Central Park and understand the lights and that there would be lighting added in the area but not to the level that is a great magnitude. He also commented on water management that plans will be put in place to mitigate water. Councilmember Heineman stated that Ramsey couldn't legally allow a building to be built that would flood other houses. He also responded to the comment that the Council isn't thinking of Ramsey residents but there were many residents in support of this. As far as there being enough room to build or not, the right location will be determined through the planning phases. To the point that it is unsafe, that there haven't been traffic accidents that have happened because of students and building a school in a neighborhood makes it safer because it gets more attention from law enforcement. He stated change takes time.

Brian Walker, 17289 Variolite Street, stated he is on the Planning Commission and was the vote against sending this to the City Council. He asked Mr. Anderson what the proposed site is for the church zoned as. Senior Planner Anderson replied the subject property is currently zoned R-1 residential MUSA-80. Mr. Walker asked if that is from Variolite to Central Park. Senior Planner Anderson confirmed this. Mr. Walker commented online that the church is being allowed to change the zoning and get the church there but they have to go through the same process as PACT so assuming that there is going to be a church next to the potential school is wrong. He also stated that when people bought homes in the area they did that based on the current zoning and that changing the rules is not fair without some type of compensation. He hoped the City Council would take into account the effects on the residents.

Senior Planner Anderson asked, based on the current motion, if the Council would consider adding a fourth point in the resolution which would incorporate the contingency about the Preliminary Plat that was a part of the motion for record keeping if the motion were approved.

Councilmember Riley stated they aren't considering changing the zoning blindly, it would be for one specific purpose, which if it doesn't end up going forward would revert back.

Councilmember Woestehoff stated that he lives within the notification area for this project and would be able to see what develops. He stated he has concerns with the size of this school on the proposed lot. He understood that it doesn't have to abide by MDE suggestions as a Charter school but if the guidelines have requirements it doesn't matter where the money comes from. He stated his biggest concern is the access off of Variolite Street that the hill is really rough but adding another point of entry there would add traffic. He stated if it was closer to the park the concerns with drainage and traffic would be less. He stated the drainage issues need to be addressed

regardless. He stated there was an opportunity to expand Central Park but didn't take the opportunity but that would be tricky financially for the City but he felt that would be a better use of the land. He stated that he wouldn't be supporting this because of the lot size.

Councilmember Musgrove commented that she will support this because of the contingency by the Planning Commission. She appreciated the resident feedback but responded to a comment that all of the Councilmembers have a connection to PACT but she does not.

Councilmember Howell commented she doesn't have any connection to PACT either. She stated she shared concerns raised by the EPB about environmental issues. She stated this is a motion to investigate how concerns can be mitigated. She stated there is a perception that Ramsey is difficult to work with. She sympathized with people on 161st Avenue but Ramsey needs a high school and this would allow the developers to due diligence to investigate the concerns.

Councilmember Riley commented he is not affiliated with the church or PACT.

Mayor Kuzma commented he grew up in Robbinsdale which had a football stadium that was in a residential area. He stated he lived half a mile from the school and could hear the games from their house but they looked forward to Friday nights. There was never any complaints as far as he knew. He stated he supported going through with the planning portion of the process.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Specht, Heineman, Howell, Musgrove, and Riley. Voting No: Councilmember Woestehoff.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to introduce Ordinance #22-15 to rezone a portion of the Subject Property to Public/Quasi-Public with the contingency as outlined by the Planning Commission.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Specht, Heineman, Howell, Musgrove, and Riley. Voting No: Councilmember Woestehoff.

Senior Planner Anderson stated the ordinance will need to come back for a second reading per the Charter which will be on the agenda on March 22, 2022.

7.03: Adopt Resolution #22-059 Accepting Bids and Awarding Contract for Improvement Project #20-07, Construction of Salt Storage Building at PW Facility

Public Works Superintendent Riemer reviewed the staff report and recommendation to accept the bid from AB Construction in the amount of $469,110 for construction of the new salt storage building at 14199 Jaspar Street.

Motion by Councilmember Musgrove, seconded by Councilmember Woestehoff, to adopt Resolution #22-059 Accepting Bids and Awarding Contract for Improvement Project #20-07, Construction of Salt Storage Building at 149199 Jaspar Street by AB Construction in the amount of $469,110.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Musgrove, Woestehoff, Heineman, Howell, Riley, and Specht. Voting No: None.

7.04: Adopt Resolution #22-017 Approving Riverstone Outlot Ownership

Deputy City Administrator/Community Dev. Director Hagen reviewed the staff report and recommendation to take ownership of the six outlots with the condition that the developer pay all outstanding taxes through the end of 2022.

Councilmember Riley asked if the City would be taking care of these outlots even if it wasn't in the City's ownership because there is stormwater and there are easements over them.

Deputy City Administrator/Community Dev. Director Hagen confirmed this and added that the general maintenance of the pond for stormwater management purposes the City would have done either way. He stated the lawnmowing is what is typically put on the homeowner's association but in this case the ownership of these outlots weren't in the declaration.

Councilmember Musgrove asked if there is anything written in the documents related to the homeowner's association that tells the homeowners these would be outlots and properties where a flower garden or trees could be planted in order to maintain the integrity of the stormwater. She also asked how often the City does inspections where there are residents right next to the stormwater properties.

Deputy City Administrator/Community Dev. Director Hagen replied the City is required to conduct routine inspections of the stormwaters once every five years. If residents had planted anything they could ask them to remove.

Councilmember Musgrove replied it would be nice for new homeowners to have something in writing so they are aware that is a stormwater area.

Deputy City Administrator/Community Dev. Director Hagen replied they could encourage educational materials but the challenge is with new ownership turnover. He suggested encouraging education during homeowner's meetings. He stated the reality is that homeowners are not buying the stormwater pond that is in stormwater property which would be considered trespassing.

Councilmember Musgrove thanked Deputy City Administrator/Community Dev. Director Hagen for the clarification.

Councilmember Woestehoff asked what happens if the City doesn't want to own these.

Deputy City Administrator/Community Dev. Director Hagen replied, hypothetically a scenario, is that the developer maintains ownership and pays a very small amount of yearly taxes. He stated another scenario is if they don't pay taxes and go into tax forfeiture, the County would take ownership of it and if they say no, the City is next in line and Staff would recommend taking ownership of it at that time.

Councilmember Woestehoff asked if the City would end up taking ownership of it anyway.

Deputy City Administrator/Community Dev. Director Hagen replied there is a very likely opportunity of that.

Motion by Councilmember Riley, seconded by Councilmember Howell to adopt Resolution #22-017 Approving Riverstone Outlot Ownership.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Riley, Howell, Heineman, Musgrove, Specht, and Woestehoff. Voting No: None.

7.05: Consider Request to Amend a Home Occupation Permit for Peace Keepers, Inc. at 6025 177th Ln NW; Case of Derek Trout

Deputy City Administrator/Community Dev. Director Hagen reviewed the staff report and recommendation to amend the level one to allow in person sales of firearms, ammunition and accessories and hosting permit to carry classes out of an accessory structure. He noted the applicant has been in contact with the building permit department and working to finalize a building permit. He stated the request was triggered by a complaint that came to the City. He stated the Planning Commission is recommending denial of this request. He stated the Planning Commission has two suggested conditions if the Council wanted to approve it and the Staff has additional conditions as well. He stated the applicant, Derek Trout, is in the audience to answer questions.

Mayor Kuzma stated public comment would be limited to three minutes each.

Councilmember Heineman asked Mr. Trout about the permit to carry class and asked where the qualification test would take place.

Derek Trout, applicant, replied the qualification test has always been conducted at Total Defense in Ramsey or at another established firearms range. There is no handling of firearms, it is only classroom presentation conducted onsite. He stated there are fake weapon trainers for display and training purpose.

Councilmember Howell asked Mr. Trout about his background and certifications that he holds and reassurances he could offer the Council for reassurance.

Mr. Trout replied he has a certification through the Bureau of Criminal Apprehension (BCA) of Minnesota to conduct firearms training and permit to carry. He stated he has held hunter safety certifications in the past to conduct those trainings as well although he doesn't currently hold that certification and doesn't plan to teach that class. He also has range officer's certification through the United States Army. He stated he has been a machine gun trainer, M4 trainer, M9 trainer, M17 trainer, 240, 249, and a variety of different weapons trainer in the past. He stated his current position with the military is as an ammunition handler and he has studied ammunition for the past

eleven years. He has certified ammunition shipments in five different countries. He has extensive experience in ammunition with firearms and firearm safety with students of all ages.

Councilmember Heineman explained for the audience that Mr. Trout's experience covers everything from a handgun to an antitank rocket launcher, including machine guns.

Councilmember Riley stated Mr. Trout is very clearly experienced and certified but asked about the retail out of his home.

Mr. Trout replied according to the last Planning Commission meeting, retail is legal in residential neighborhoods. He stated the request for round trips per day is the amount of a level 2 permit. He stated the retail is for firearms which would have to be an in-person transfer who would go through a background check through the FBI system, and to make sure they have a permit to carry. He stated he would like to be able to offer additional holsters, optics, accessories and multiple firearm purchases. He stated he isn't asking to have open hours or signage but is looking for appointments only which would allow him to do a screening and background check. He stated the majority of people he has sold to in the past have been friends, family and a variety of public servants. He stated his clients have been repeat customers who he knows and trusts.

Mayor Kuzma asked if people are buying a firearm if they are picking it up from his house.

Mr. Trout replied they are required to pick it up from a licensed dealer or he ships firearms to another dealer across the country. In that case, they ensure the dealer is legal to have the firearms before shipping.

Councilmember Woestehoff stated Mr. Trout is very detail oriented in his certifications and expertise and signed off on the permit with strict conditions but Staff was notified of this because of violations of the permit and asked if Mr. Trout forgot about conditions and because of it is being escalated to a level two permit.

Deputy City Administrator/Community Dev. Director Hagen replied Councilmember Woestehoff was correct that concerns were raised about the activities and asked if something against ordinance was occurring. Staff found there was an existing home occupation permit, looking at it expanding it to an accessory structure which is a move away from just online sales. Staff determined Mr. Trout was in violation and sent a letter and suggested applying for an amended home occupation permit. He stated if the request were denied it would be Staff's recommendation to allow Mr. Trout to correct his operations under the existing permit. If he choses not to, it would potentially go down the revocation path.

Councilmember Riley asked what the number of trips that are allowed and how that compares to other home occupation permits that are allowed.

Deputy City Administrator/Community Dev. Director Hagen replied that because it is a permit there can special conditions placed on it to restrict the impact of the neighborhood such as number of trips per day, number of classes per year or attendees and parking restrictions. He stated it could be difficult to gauge if it is a business trip versus a personal trip.

Senior Planner Anderson replied City Code reads "home occupation shall not generate excessive vehicle traffic which is defined as anything over eight round trips per day" between anything related to the business.

Councilmember Heineman stated that one of his concerns was reasonable trips and Staff is saying there could be limits placed on it. One suggestion was to make it appointment only which it sounds like is something Mr. Trout is agreeable to.

Mr. Trout replied he wants to be by appointment only and make it so no one knows there is a business there.

Councilmember Heineman asked, to be clear, if it was the case that there are other businesses with home occupation permits working in Ramsey doing similar things outside of firearms in terms of appointment only such as piano teachers.

Deputy City Administrator/Community Dev. Director Hagen replied that is correct.

Councilmember Heineman replied the issue isn't around an appointment only business operating with a conditional use permit, the issue is that it is firearms. He stated with the resident's experience, certifications and being a lawful license holder, he didn't have a problem with it.

Councilmember Musgrove thanked Mr. Trout for his service. She referenced when the calls were received by the City, there was discussion about multiple vehicles coming to the property throughout the day and asked if there were more details.

Deputy City Administrator/Community Dev. Director Hagen replied he didn't take the phone call and didn't have the details but there was a general concern expressed at the Planning Commission meeting that there were a lot of vehicles on a street that is a dead end street. He stated a common concern expressed by neighbors that the vehicles weren't known and were concerned about their safety.

Councilmember Musgrove asked if traffic laws were being violated or if a lot of noise was being generated.

Deputy City Administrator/Community Dev. Director Hagen replied no, there was a general concern about not knowing the drivers of the cars coming into the neighborhood.

Councilmember Howell commented she struggled with the fact that it is a public road which are used by everyone and how the burden is put on City Staff to monitor traffic and assess who is coming and if it is for business or personal. She stated this is an issue with trips per day that is in the code. She stated if this were to go through how it would be addressed to avoid having to take Staff time monitoring traffic. She stated it is an unusual business but she stated that there aren't stipulations or safety measures for someone who is a gun collector. She stated the applicant is highly qualified, the Police Chief can have oversight for safety measures, and home occupations are allowed in Ramsey. She stated a concern about someone picking up a firearm from someone

who is doing backgrounds. She compared it to someone who has pit bulls but follows kennel guidelines. She stated the discomfort level centers around picking up in person and the question is if that should be allowed and if there are enough safety measures in place.

Kelly Schmidt, 6000 177th Lane NW, stated she hunts and has a conceal and carry permit. She stated the issue isn't about traffic but a commercial business in a residential area. She stated there are five disabled children in the neighborhood, two of whom are deaf, and the road is a loop. She offered to get information about the number of cars, which is a lot. She stated the original permit was not announced to neighbors. She stated the sales are firearms, not Tupperware. She stated many of the neighbors couldn't stay tonight but many told her they didn't buy in this area to have a commercial gun shop in their backyard, that it is a residential neighborhood. She stated there were signs for the business which Mr. Trout has since removed after complaints but it is advertised as a business on Facebook which show ammunition and bazookas. She challenged Mr. Trout's assertion that he sells mainly to friends and family. She emphasized Mr. Trout's failures on the original permit.

Michael Mass, 5936 177th Lane NW, stated he is the first house coming into the loop so he sees all the neighbors. He stated he moved there to be in a residential neighborhood not to be near a gun shop. He stated he is a gun owner but bought them at a commercial business and he doesn't agree with this in a residential area.

Arnie Knox, 6000 177th Lane, stated he is right next to Mr. Trout and the one who asked City Staff why there is a gun dealer next door. He stated the fact that Mr. Trout got a permit to sell guns online should be a red flag, and then the fact that he didn't follow the level permit. He stated it could effect resale in the neighborhood to have a gun dealer in it. He stated the permit was issued but not regulated or followed-up on instead of waiting for a complaint. He suggested there be a policy to check up on him because it is guns. He felt this was kept a secret and blamed the City for not doing their job.

Brian Heigl, 17826 Potassium Street, stated there are two issues with his neighborhood. One is that there is only one entrance and exit in the neighborhood. He stated there are so many accidents in that area that any increase to the traffic in and out of there is an issue. He stated in the last couple years, there has been an increase in thefts from gun dealers, most of whom are in well-lit business areas where there is less of a chance for thefts. With the suggestion of it being put into a pole barn at the bottom of a hill tucked in at the side of the yard. He thought it could be a target if someone sees it on the website and takes the opportunity. He suggested Mr. Trout be allowed to go back to the original stipulations of the permit and sell out of his home which would have greater security and allow the pole barn to be used for classes, which was his original intent.

Female resident (name and address not stated) thanked the Council for their time. She stated there have been a lot of documentation including emails and phone calls. She asked for the level two Home Occupation Permit (HOP) not be approved and for immediate revocation of the level one HOP. She stated owning a firearms business in a very small neighborhood has a big impact on the families who live there. She stated she has two severely disabled children who may never understand the risks and they live next door to Mr. Trout and this has changed how their live. She stated she supports 2nd Amendment rights but didn't feel this is a safe place to have a firearms and

ammunitions business where there are many families with young children. She asked the Council to think of their families living next door to a gun shop with ammunition and classes with 10 to 20 people.

Deb Kemp, 6003 178th Lane NW, stated she lives around the corner from Mr. Trout. She stated she has a permit to carry and believes in 2nd Amendment rights but doesn't feel that there is enough security in a metal pole building. She challenged Mr. Trout's claim that he knows everyone he sells to and because of Facebook that is a lot of people coming and going. She didn't feel a residential neighborhood was the right place to sell guns or that the guns would be secure.

Mr. Trout responded to the resident comments. In response to cars coming and going all day, he had an average of one sale per day for the last two years which includes online sales. In response to the Planning Commission not doing their job in announcing a home occupation, he stated they aren't required to. He stated they are not requesting commercial but want to stay within residential zoning permit guidelines. He stated there are already seven other homebased FFL's in residential neighborhoods in the City of Ramsey, four of which have manufacturing permits on smaller lots. He responded to the comments that the Facebook page has his address by saying that it only lists Ramsey, Minnesota. Regarding security he stated there is automatic motion sensors on each corner of the pole barn and he meets and exceeds firearm safety security measures. He asked the Council to allow a legal business to continue to conduct a legal business.

Councilmember Heineman asked Mr. Trout asked about the value of merchandise and if it would be advantageous for it to be stolen

Mr. Trout replied he didn't think so.

Councilmember Heineman asked it was conducive for Mr. Trout to secure the firearms.

Mr. Trout replied the firearms are secured in gun safes in the pole barn with automatic locking doors, security doors, and a 24-hour security camera system.

Councilmember Heineman asked if Mr. Trout had friends and family visit him.

Mr. Trout replied he did and they stay with him.

Councilmember Heineman asked if the neighbors felt the need for him to declare family members or friends because he didn't know how it would be regulated. He stated he felt like more of risk than Mr. Trout because he is a gun owner and his address is listed on the internet as well, when Mr. Trout has taken more safety measures. He felt that businesses should be allowed to operate with a conditional use permit out of their homes and this is not a process that isn't done but the difference is because it is firearms. He asked Police Chief Katers if he has looked into this and the referenced a letter from him stating he didn't have any concerns about the security of the building and how it relates to other gun stores.

Police Chief Katers replied he hasn't inspected the property but City Staff has. He stated his approval was based on the first HOP, not the second. He asked the Council, similar to the Planning

Commission, that if it is approved and it is a commercial grade as with others that he be allowed to look at the property to ensure security and safety. He stated he has done that with other commercial businesses in the area.

Councilmember Heineman commented he supported the inspection by the Police Chief and the condition that the business be only by appointment.

Female resident (name not stated) commented there are ways to know the difference between business and family because they arrived at the pole barn and only the pole barn staying between 20 minutes and 2 hours. She stated there have been documentation of the cars.

Councilmember Heineman replied there can be visitors to a home including deliveries and friends of children, etc. that it couldn't be certainly determined. He asked that Police Chief Katers take that into consideration as he is doing a security assessment but he had a hard time telling a resident that if the neighbors didn't know the people coming to a home that it shouldn't be allowed.

Councilmember Howell asked that if this was approved, that the Police Chief sign off on this and add any conditions he deems necessary. She stated she is a former small business owner who operated out of her home and it would have been really distressing to her to have neighbors micromanaging her. She understood the concerns and lack of transparency by Mr. Trout. She stated that if the permit goes through, they will have to find a way to be neighbors to each other and not take this out of proportion. She supports this business and noted given the applicant's background, he would be able to secure his firearms. She stated there is nothing preventing him from being a gun collector and owning a massive amount of firearms and ammunitions. She stated if this is approved, there will be requirements that would need to be met and if they aren't it could be dealt with then.

Ms. Schmidt stated the question is not if the neighbors should get along, it is if Mr. Trout violated the original HOP, which she felt he did and now may be approved for a higher level HOP. She stated Mr. Trout wasn't being held accountable for the violations and that the neighbors were being punished for it.

Michael Kemp, 6003 178th Lane NW, asked Councilmember Howell what kind of business she had.

Councilmember Howell replied it was a piano studio with multiple cars coming to her home.

Mr. Kemp stated he lives on the next block and didn't care about the cars. He stated there are people who walk their dogs daily and there are small children in the neighborhood. He stated there has been vandalism of cars in their yards. He asked if a music teacher is being compared with a gun shop.

Councilmember Heineman replied he is comparing the two in regard to the rules for a small business, which is the same. He repeated his comments regarding guns is that it is an intangible difference that is emotionally driven and not statutory.

Mr. Kemp asked if the application asks for the what kind of a business you will have.

Councilmember Heineman stated he believed so.

Mr. Kemp replied it doesn't seem like you have to because it is a residential area. He stated he worked at a body shop and he has been asked to do that out of his home but he didn't think he could get a permit. He stated it isn't a good fit for the neighborhood because there is one way in and one way out and people wouldn't be there if they didn't live there.

Councilmember Heineman replied that if Mr. Kemp applied for a permit to paint cars as a small business, he would support it.

Mr. Kemp replied the City has said you can't do car repair commercially. He didn't think there was a permit for that and it could only be done in an area that is zoned commercial.

Councilmember Heineman replied if a need was identified and it was within the parameters, he would support it. He stated a paint shop would include combustible materials that would be dangerous to the neighborhood but if it was proven that precautions were taken he would support it.

Councilmember Howell asked if it was correct that steps are being taken regarding the violations which include either going back to the level one HOP or going to the level two HOP.

City Administrator Ulrich replied that is was a result of an enforcement action to enforce the original HOP.

Councilmember Howell replied they are taking steps to address the residents' concerns but it isn't appropriate to move someone from a first violation to abatement; the process needs to be followed.

Female resident (name not stated) commented that enforcement is being talked about and the Police Chief is going to come out to look at it, but after that, how often are gun shops being monitored. She asked who is going to monitor Mr. Trout. She stated he has already violated his permit and none of them have been addressed until neighbors called to complain because no one monitored his gun business.

Councilmember Specht stated he appreciated the feedback from the Council and residents and that he is taking a bigger picture and if this business would be singled out.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to amend the language of Resolution #22-041 to approve the amendment to a Home Occupation Permit Level Two at 6025 177th Lane NW with the condition that it would be by appointment only and that the Police Chief would review the facility.

Further Discussion:
Councilmember Howell asked if the Police Chief would want to make any annual visits or work out a process with Staff to monitor the business in addition to the original inspection.

Police Chief Katers replied what is typically done for commercial businesses is one inspection, not follow-up inspections. He stated code enforcement is done through the Community Development Department and the Police Department doesn't get involved. He stated the Council could order him to do so but he suggested that he do the initial inspection and the community development department do ongoing follow-ups. He stated this case was a result of code enforcement issues. Councilmember Musgrove asked Staff what are the regulations on the number of visits per day with a Level Two Home Occupation permit.

Deputy City Administrator/Community Dev. Hagen replied the Planning Commission, as a part of their discussion, provided two conditions. He stated one was having an inspection done by the Police Chief, the second was to limit the business trips to four per day with the exception of when a Permit to Carry class is held. The classes would be allowed once per quarter in a calendar year with six business cars per the application. He stated that code enforcement is a snap shot in time and code enforcement of vehicles and trips per day would be difficult.

Councilmember Musgrove asked if there were any requirements about hours of operations in regard to trips per day.

Planning Commission Chair Bauer made an inaudible comment.

Deputy City Administrator/Community Dev. Hagen asked Councilmember Musgrove if she heard Chair Bauer's comments.

Councilmember Musgrove replied she did but asked if, because it is a Level Two permit if there were restrictions on hours per day that the trips could go.

Councilmember Woestehoff replied the Council could put restrictions on the hours and the rest would fall within regular nuisance guidelines. He suggested an added condition that the pole barn has to met and pass the final inspection before any sales could happen because it isn't currently up to code.

Councilmember Musgrove asked if Mr. Trout had any input on hours that would work for him if the Council would put parameters on hours of operation.

Mr. Trout replied that he would like three days a week, no more than four hours between 5:00 p.m. and 9:00 p.m. He stated on weekends he would request an eight hour timeframe between 10:00 a.m. to 6:00 p.m. He stated he could be flexible if the Council wanted.

Councilmember Musgrove asked it would make sense to allow four trips on days where he was operating four hours and six trips per day on day he was operating longer.

Councilmember Howell suggested that Mr. Trout stick within normal business hours to not upset the neighborhood, especially since he is an appointment-based business so he can work with the clients but also be respectful of neighbors and not have people over after hours.

Councilmember Musgrove agreed with Councilmember Howell's suggestion.

Mayor Kuzma asked Councilmember Specht and Councilmember Heineman if they were agreeable to Councilmember Woestehoff's suggestion to add to the motion the contingency that the pole barn meets standards.

Councilmembers Specht and Heineman accepted the friendly amendment.

Councilmember Howell asked how the trips are limited to a certain number but also not take Staff time with calls about vehicles of relatives or friends.

City Administrator Ulrich replied annual inspections aren't done, there are conditions which the permit holder has to abide by. He stated if the conditions aren't met, the permit can be revoked and have been revoked by Councils with proper public hearing and process. He stated they rely on neighbors to be the eyes and ears and are a complaint based system as they know the conditions best. He stated monitoring trips would be difficult but if there were complaints they could look at and inspect records of the business or ask to see records of appointments. He stated that interviews could be done regarding complaints. He stated a follow-up inspection is a part of the process and they would ask for accountability.

Councilmember Woestehoff commented that he won't be supporting this, not because of guns, as he didn't care that it was a gun dealer. He stated that the issue for him is that the response of a complaint is issuing a higher level permit, which doesn't sit well with him from a process standpoint. He stated he would be comfortable with keeping it at a Level One for six months to a year to ensure compliance.

Councilmember Riley commented that he would not be supporting this because retail is being allowed in a residential area.

Mayor Kuzma expressed concern about the violations and moving it to a higher level permit, which he didn't think was right.

Deputy City Administrator/Community Dev. Director Hagen asked City Attorney Knaak if it would make more sense to bring back a resolution that is formatted and written in a way that is approving an amended home occupation permit to allow more time to think about conditions that might make sense, because Staff hasn't had an exhaustive conversation. He stated there were 18 noted in the original HOP and he has five more written down.

City Attorney Knaak asked if the question was if it was a good idea for the Staff to take more time to recommend more conditions.

Deputy City Administrator/Community Dev. Director Hagen replied correct, if Council is under the consensus to allow this type of use that it may make more sense to have some additional time to think about conditions making sure they are thinking of everything and have another conversation with the Police Department.

Councilmember Woestehoff replied in the case the resolution is to deny the HOP and one of the reasons why the Planning Commission went that route was so they could outline conditions they thought were important. This included having the Police Chief's review of the facility and a limit of the trips. He stated that even if the wording was a resolution to deny, the motion that was made was to approve with certain conditions and if Staff has other conditions to add that now would be a good time to add them.

City Administrator Ulrich replied there is a motion on the floor and asked that Deputy City Administrator/Community Dev. Director Hagen review the conditions because he wasn't sure if those were in the motion and asked for clarification.

Councilmember Musgrove asked if it was a good time to do that but also for Staff to meet with the applicant to ensure there are parameters and have a good working plan. She stated that has been done with other applicants and if there are going to be more conditions that it was important for the applicant to have clarity and buy-in.

Mayor Kuzma asked Deputy City Administrator/Community Dev. Director Hagen to repeat the motion with the included conditions.

Deputy City Administrator/Community Dev. Director Hagen asked if he should include the conditions Staff had come up with to get Council feedback.

Mayor Kuzma replied now would be the time.

Deputy City Administrator/Community Dev. Hagen stated there is a condition of appointment only, he didn't catch the days of the week the applicant noted, only that he asked for three days during the week with four hours a day and both weekend days with eight hours each. He asked if Council wanted to clarify that more if it should be open for those times to adjust.

Councilmember Musgrove commented she thought one day during the weekend and asked if Deputy City Administrator/Community Dev. Director Hagen had said both days on the weekend.

Councilmember Specht commented that Councilmember Howell had mentioned not wanting to micromanage a business. He asked if days and times were outlined for other businesses.

Senior Planner Anderson replied typically there is a quasi-business plan and based on that, if there is support from Staff and is the will of the Council, those are often incorporated into the home occupation permit because it clarifies it and aids with code enforcement.

Councilmember Specht asked Councilmember Heineman, as seconder of the motion, if he wanted to push it back to Staff.

Councilmember Heineman replied he wanted to consider this permit the same way other permits would be considered. He stated he didn't want to push it through if due diligence hasn't been done; however, if answers to questions were given the same as with other home occupation permits he could go with it. He stated he liked Senior Planner Anderson's comments on a business plan

outlining hours and things of that nature. He asked if it was correct that has been done with other HOP's.

Senior Planner Anderson replied, yes it isn't uncommon to get something like that from the applicant.

Councilmember Howell suggested saying it shouldn't exceed regular business hours and that a plan would have to be worked out with Staff as conditions of the motion.

Mayor Kuzma asked Deputy City Administrator/Community Dev. Hagen if there were other conditions.

Deputy City Administrator/Community Dev. Hagen replied he was still on the first one.

Councilmember Specht stated he would like to see this get passed tonight but that there wasn't enough information from Staff and details worked out and that it would have to be pushed off to another meeting.

City Administrator Ulrich recommended withdrawing the original motion with the second, and to postpone this item until the next regular meeting and direct Staff to bring back a resolution to approve this development with certain conditions that are to be worked out.

Councilmember Woestehoff asked they were within the 60 day window.

Deputy City Administrator/Community Dev. Director Hagen replied yes they are.

Councilmember Specht stated he would withdraw the motion.

Councilmember Heineman withdrew his second to the motion.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to move this item to a definitive date of the next regular City Council session to be on the agenda for review.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Specht, Heineman, Howell, Musgrove, Riley, and Woestehoff. Voting No: None.

7.06: Introduce Ordinance #22-16 Establishing Boundary Lines for the City of Ramsey Ward System

City Engineer IV Linton emphasized that this is a once every ten-year opportunity precipitated by the census of the United States. He reviewed the staff report. He stated wards have to be established by ordinance and tonight the is the introduction of the ordinance. He stated precincts are established by resolution which will be detailed in the next meeting. By State law, forecasts have to be completed by March in order to stay in compliance. He stated the City does their redistricting and the school does theirs after.

Councilmember Specht asked if the ordinance to be voted on would be version three.

City Engineer IV Linton replied in the ordinance it says "see attached city map showing graphically the boundaries of Ward One" and when referencing each version that can be incorporated in. They can look at a multicolor spread sheet in the case that summarizes all the changes, with version two, Ward One is 1.1% below the average population for the wards. Ward Two is -2.2% and Ward Three is +1.5% and Ward Four is -.3%.

Mayor Kuzma asked if Version Three was the most current version with all the changes on it.

City Engineer IV Linton replied that is a further refinement.

Mayor Kuzma asked if that is as close as they have been able to get it.

Councilmember Woestehoff commented Version Two is probably the closest in terms of current population density. He stated the feedback given at the Work Session is that Ward Three indicated for Ward Three's growth so it is a little lower now with the expectation that it is growing. He commented that Staff has worked hard on these and he has given a lot of feedback on this. He stated he could support version two or version three. He stated the question was if they wanted to take into account development for Ward Three or going with Version Two which has a current snapshot. He stated in the ordinance that is approved they could state which map is referred to.

Councilmember Specht commented that he was thankful for the work done on it. He stated he would support Version Three as it corrects a lot of the issues there are between Ward Three and Ward Four that Councilmember Musgrove had brought up. He thought it incorporated a lot of the feedback.

Councilmember Musgrove asked City Engineer IV Linton if it was correct that on version two that it has more normal boundary lines between Ward Three and Ward Four.

City Engineer IV Linton replied they are both about the same and explained the minor differences between the two on a street level.

Councilmember Council asked if Version Two was the closest to the current district lines.

City Engineer IV Linton replied that is correct and added that Version Three takes into account some future development but there is a risk if future development is anticipated too much that the percentages could be pushed out of the recommended guideline of 5%.

Councilmember Musgrove commented that Version Two and Version Three represent the practicable definition they were supposed to get to so she was okay with either one.

Councilmember Specht commented that he would hate to lose some of the residents in Ward Three because each one is wonderful.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to introduce Ordinance #22-16 Establishing Boundary Lines for the City of Ramsey Ward System adding Version Three Map to the Ordinance in the Applicable Places.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Specht, Heineman, Howell, Musgrove, Riley, and Woestehoff. Voting No: None.

City Engineer IV Linton commented that the revised ordinance and the resolution will be on the agenda for the next Council meeting.

7.07: Approve the Replacement of the River's Bend Park Monument

Public Works Superintendent Riemer reviewed the staff report and recommendation of replacement of the River's Bend Park Monument. He asked about the contrast that was shown in the original packet and had asked the design team to come up with a couple more to see if it would be more to the Council's liking.

Councilmember Specht if the blue suggested would be the standard Ramsey blue.

Public Works Superintendent Riemer replied the Staff thought maybe the browns would work better for the park system as more of a natural color.

Councilmember Musgrove stated she had this pulled from the consent agenda because she wanted to have more options with the park sign. She liked the contrast better with the lighter color in the background and that the lettering would look better in a darker color. She stated she would be okay with either the brown on the lighter contrast or the darker black letters as seen on Public Works because it is easier to read versus it all being the same.

Motion by Councilmember Musgrove, seconded by Councilmember Woestehoff, to approve the Signation Sign Group Inc.'s quote in the amount of $16,580.

Further Discussion:
Public Works Superintendent Riemer stated the lettering is made out of a special kind of metal that to get the dark brown color they let it rust out, so they would get the black lettering but they wouldn't be able to use what was listed in the case. Councilmember Musgrove replied she was okay with the brown as it is in the case. She stated she liked the lighter color background color.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Musgrove, Woestehoff, Heineman, Howell, Riley, and Specht. Voting No: None.

7.08: Investigation of City Affairs

City Administrator Ulrich stated this case is a follow-up to the lengthy discussion of the filling of the Charter Commission vacant seats. There were some inferred improprieties and there were subsequent follow-up by Councilmembers asking additional questions. He stated that the Council as a body is the one in charge of investigations and he wanted to verify with Council that work

should continue with this and if questions were satisfactorily answered. He also offered the opportunity for the City Attorney to be a neutral party to supervise the investigation because the City Clerk and himself have been called into question in regard to the process. He stated that he welcomed continued input and bringing this to a conclusion. He thought it was explained last meeting that there were some irregularities because this process isn't done all the time and there are some changes from year to year. He stated they were doing the best they could in trying to fill the positions and give people opportunity. He understood the feelings that there was not equal opportunity but the official wording is that the positions are open until closed. He stated there is some urgency for people to apply because if enough people apply and get appointed, then the positions are no longer there and there is no guarantee those positions will be there. There are periodic openings in all of the Commissions including the Charter Commission. He reminded that the Staff and Council have tried to stay away from making recommendations for Charter appointments. He stated the judge pointed out that other cities take a more active role but the City of Ramsey, in the past, has not chosen to take a more active role in the appointment of Charter Commission members and that the Charter Commission has not taken that role either, though they could. He stated the Council is considering policy changes to address the issue of Councilmembers serving on the Charter based on the appointment.

Councilmember Musgrove commented that in her time being on the City Council since 2018, she has been through a few processes of appointing Boards and Commission and didn't know if there was a good process. In looking at this case, she discovered some things. She stated in March 18, 2022 the discussion for Boards and Commissions had the Minnesota statue from 2017 and in any of the other cases that have been presented on the Boards and Commissions, there has never been an attachment for a policy. She stated that even as late as February 28, 2022 when there were discussions of Boards and Commissions, there wasn't a policy attached to it. She didn't know how the Council could ask for fairness and information sharing equally among Council Members and not get policy information. She stated she has seen more things the longer she is on the Council. She stated the policy change in 2016 took away the Boards and Commissions from the Council and moved it to Staff. She stated that in point one of that process, it is an incumbent reapplication process so that is the policy that the City is supposed to be following. She read paragraph three "the City Council will meet, discuss, and determine whether or not recommendations for reappointment would be made. If a determination that the City Council does not wish to reappoint the incumbent, the incumbent will be notified and that individual's seat will be advertised. If it is determined the incumbent will be reappointed, the incumbent will be notified and the seat will not be advertised." She stated that part of the process she has never been a part of so that has never happened before the advertising. She stated in her duration on the Council, the administration in presenting cases with Boards and Commissions has never followed the policy of presenting the incumbents first before the Council to have a discussion about reappointment and then advertising for the open positions. She stated that was a recent change to policy.

Councilmember Musgrove stated she would have appreciated the Staff presenting the policy every time there was a discussion about Board and Commission applications. She stated that recently there was a case about a manufacturing cohort and she went looking for information about it. She was told by members of another city's Council that the Staff doesn't support the Council because Councilmembers have to go looking for information when their staff provides information when asked plus additional information. She asked if the Staff wasn't aware of the policy regarding

Boards and Commissions. She felt the Council needed respect from Staff in getting them information. She noted there were no comments that took place between Councilmember Woestehoff and Staff regarding the redistricting and that shows inconsistencies.

Councilmember Musgrove stated she wanted to go back to look at the policy they just passed in light of the established policy.

City Administrator Ulrich stated that he got a document from Councilmember Howell and copies were handed out. He responded to the questions and concerns. He stated that he has respect for Councilmembers as representatives of the residents. He stated that he knows Councilmembers have the difficult job of hearing differing opinions and making decisions. He views his job is to work with seven different Councilmembers, each with differing opinions on issues. He knows there has been criticism in the past but he assured that he and the Staff don't pick favorites or play favorites as a value. He stated they try to provide information requests and try to do as fairly as possible. He understood perceptions could be different. He stated Councilmembers can come in and ask questions but if it gets into hours of Staff time, the practice in the past is that the whole Council deserves to know where resources are utilized. If the seven different Councilmembers are asking for differing investigations of one sort or another, Staff time accumulates. He stated everyone should know generally what is happening and what things are taking a lot of time and research time is shared. He stated as a practice, based on Council feedback, information such as which Councilmember is asking the question is filtered so names aren't shared. He thought in the past, it has worked well and the Council has been well informed. He stated he sees value of sharing information and doesn't see value in changing that policy. He thought the policy of appointing incumbents has been followed. He responded to the question of Staff finding answers to questions that he thought they were responsive and no effort was made to hide information regarding the manufacturing cohort.

Councilmember Musgrove corrected, the information that she was asking for was, for example, when an EDA Councilmember asked what 18 businesses were involved in the manufacturing cohort and no one at the Staff level looked into it until another Councilmember asked and then the answer was provided the day of the Council meeting. She stated that several members of another city's Councilmembers volunteered the comment that the Ramsey Staff doesn't support them.

City Administrator Ulrich responded he respected her opinion and it is valid because it is her perspective but from his perspective, Staff goes the extra mile in getting information but they try the best they can. He stated if the position is that the Council never is provided enough information, he is sensitive to her concerns and will instruct Staff to provide more information. They are not trying to not provide enough information for them to not be able to make decisions.

Councilmember Musgrove pointed out that in four years she has never seen the policy and process of appointment for City Boards and Committees. That is an example of not going an extra mile, it is simply a base part of the case. She gave another example of negotiation with contracts that they are never presented with the original contract, only the changes, and only got the original after asking, but she thought that was a base part of the case as well. She stated she isn't asking for Staff to go way out of their way.

City Administrator Ulrich replied typically with union contract negotiations, Staff are looking at the big compensation items and they do provide a red line version of the contract as a part of the process. Staff is trying to get guidance first on the big compensation items. He thought the negotiation process went well and this year Staff sat down with the Council to negotiate contracts earlier and necessary information was provided. He heard her saying that she would like the base documents up front but he has sometimes had concerns that there is too much information for the Council to review and the important information would get lost but if that is wanted, Staff could provide more information.

Administrative Services Director Lasher responded to the question regarding incumbents. She stated, specifically with regard to the policy that Councilmember Musgrove mentioned, it was last updated in 2016. Prior to that, the policy mentioned the Charter Commission but the Charter Commission wasn't subject to that. It is for Boards and Commissions that the City makes appointments for. She stated she learned that the City of Ramsey is one of the few cities in the district that doesn't have a review process prior to the applications going to the judge. She stated this recruitment is the first one she has done as the City Clerk. She stated the process that she learned from the former City Clerk and followed for this recruitment was that the position was open until filled with applications going to the judge with no recommendation and no review process. She stated she meant no harm and she and her Staff want to do a good job and are not trying to deceive anyone. She stated she welcomed a policy so Staff would know the expectation. She stated maybe there are different interpretations of the wording open until filled because to her, it means hurry to apply because the position will be filled. She thought she had made a mistake in not advertising the position in the November/December issue of the *Ramsey Resident* because she didn't think there were any vacancies. She had learned of the vacancies after the deadline for the November/December *Ramsey Resident*. She stated putting a deadline on was a decision to serve the residents so they would know what to expect. She responded to the question if the six applications were mailed at the same time and that the judge appointed applicant number three applicant number six instead of the first two applications. She did not intend to take opportunity away from anyone, there was a better response than ever before, and the policy that Councilmember Musgrove referenced is for the appointments the City makes because the judge makes the decision for the Charter Commission. She stated as to the other questions of not providing information, she would like to look into it because she would always like to do better. Regarding the questions about Facebook, the office was shut down during that time because of COVID but she continued to work through her illness. She apologized that it didn't go as some individuals would like them to have gone.

City Administrator Ulrich replied that as far as the investigations and the list of questions, if the Council directs they can follow-up on them and ask the City Attorney to help supervise the investigation. He stated he has confidence in Administrative Services Director Lasher that she was doing the best she could at the time. He understood the Council's perspective but there was no ill intent on the part of the Staff and he would like to prove that.

Administrative Services Director Lasher agreed that she would like that.

Councilmember Howell commented that the conversation has gotten a bit off topic. She assured City Administrator Ulrich that she does hours of research on her own and she doesn't consider this

an investigation, she just asks a lot of questions which is how she learns. She stated when going to the June 14, 2021 City Council, it seemed at that point, a discussion of the Charter Commission slipped from view. She stated she has looked at processes from other cities who post documents about the process for transparency with the public. She stated the document that was provided was more of a checklist and not a policy. She stated what concerned her was that it wasn't in view of the Council or Charter Commission and that when the ads go out, it looks like it is for a length of time but if it is the case, that first applicant gets on the Charter Commission.

Administrative Services Director Lasher replied that is correct, that is how it has been done and was the process handed down to her. She repeated that she would like a solid plan to administer.

Councilmember Howell replied the City Clerk administers elections and interviews multiple people to work in the City. Councilmember Howell asserted that Administrative Services Director Lasher sets the processes in place for Boards and Commissions so it is a big leap for her to understand how this could have slipped her purview because Administrative Services Director Lasher has a big job that she is paid well for, has been trusted, and in comparison with other things, this is an easy detail. She stated that when the policy was changed in 2016 it was never brought to the Council or the Charter Commission. She stated it could look like the deck could be stacked by people being elected by getting their application in first with no oversight. She stated the other problem is with other City job postings there isn't a limit to the number of applicants. She referenced a document where she highlighted a portion of the letter from the judge which read "if Ramsey chose to have a deadline for applications and then found a way to conduct their own due process and make recommendations to the chief judge he would support that process." She questioned when the policy changed, and this statement from the judge indicating there was a policy, because there was no process in place and hasn't been since 2016.

Administrative Services Director Lasher replied there has never been a process ever for Charter Commission appointments. She stated that the Boards and Commissions policy was updated in 2016 because it never applied to the Charter. She stated this is the first recruitment for the Charter Commission that she led and previously it was always open until filled. She stated she didn't take something out the policy to avoid a process, there has never been a policy for appointing Charter Commission members.

City Administrator Ulrich commented, for the public, that the Charter Commission members are appointed by the judge without any City involvement. He stated that is the case in the other city he had worked for also. He didn't think that it was unusual State-wide for the judge to do the appointment. He stated the Charter Commission typically meets once or twice a year, and the most recent one focused on the election. He stated, for context, that historically there hasn't been a lot of interest in the Charter Commission until recently because they meet infrequently and getting applicants has been a struggle. He agreed that the optics maybe aren't good but accusing staff of doing something inappropriate isn't correct.

Councilmember Howell clarified that it could happen, that isn't what she felt the City Clerk did but the City Clerk is a professional who leads elections and it is hard to understand how this was missed. She stated to Councilmember Musgrove's point was that policies haven't been provided. She felt Staff didn't work with the Council and gave the example of Staff insisting on pushing out

the process two weeks in hiring a City Administrator instead of listening to the Council. She questioned the decision to cancel ads for the appointment.

Charter Commission Member Jim Benson stated that the appointment of Councilmember Woestehoff to the Charter Commission should never have been considered because allowing a Councilmember to sit on the Charter Commission is the only City entity that can limit the City Council is a gross conflict of interest. He stated there are so many anomalies involved in this process that to any objective observer, the actions of the City Clerk in relation to the recruitment of potential Charter members and their presentation for consideration to the judge would appear to represent not incompetence but direct action to manipulate the Charter Commission appointment process. He stated this has never happened before because no Councilmember has ever applied to get appointment to the Commission. He formally requested Councilmember Woestehoff resign from the Charter Commission in an attempt to reduce the embarrassment to the City due to this episode.

Councilmember Woestehoff responded that he will resign once the Charter is updated to not allow Councilmembers to be on it.

Councilmember Riley commented that this case is about the Charter Commission or information that the Staff provides or the manufacturing cohort. He stated last week there was a list of questions but the answers show there were mistakes made and improvements made. He stated the answers took away the malice and intent to clearly do things wrong, there were errors made. He stated the suggestion of this case is to do an investigation or inquiry. Councilmember Riley suggested that City Attorney Knaak start with the questions that have been provided and get to the bottom of the question of whether it was a mistake or if it was malicious. He thought that additional inquiry could be done and asked if City Attorney Knaak could do it within his current retainer.

City Attorney Knaak replied it is a part of his job.

Councilmember Riley stated that the validity of the answers could be determined and it isn't a smoking gun, but a match that has been extinguished.

Councilmember Howell commented that if questions aren't asked they can't get answers. She stated the questions weren't an investigation, they are to find out facts and a broken process can't be repaired if there is no process. She stated one of the big take-aways from this is that there is no process in place for the Charter Commission.

Administrative Services Director Lasher replied that is correct and there has never been. She repeated that this is her first year processing the Charter Commission and she will do better now that she knows better.

Councilmember Howell commented that policies have not been attached, following the process that is already in place when it comes to other Boards and Commissions. She stated there shouldn't have been time lost because of Staff stonewalling when they were trying to sit down and pick a City Administrator.

Councilmember Musgrove responded to Councilmember Riley's comments that the questions have been asked and answered. She asked him if he knew how long it was between the questions being asked and the answers, that is was a struggle and that is a problem. She asked him if that is okay with him.

Councilmember Riley stated this case is about an investigation or inquiry and he is saying that checking the questions and answers for validity should be the starting point.

City Administrator Ulrich clarified there are 23 additional questions or requests for information and asked if the City Attorney should include them in his inquiry.

Councilmember Howell replied with his professional purview because she gets wordy.

City Administrator Ulrich summarized the City Attorney will take the list of 23 comments provided by Councilmember Howell along with comments included in the packet. The City Attorney will review the responses, draw some conclusions about the process, and report back to the Council. He asked if two weeks was enough time and if this issue can be completed at the next Council meeting.

City Attorney Knaak suggested that he give the Council something at least preliminary within two weeks and they could decide at that point if the further inquiry is necessary. He stated the Council's authority in inquiry under the Charter is very significant, there is subpoena power, which he doesn't anticipate needing. He stated he can't move forward without expressed authority. He suggesting seeing the preliminary findings.

Motion by Councilmember Woestehoff, seconded by Councilmember Musgrove, to begin a preliminary inquiry and report back to the Council in two weeks.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Woestehoff, Musgrove, Heineman, Howell, Riley, Specht. Voting No: None.

7.09: Discussion of the Responsibilities and Duties of the City Administrator

City Administrator Ulrich stated this was added by Councilmembers Musgrove and Howell with supporting documents included in the staff report. He stated the Charter provides that the Council adopt a resolution and they are still looking for that but it has been carried forward with the job description.

Councilmember Musgrove commented that she made her points in the previous case regarding having basic things provided and that the City Administrator is in a middle position between the Staff and Council in providing information for cases, getting answers for questions, and providing guidance for who to go to. She stated sometimes she thought they got the support needed and sometimes they don't. She stated the in other cities, the Staff works at the pleasure of the Council and that is frustrating for her. She asked that basic things be provided such as policies for cases.

City Administrator Ulrich replied he understood and didn't want to overload the Council with information they have to sift through but he goes through the information. He stated that he didn't always think through base documents but would do a better job of doing that. He stated he gets feedback from Councilmembers all the time with requests for information and tries to make changes based on it. He understood what she was saying about the working relationships and improvements that could made in terms of how the organization works together. He stated in the organizational chart, Ramsey residents are at the top and Council and Staff all work for them. He stated he respects her opinion and the need to work together as a team. He stated he has confidence that the Staff has pledged to do that and to improve the working relationships.

Councilmember Riley suggested all Council questions go through Deputy City Administrator/ Community Dev. Director Hagen because it would help Staff by adding a layer between, and help Council get information back. He suggested Deputy City Administrator/Community Dev. Director Hagen be the clearinghouse to take care of getting answers by the appropriate Staff and provide answers to all of the Council at the same time. He stated there is time for City Administrator Ulrich to help and asked if that would be agreeable.

Councilmember Musgrove asked if Councilmember Riley is suggesting Deputy City Administrator/Community Dev. Director Hagen because he doesn't want City Administrator Ulrich in the loop and burdened by the questions or if City Administrator Ulrich could be included along with Deputy City Administrator/Community Dev. Director Hagen.

Councilmember Riley stated he is flexible. He felt there was a trust level with City Administrator Ulrich right now and City Administrator Ulrich would be retiring in two months. He thought one point of contact would be a workable solution.

Councilmember Musgrove referenced the wealth of knowledge and duties that the City Administrator has while he is still employed.

Councilmember Riley replied he heard a different story from her.

Councilmember Musgrove replied she was saying she is disappointed at times by the lack of information sharing, not that she didn't want City Administrator Ulrich to not do his job anymore.

Councilmember Riley commented that for the next two months then, they could do both.

Councilmember Heineman agreed that both could be included and Deputy City Administrator/ Community Dev. Director Hagen could delegate tasks to City Administrator Ulrich for areas he doesn't have expertise in. He stated there is room for improvement for each of them. He thought he could be more respectful in speaking to residents, that Staff could do better in being more prompt, and Council could do better at not assuming Staff is doing nefarious activities. He stated they need to find what the issues are, find solutions, authorize an inquiry that will yield the proper results, and take action from there. He wanted to ensure that what comes next is constructive.

Mayor Kuzma summarized there is a consensus that questions can go to both Deputy City Administrator/Community Dev. Director Hagen and City Administrator Ulrich.

Councilmember Howell stated that when she and Councilmember Musgrove requested this case, there were reasons for it and the frustrations were genuine. But when City Administrator Ulrich put on Councilmember authority as one of the documents for discussions of duties and responsibilities of the City Administrator, it encapsulated the frustration. She suggested if he wanted to make a case on the Council regarding Councilmember duties and responsibilities, but that was a case in point about frustration, about not having direction, it is a bit cheeky. She suggested City Administrator Ulrich say if he needs more time for things instead of delaying. She stated that in other cities these kinds of things are dealt with publicly to get them to stop and that was the point of having this discussion.

The consensus of the Council was to send questions to both Deputy City Administrator/ Community Dev. Director Hagen and City Administrator Ulrich who will find answers from appropriate Staff and send to the entire Council.

7.10: Discuss Ordinance Governing Commission Member Appointment Process

City Administrator Ulrich stated this is also a case added by Councilmembers Musgrove and Howell. He stated this has already been discussed and he didn't know if there was more to add.

Councilmember Musgrove commented that they are missing the incumbent reapplication process and combining it into one process. She stated the Council revised a policy earlier in the year that they never saw but went on comments by Administrative Services Director Lasher. She stated she didn't think that was a way for the Council to address issues and make informed discussions. She suggested going back to redo discussions now that they have the policy so they are better informed about what the policy was to begin with because there were good ideas and structure that isn't being followed. She stated she understood this was Administrative Services Director Lasher's first time through this but didn't feel they understood the policy. She asked where the policy changes they made went and if there were incorporated into the old policy.

City Administrator Ulrich replied they have a policy document book so the question is to bring the incumbent reapplication policy back including the base policy and schedule that for a Work Session. He stated there is a list of policies and everyone knows what the policy is but after a while when changes happen or new Councilmembers come on board, it can get lost in translation. He stated they can schedule that for a Work Session.

Councilmember Musgrove asked where they are at with the timeline because they have interviews coming up and the advertisement for openings.

City Administrator Ulrich replied they are following the current policy as amended regarding the incumbents as the Council asked.

Councilmember Musgrove challenged that the Council didn't ask, it was presented to them in a case and they were directed that way because they didn't have the original policy on how incumbents were done before.

City Administrator Ulrich stated part of the Work Session case will be to bring back the formal policy written as the Council described it. He stated in discussions they talked about what the current process was regarding incumbents which was the way they presented the policy and he thought they did a good job of conveying that but understood the base document wasn't there.

Councilmember Musgrove stated she thought what they got was, as City Administrator Ulrich stated, years of how things were done but clearly the incumbent policy was separate from the new process and it is to be done prior to any advertisements so there is a two-step process which wasn't being done. She thought the process they were given as handed down from the prior City Clerk was not following the two-step policy. She didn't feel they had good policy direction and their decision making process wasn't on a good foundation.

Mayor Kuzma stated they will work through a plan at a Work Session and define the policy. He stated they all understood it needed to be dealt with.

Councilmember Howell stated Councilmember Musgrove's point is important and it is easy for Staff to attach policies.

Administrative Services Director Lasher commented for this coming interview session next Tuesday, any changes that may or may not actually be incorporated in the new policy are not going to effect this week's coming interviews because the incumbents have all been recommended by the Chair and all happen to be on their number two or four term. These incumbents will fall under the old policy anyway.

Councilmember Musgrove commented the policy that was just passed hasn't been followed because they have never met to discuss each incumbent and decide whether to approve it or not, which is an example of how they are not being supported as a Council.

The consensus of the Council was to review this item during a Work Session to define the policy.

8. MAYOR, COUNCIL AND STAFF INPUT

City Administrator Ulrich announced MnDOT is having an Open House on Wednesday, March 8, 2022 at Greenhaven in Anoka 5:30-7:30 p.m. regarding construction on Highway 10, the Rum River Bridge construction, and the Thrunston/Fairoaks interchange. Annual Business Expo applications are being accepted with a $50 cost. The Public Works meeting is next Tuesday and the next regular City Council meeting is Tuesday, March 22, 2022.

Councilmember Specht stated if anyone wants to give input on the new park equipment coming into Rabbit and Peltzer Park come to the Parks meeting this Thursday at 6:30 p.m..

9. ADJOURNMENT

Motion by Councilmember Riley, seconded by Councilmember Howell, to adjourn the meeting.

Motion carried.

The regular meeting of the City Council adjourned at 12:39 a.m.

Respectfully submitted,

_____
Kurtis G. Ulrich
City Administrator

ATTEST:

_____
Katie M. Schmidt
Deputy City Clerk

Drafted by Joni Helmeke
TimeSaver Off Site Secretarial, Inc.

CC Regular Session **5. 2.**

Meeting Date: 03/22/2022

Submitted For: Sean Sullivan, Community Development

By: Wendy Schlueter, Community Development

Information

Title

Approve Business Licenses

Purpose/Background:

The purpose of this case is to obtain City Council approval of business license requests (not including Rental or BRC).

Background: Certain businesses in the City of Ramsey are required to apply for a business license in addition to the Business Registration Certificate (BRC). Other businesses that may require a license, but are not required to have a BRC, may also be included in this approval. Those new license requests and/or renewals are attached for City Council approval.

Recommendation:

Staff recommends approval of business license applications contingent upon completion and approval of background checks.

Action:

Motion to approve the attached business license applications contingent upon completion and approval of background checks.

Attachments

Business License Applicants

Form Review

Inbox	Reviewed By	Date
Sean Sullivan	Sean Sullivan	03/15/2022 04:12 PM
Brian Hagen	Brian Hagen	03/15/2022 05:56 PM
Kurt Ulrich	Kurt Ulrich	03/16/2022 11:09 AM
Form Started By: Wendy Schlueter		Started On: 03/15/2022 03:27 PM
Final Approval Date: 03/16/2022		

Report Name: License Report - License Types
Council Dates: 3/22/2022 to 3/22/2022
Status: Active, Inactive
License Type(s): 3.2 Beer Off-Sale, 3.2 Beer On-Sale Temporary, Liquor 2 A.M. Closing, Liquor Off-Sale, Liquor On-Sale, Liquor On-Sale Sunday, Temporary Intoxicating, Wine On-Sale, Amusement Center, Amusement Devices/Billiard Tables, Business License-1st Year, Business License-Renewal, Garbage Haulers, Pawnbroker, Second Hand Goods Dealer, Special Events, Temporary Amusement/Carnival/Circus, Therapeutic Massage Establishment, Therapeutic Massage Therapist, Tobacco, Transient Merchant/Peddler/Solicitor

City of Ramsey
License Report - License Types

Company	Applicant	Location	Complex	Exp. Date	Council Date	Status
Temporary Intoxicating						
Northern Starz Childrens Theatre	Rachel Anne Bohnsack	5300 Alpine Dr NW	Northern Starz Thea	5/1/2022	3/22/2022	A
Northern Starz Childrens Theatre	Rachel Anne Bohnsack	5300 Alpine Dr NW	Northern Starz Thea	10/17/2022	3/22/2022	A
					Temporary Intoxicating License Count:	**2**
Tobacco						
Bahamn, Inc	Kipper Douglas Wilson	6111 Highway 10 NW 500		12/31/2022	3/22/2022	A
					Tobacco License Count:	**1**
Transient Merchant/Peddler/Solicitor						
Now That's Waffles, LLC	Karla Anderla			12/31/2022	3/22/2022	A
					Transient Merchant/Peddler/Solicitor License Count:	**1**
					Total Licenses:	**4**

CC Regular Session **5. 3.**

Meeting Date: 03/22/2022

By: Colleen Lasher, Administrative Services

Information

Title

Authorization to Hire a Planning Manager

Purpose/Background:

The purpose of this case is for the City Council to consider hiring a Planning Manager, to backfill the current vacancy.

Background: This position has been vacant since February 4, 2022. In order to fill the current vacancy, an internal, followed by an external recruitment process was conducted. Mr. Todd Larson was selected as the top candidate following that process. Mr. Larson has passed the City's pre-employment testing which included reference checks, employment verifications, drivers license check, extensive leadership assessment and drug screen. Mr. Larson will be subject to a 6 month probationary period and the City's Personnel Policy.

Funding Source:

The funding required to fill the Planning Manager position is included in the 2022 budget.

Recommendation:

Staff recommends hiring Mr. Todd Larson as the City’s Planning Manager, effective on or near April 18, 2022 at $48.838 per hour, which is step 4 of the 2022 pay scale with a credit of 10 vacation days.

Action:

Motion to hire Mr. Todd Larson as the City’s Planning Manager, effective on or near April 18, 2022 at $48.838 per hour, which is step 4 of the 2022 pay scale with a credit of 10 vacation days.

Attachments

Job Description

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:59 PM
Form Started By: Colleen Lasher		Started On: 03/15/2022 08:26 AM
Final Approval Date: 03/17/2022		

CITY OF RAMSEY
POSITION ANALYSIS

POSITION TITLE: Planning Manager

DEPARTMENT: Community Development

POSITION TITLE OF IMMEDIATE SUPERVISOR: Deputy City Administrator/ Community Development Director

FLSA STATUS: Exempt

PRIMARY OBJECTIVE OF POSITION:

Under the general guidance and direction of the Deputy City Administrator/Community Development Director, the primary objectives of the Planning Manager are to: manage the operations of the Planning Division; supervise planning, environmental, and clerical functions and staff; oversee the long range planning and implementation of the Comprehensive Plan; provide professional planning advice; perform a wide range of tasks at the verbal or written direction of the Deputy City Administrator/Community Development Director or City Administrator.

This position supervises assigned personnel and serves as back-up to the Community Development Director/Deputy City Administrator

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PRIMARY RESPONSIBILITIES:

A) Manage the operations of the Planning Division

B) Supervise the planning, environmental, and clerical functions and staff to perform professional tasks encompassing a variety of the aspects of municipal planning and development

C) Oversee all development projects and land use applications

D) Oversee long-range planning

E) Oversee day-to-day planning and code enforcement

F) Provide professional planning advice

G) Perform a wide range of tasks at the verbal or written direction of the Deputy City Administrator/Community Development Director or City Administrator

TASKS RELATED TO RESPONSIBILITIES:

A) Manage the operations of the Planning Division
   1. Manage/supervise: Planning Administrative Assistant, Planner, Senior Planner, and Zoning Code Enforcement Officer, and Planning Intern (if applicable)
   2. Prepare, implement, and monitor Division work plan
   3. Primary liaison to the City's Planning Commission, including attending all meetings, agenda preparation, and Commission work plan
   4. Oversight of Environmental Policy Board (EPB), which is Senior Planner's primary responsibility
   5. Keep the Deputy City Administrator/Community Development Director promptly informed of all matters of major importance as they relate to Planning and recommend actions with respect to such matters
   6. Coordinate with adjacent jurisdictions and the Metropolitan Council as needed
   7. Coordinate consulting services as needed
   8. Assist the Deputy City Administrator/Community Development Director in the preparation of the annual department budget, as requested

B) Supervise the planning, environmental, and clerical functions and staff to perform professional tasks encompassing a variety of the aspects of municipal planning related to commercial and residential development
   1. Provide strategic direction and oversight to ensure that staff members have the support they need to sustain their work at a consistently high level. Train staff as needed
   2. Assign land use applications and cases to the appropriate planning staff for processing
   3. Prepare and monitor staff reports to City Council, commissions, boards and committees
   4. Evaluate work procedures for efficiency and effectiveness and redesign as needed
   5. Evaluate employee performance and assist with employee development as needed
   6. Ensure interdepartmental cooperation on projects
   7. Perform and oversee grant writing activities related to planning

C) Oversee all development projects and land use applications
   1. Manage the development review process
   2. Responsible for overseeing all land use applications, including residential subdivisions, commercial/industrial site plan review, conditional use permits, comprehensive plan amendments, re-zonings, and similar items. Management of 60-day rule
   3. Responsible for internal communication related to development projects, including Department Review Committee of all internal departments
   4. Work directly with the Economic Development Department on prospective projects
   5. Oversee implementation of the COR Design Framework, a form-built code for the City's downtown area
   6. Update City's website with project information

D) Oversee long-range planning
   1. Oversee revisions, implementation, amendments and updates to the Comprehensive Plan.
   2. Coordinate the development of short- and long-term goals related to growth management in the Community pursuant to policy direction from the City Council and City Administrator
   3. Ensure coordination of the City's Comprehensive Plan with Metropolitan Council regulations

4. Ensure that City Code complies with City's Comprehensive Plan
5. Update the City's Zoning Code and Sign Code
6. Ensure that reporting and records management related to development are completed accurately, thoroughly, timely and that they are accessible

E) Oversee day-to-day planning and code enforcement
   1. Oversee permits as related to Planning, including Zoning Permits, Fence Permits, and Rental Licensing
   2. Permit review as needed on building permits
   3. Supervise Zoning Code Enforcement Officer and step in on difficult cases as needed

F) Provide professional planning advice
   1. Provide professional planning advice to the City Council, Planning Commission, Economic Development Authority, and other advisory groups as necessary
   2. Assist with siting and design of development projects
   3. Maintain effective working relationships with elected and appointed officials, city staff, citizens, developers, and representatives of other jurisdictions and agencies
   4. Represent the City and Department at meetings and on boards, agencies and organizations
   5. Attend meetings of the City Council, Planning Commission and other meetings as assigned or requested
   6. Ensure that all development in the City is in accordance with the Comprehensive Plan.
   7. Coordinate Division activities with those of other City departments
   8. Assign and monitor staff support to the City's Planning Commission and Environmental Policy Board

G) Perform a wide range of tasks at the verbal or written direction of the Deputy City Administrator/Community Development Director or City Administrator

KNOWLEDGE, SKILLS AND ABILITIES:

- Advanced knowledge of urban land use principles and trends
- Ability to interpret land use regulations and policies
- Extensive knowledge of community development programs, processes and operations of a community development department
- Ability to supervise multiple department functions to accomplish the department work program on time
- Ability to think in a creative manner in order to develop alternative programs to achieve results consistent with community goals
- Thorough knowledge of how to develop and implement a municipal comprehensive plan.
- Familiarity with writing and administration of development-related grants
- Ability to communicate effectively, orally and in writing, including making presentations.
- Ability to maintain effective working relationships
- Ability to follow verbal and written instructions
- Ability to handle stressful situations effectively and deal with angry or difficult people
- Knowledge of various software packages, geographic information systems and other data management systems
- Ability to gather data and develop clear and concise reports

- Ability to prioritize and meet deadlines
- Knowledge of Metropolitan Council rules and regulations as it relates to Municipal Planning within the Twin Cities Metropolitan Area

MINIMUM QUALIFICATIONS

- Must possess a Bachelor's degree in Land Use Planning, Urban Studies, or a closely related field
- Must have five (5) years' experience in municipal planning, community development or a closely related area, two of which must have been in local government
- Must have two (2) years of supervisory experience
- Must be proficient in Microsoft Office - word processing, spreadsheet programs, Outlook
- Must have excellent written and verbal communication skills
- Must possess a valid Minnesota driver's license, along with a good driving record

DESIRABLE QUALIFICATIONS

- Master's degree in Urban Planning or closely related field
- GIS experience
- Experience in mediating conflicts
- Experience in managing public workshops
- American Institute of Certified Planners (AICP) Certification

Drafted: Jan, 2022

JOB ACTIVITY REQUIREMENTS
Planning Manager

	Job activity requirements				
	Physical Activities	**Very Important**	**Important**	**Slightly Important**	**Not Important**
1	Standing			x	
2	Sitting	x			
3	Walking			x	
4	Lifting			x	
5	Pushing / Pulling			x	
6	Carrying			x	
7	Climbing				x
8	Kneeling				x
9	Crawling				x
10	Crouching			x	
11	Bending at waist			x	
12	Reaching		x		
13	Handling Objects	x			
14	Repetitive Hand Motion	x			
15	Use of Arm Muscles over Extended Periods			x	
16	Use of Leg Muscles over Extended Periods			x	
17	Overhead Work				x
18	Stationary desk or bench work	x			

This job requires employees to be able to lift and carry up to 20 pounds without assistance.

	Job working conditions		
		Yes	**No**
1	Working Outdoors	x	
2	Working Indoors	x	
3	Operating dangerous equipment		x
4	Operating motor vehicles	x	
5	Providing work direction to other employees	x	
6	Working with chemicals		x
7	Working near fumes and vapors		x
8	Driving a City vehicle or personal vehicle	x	
9	Driving is an essential function of this job		x
10	Subject to random DOT drug and alcohol testing		x

CC Regular Session **5. 4.**

Meeting Date: 03/22/2022

By: Tammy Oakes, Finance

Information

Title

Adopt Resolution #22-079 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of March 3, 2022 through March 16, 2022

Purpose/Background:

Adopt Resolution #22-079 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of March 3, 2022 through March 16, 2022

Recommendation:

Staff Recommends to Adopt Resolution #22-079 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of March 3, 2022 through March 16, 2022

Action:

Motion to Adopt Resolution #22-079 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of March 3, 2022 through March 16, 2022

Attachments

Bills List 03/22/2022

Resolution 22-079

Form Review

Inbox	Reviewed By	Date
Diana Lund	Diana Lund	03/17/2022 09:59 AM
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:24 PM
Form Started By: Tammy Oakes		Started On: 03/16/2022 03:45 PM
Final Approval Date: 03/17/2022		

CITY OF RAMSEY - FINANCE OFFICE Printed 3/16/2022

RAMSEY CITY COUNCIL MEETING

03.22.2022

BILLS LIST

DISBURSEMENTS TO BE APPROVED THIS MEETING:

DISBURSEMENT TYPE:	SUBMITTED FOR APPROVAL
Purchase Journal:	
Prepaids 3.3.2022-3.16.2022	283,363.34
Accounts Payable 3.3.2022-3.16.2022	694,558.13
Payroll 3.4.2022	195,701.74
Pay Estimates- Projects	
TOTAL SUBMITTED FOR APPROVAL THIS MEETING (Invoices Available for Reviewal)	**$ 1,173,623.21**

DISBURSEMENTS PREVIOUSLY APPROVED AND PAID:	APPROVED PREV. MTG	2022 Y.T.D.
NET PAYROLL TOTAL	$ 216,106.75	$ 837,262.95
- CORRECTION TO PAYROLL		
PREPAIDS	296,374.15	1,731,754.72
- PREPAID ADJUSTMENTS		
WIRE TRANSFERS FOR DEBT SERVICE		
- CORRECTION TO D.S.		
ACCOUNTS PAYABLE INVOICING - PREVIOUS MEETING:		
- BILLS LIST SUBMITTED	128,810.71	1,502,392.42
ADD (DELETE) BILLS LIST SUBMITTED PAY ESTIMATE(S)		995,392.57
TOTAL CASH DISBURSEMENTS PREVIOUSLY APPROVED	**$ 641,291.61**	**$ 5,066,802.66**

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Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
114587	**3/3/2022**		**100012 ACE SOLID WASTE INC**						
		36,966.24	MARCH RECYCLING CHARGES		112076	7617564T067	9604.6489		OTHER CONTRACTED SI
		129.04	MAR REFUSE/RECYCLE		112078	7623961T067	0220.6374		REFUSE/RECYCLING
		37,095.28							
114588	**3/3/2022**		**118991 AHLNESS-ENGSTROM, DANA**						
		100.00	REF DAMAGE DEP TB		112040	03032022	9101.2201		DEPOSITS PAYABLE
		10.00	REF CANCELED RM BOOKING TB		112040	03032022	9101.4304		RENTAL FEES - REAL PR
		110.00							
114589	**3/3/2022**		**115203 ALL AMERICAN TITLE CO INC**						
		170.64	UB REF 14713 FLUORINE ST NW		112041	03032022	9601.4651		WATER REVENUE
		170.64							
114590	**3/3/2022**		**113045 ANCONA TITLE AND ESCROW**						
		380.50	UB REF 7161 170TH TRAIL NW		112042	03032022	9601.4651		WATER REVENUE
		380.50							
114591	**3/3/2022**		**119235 BRICKSON, TIEGEN OR KEENAN**						
		180.93	UB REF 6216 155TH AVE NW		112044	03032022	9601.4651		WATER REVENUE
		180.93							
114592	**3/3/2022**		**100297 CENTERPOINT ENERGY**						
		2,477.04	JAN GAS CHARGES		112065	8000014064-2 JAN 2022	0452.6373		GAS
		1,399.50	JAN GAS CHARGES		112065	8000014064-2 JAN 2022	0311.6373		GAS
		1,399.50	JAN GAS CHARGES		112065	8000014064-2 JAN 2022	9601.6373		GAS
		1,399.50	JAN GAS CHARGES		112065	8000014064-2 JAN 2022	9602.6373		GAS
		1,399.50	JAN GAS CHARGES		112065	8000014064-2 JAN 2022	9605.6373		GAS
		8,075.04							
114593	**3/3/2022**		**119237 CLOSING HUB**						
		24.65	UB REF 13900 IRONSTONE TRL NW		112045	03032022	9601.4651		WATER REVENUE
		24.65							
114594	**3/3/2022**		**113795 CONCIERGE TITLE INC**						
		41.52	UB REF 8781 ROYAL COURT		112046	03032022A	9601.4651		WATER REVENUE
		41.52							
114595	**3/3/2022**		**113795 CONCIERGE TITLE INC**						
		37.35	UB REF 4813 179TH LANE NW		112047	03032022B	9601.4651		WATER REVENUE
		37.35							
114596	**3/3/2022**		**100116 CONNEXUS ENERGY**						
		9,975.25	1/19/22-2/17/22 ELECTRIC		112067	759126-303101 FEB 2022	9603.6371		ELECTRIC UTILITIES
		5,461.94	1/19/22-2/17/22 ELECTRIC		112068	759126-303107 FEB 2022	0194.6371		ELECTRIC UTILITIES
		1,953.98	1/19/22-2/17/22 ELECTRIC		112068	759126-303107 FEB 2022	0220.6371		ELECTRIC UTILITIES
		71.04	1/19/22-2/17/22 ELECTRIC		112068	759126-303107 FEB 2022	9230.6249		MISCELLANEOUS OPER/

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
114596	**3/3/2022**		**100116 CONNEXUS ENERGY**						**Continued**
		5,179.17	1/19/22-2/17/22 ELECTRIC		112068	759126-303107 FEB 2022	9240.6371		ELECTRIC UTILITIES
		418.06	1/19/22-2/17/22 ELECTRIC		112068	759126-303107 FEB 2022	9410.6371	00041012	ELECTRIC UTILITIES
		28.36	1/19/22-2/17/22 ELECTRIC		112068	759126-303107 FEB 2022	9410.6371	00041018	ELECTRIC UTILITIES
		8,719.26	ELECTRIC FOR WATER UTILITY		112069	759126-303102 FEB 2022	9601.6371		ELECTRIC UTILITIES
		749.41	ELECTRIC FOR SEWER UTILITY		112069	759126-303102 FEB 2022	9602.6371		ELECTRIC UTILITIES
		83.10	ELECTRIC FOR STORM UTILITY		112069	759126-303102 FEB 2022	9605.6371		ELECTRIC UTILITIES
		964.89	JAN/FEB TRAFFIC SIGNALS		112070	759126-303100 FEB 2022	0260.6371		ELECTRIC UTILITIES
		805.01	JAN/FEB ELECTRIC		112071	759126-303106 FEB 2022	0311.6371		ELECTRIC UTILITIES
		2,284.45	JAN/FEB ELECTRIC		112071	759126-303106 FEB 2022	0452.6371		ELECTRIC UTILITIES
		791.51	JAN/FEB ELECTRIC		112071	759126-303106 FEB 2022	9601.6371		ELECTRIC UTILITIES
		791.51	JAN/FEB ELECTRIC		112071	759126-303106 FEB 2022	9602.6371		ELECTRIC UTILITIES
		791.51	JAN/FEB ELECTRIC		112071	759126-303106 FEB 2022	9605.6371		ELECTRIC UTILITIES
		85.00	SIREN ELECTRIC UTILITIES		112072	759126-303095 FEB 2022	0250.6371		ELECTRIC UTILITIES
		39,153.45							
114597	**3/3/2022**		**106583 DELTA DENTAL PLAN OF MINNESOTA**						
		3,903.80	MAR 2022 PREMIUMS		112074	RIS0004002582	9101.2170		DENTAL/DISABILITY/LIFE
		3,903.80							
114598	**3/3/2022**		**119238 JOHNSON, TERACE**						
		165.63	ACCT 729691 REF DBL PMT		112099	03032022	9601.4651		WATER REVENUE
		165.63							
114599	**3/3/2022**		**119236 LEESE, STEVEN**						
		120.27	UB REF 5440 145TH AVE NW		112049	03032022	9601.4651		WATER REVENUE
		120.27							
114600	**3/3/2022**		**117259 LEGACY TITLE**						
		205.18	UB REF 15267 FLUORINE ST NW		112050	03032022	9601.4651		WATER REVENUE
		205.18							
114601	**3/3/2022**		**119234 MARTINSON, JESSICA OR ZACH**						
		451.05	UB REF 15440 XKIMO ST		112051	03032022	9601.4651		WATER REVENUE
		451.05							
114602	**3/3/2022**		**111815 MLEEA**						
		150.00	EXPLORER ASSOCIATION DUES		112100	5063	0280.6451		MEMBERSHIP DUES
		150.00							
114603	**3/3/2022**		**111815 MLEEA**						
		950.00	(2) EXPLR ADVISORS ASSOC CONF		112101	5082	0280.6451		MEMBERSHIP DUES
		950.00							

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
114603	3/3/2022		111815 MLEEA						Continued
114604	3/3/2022		100351 NCPERS GROUP LIFE INS						
		400.00	MARCH 2022 PREMIUMS		112073	704800032022	9101.2170		DENTAL/DISABILITY/LIFE
		400.00							
114605	3/3/2022		107356 NETWORK TITLE INC						
		271.30	UB REF 14754 ZEOLITE ST		112052	03032022	9601.4651		WATER REVENUE
		271.30							
114606	3/3/2022		116066 PARTNERS TITLE						
		145.27	UB REF 15581 IODINE ST		112053	03032022	9601.4651		WATER REVENUE
		145.27							
114607	3/3/2022		115743 PILLAR TITLE SERVICES						
		296.53	UB REF 6951 137TH AVE NW		112054	03032022	9601.4651		WATER REVENUE
		296.53							
114608	3/3/2022		112959 PREMIUM WATERS INC						
		41.19	WATER FOR STATION		112055	621332-12-21	0220.6249		MISCELLANEOUS OPER/
		102.99	WATER FOR STATION 1		112056	621331-12-21	0220.6249		MISCELLANEOUS OPER/
		144.18							
114609	3/3/2022		118008 REALTECH TITLE LLC						
		157.99	UB REF 14391 QUICKSILVER ST		112057	03032022	9601.4651		WATER REVENUE
		157.99							
114610	3/3/2022		115348 SENATE DISTRICT 35 REPUBLICANS						
		100.00	REF DAMAGE DEP 3/18/2021		112059	03032022	9101.2201		DEPOSITS PAYABLE
		100.00							
114611	3/3/2022		113028 THE MUSIC WORKS INC						
		1,300.00	HAPPY DAYS CONCERT - DEPOSIT		112066	29002	0296.6249		MISCELLANEOUS OPER/
		1,300.00							
114612	3/3/2022		113038 THE TITLE GROUP						
		37.35	8154 161ST AVE NW		112061	03032022	9601.4651		WATER REVENUE
		37.35							
114613	3/3/2022		117096 TITLE SMART						
		175.67	UB REF 6976 139TH AVE		112063	03032022	9601.4651		WATER REVENUE
		175.67							
114614	3/3/2022		114074 TITLE SPECIALIST INC						
		154.95	UB REF 6119 RIVLYN AVE		112062	03032022	9601.4651		WATER REVENUE
		154.95							
114615	3/3/2022		117360 WATERMARK TITLE AGENCY						
		536.56	UB REF 15371 YAKIMA ST		112064	03032022	9601.4651		WATER REVENUE
		536.56							
114644	3/10/2022		100012 ACE SOLID WASTE INC						
		165.57	MAR WASTE SERVICES		112164	7617573T067	0311.6374		REFUSE/RECYCLING
		287.60	MAR WASTE SERVICES		112164	7617573T067	0194.6374		REFUSE/RECYCLING
		524.37	MAR WASTE SERVICES		112164	7617573T067	0452.6374		REFUSE/RECYCLING
		165.57	MAR WASTE SERVICES		112164	7617573T067	9601.6374		REFUSE/RECYCLING

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
114644	3/10/2022		100012 ACE SOLID WASTE INC						Continued
		165.57	MAR WASTE SERVICES		112164	7617573T067	9602.6374		REFUSE/RECYCLING
		153.87	MAR WASTE SERVICES		112164	7617573T067	9604.6249		MISCELLANEOUS OPER/
		165.57	MAR WASTE SERVICES		112164	7617573T067	9605.6374		REFUSE/RECYCLING
		7.49	MAR WASTE SERVICES		112165	7626544T067	0452.6374		REFUSE/RECYCLING
		7.49	MAR WASTE SERVICES		112165	7626544T067	0311.6374		REFUSE/RECYCLING
		7.49	MAR WASTE SERVICES		112165	7626544T067	9601.6374		REFUSE/RECYCLING
		7.49	MAR WASTE SERVICES		112165	7626544T067	9602.6374		REFUSE/RECYCLING
		7.50	MAR WASTE SERVICES		112165	7626544T067	9605.6374		REFUSE/RECYCLING
		1,665.58							
114645	3/10/2022		119246 BCBS OF MN						
		100.00	DAMAGE DEPOSIT REFUND-5/23/18		112172	03102022	9101.2201		DEPOSITS PAYABLE
		100.00							
114646	3/10/2022		115579 BECKER, LISA						
		1,185.44	REFUND ESCROW BALANCE		112170	A118122	9804.6433	00118122	REFUNDS
		1,185.44							
114647	3/10/2022		110734 CITY OF RAMSEY						
		200.00	UB CASH PMT ACCT 732987		112173	03102022	9601.4651		WATER REVENUE
		200.00							
114648	3/10/2022		118334 CUNNINGHAM, MICHAEL						
		168.00	2021 FRANCHISE FEE REBATE		112174	03102022	9435.6433		REFUNDS
		168.00							
114649	3/10/2022		119241 HAMPTON COMPANIES						
		3,915.56	REFUND ESCROW BALANCE		112169	A117010	9804.6433	00117010	REFUNDS
		3,915.56							
114650	3/10/2022		119247 HOEKE, CURT						
		159.14	2020/2021 FRANCHISE FEE REBATE		112175	03102022	9435.6433		REFUNDS
		159.14							
114651	3/10/2022		112160 HOLIDAY COMPANIES						
		10.00	LF DEC HOLIDAY SQD WASHES		112167	046801012200	0153.6489		OTHER CONTRACTED SI
		242.25	SQUAD WASHES (DEC)		112167	046801012200	0211.6249		MISCELLANEOUS OPER/
		252.25							
114652	3/10/2022		119242 MYHERS, KRISTINA						
		86.78	REFUND ESCROW BALANCE		112171	A118804	9804.6433	00118804	REFUNDS
		86.78							
114653	3/10/2022		119142 WINDOW CONCEPTS OF MINNESOTA, INC						
		76.00	PERMIT RA050236 REFUND		112166	03/02/2022	9101.4206		PLUMBING PERMIT
		76.00							
1003533	3/4/2022		116114 AVESIS THIRD PARTY ADMINISTRATORS						
		243.20	MARCH 2022 VISION PREM		112075	2841464	9101.2170		DENTAL/DISABILITY/LIFE
		243.20							
1003534	3/4/2022		119214 BENSON, ERICK						
		30.00	REIMB BOILER'S LICENSE FEES		112043	03032022	0194.6249		MISCELLANEOUS OPER/
		30.00							

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
1003535	3/4/2022		103119 ROSSUM, BEN						Continued.
		283.52	UB REF 14800 ERKIUM ST		112058	03032022	9601.4651		WATER REVENUE
		283.52							
1003536	3/4/2022		116842 THORSTAD, MEGAN						
		39.98	REIMB DESSERT FOR EMPLEE EVENT		112060	03032022	0111.6249		MISCELLANEOUS OPER/
		39.98							
1003537	3/4/2022		111137 WRIGHT HENNEPIN COOPERATIVE ELECTRIC						
		27.95	MAR FIRE ALARM MONITORING		112077	150-1681-6340 MAR 2022	0194.6489		OTHER CONTRACTED SI
		47.95	7650 SUNWOOD MAR 2022		112079	150-1681-4280 MAR 2022	9240.6315		MISCELLANEOUS PROFE
		27.95	6701 HWY 10 MAR 2022		112080	150-1687-1105 MAR 2022	9410.6315	00041012	MISCELLANEOUS PROFE
		27.95	5650 ALPINE DR FIRE MAR 2022		112081	150-1691-2206 MAR 2022	0220.6489		OTHER CONTRACTED SI
		35.90	7550 SUNWOOD DR MAR 2022		112082	150-1693-4968 MAR 2022	0194.6489		OTHER CONTRACTED SI
		52.95	PW FIRE ALARM MAR 2022		112083	150-1696-8702 MAR 2022	0311.6489		OTHER CONTRACTED SI
		35.90	PW SECURITY ALARM MAR 2022		112084	150-1697-0601 MAR 2022	0311.6489		OTHER CONTRACTED SI
		27.95	MAR ALARM MONITORING		112102	150-1682-6501 MAR 2022	0211.6489		OTHER CONTRACTED SI
		284.50							
1003578	3/11/2022		107894 LISA'S CATERING CORP.						
		100.00	PLANNING COMMISSION MEALS		112168	2304	0191.6249		MISCELLANEOUS OPER/
		100.00							
97030422	3/4/2022		118579 ND CHILD SUPPORT DIVISION						
		287.08			112090	03032210193814	9101.2185		GARNISHMENTS/SUPPO
		287.08							
98030422	3/4/2022		115568 ALERUS FINANCIAL NA						
		7,130.17			112089	03032210193813	9101.2176		LIFE/HEALTH-EMPLOYEE
		7,130.17							
99030422	3/4/2022		107962 TOTAL ADMINISTRATIVE SERVICE CORP						
		1,511.38			112086	03032210193810	9101.2176		LIFE/HEALTH-EMPLOYEE
		1,511.38							
99030822	3/8/2022		100219 HOME DEPOT COMMERCIAL ACCT PROGRAM						
		116.52	FEB 2022 PURCHASES		112114	02282022	0194.6281		SMALL TOOLS & MINOR I
		116.52							
99030922	3/9/2022		107885 DEPARTMENT OF LABOR AND INDUSTRY						
		1,891.61	Feb Bldg Surcharges		112112	02282022	9101.2081		SURCHARGES-PERMITS
		37.96-	Feb Bldg Surcharges		112112	02282022	9101.4604		SURCHARGES
		1,853.65							
99031022	3/10/2022		100629 MN DEPT OF REV SALES TX						
		168.51	Feb Sales/Use Tax		112113	02282022	9101.4305		RENTAL FEES
		4.99	Feb Sales/Use Tax		112113	02282022	9101.4328		ACCIDENT REPORTS
		.29-	Feb Sales/Use Tax		112113	02282022	9101.4609		OTHER MISCELLANEOUS

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
99031022	3/10/2022		100629 MN DEPT OF REV SALES TX						Continued.
		359.79	Feb Sales/Use Tax		112113	02282022	9601.2082		SALES/USE TAX PAYABLE
		533.00							
99031522	3/15/2022		108768 COMDATA NETWORK INC						
		132.85	GAS FOR CITY VEHICLES		112186	FEB 2022 ENGR FUEL	0301.6223		GASOLINE
		79.38	FEB VEH GASOLINE		112187	FEB 2022 PARKS FUEL	0452.6223		GASOLINE
		147.18	FEB VEH GASOLINE		112188	FEB 2022 INSPECT FUEL	0240.6223		GASOLINE
		176.63	FEB FUEL FOR STAFF VEHICLES		112189	FEB 2022 BLDG FUEL	0194.6223		GASOLINE
		198.13	GRUBHUBACAPULCO-2/15/22 CC DIN		112190	FEB 2022 SCHMITZ	0111.6249		MISCELLANEOUS OPER/
		74.77	COBORNS- 02/22/22 CC DINNER		112190	FEB 2022 SCHMITZ	0111.6249		MISCELLANEOUS OPER/
		7.99	COBORNS- 02/08/22 CC DINNER		112190	FEB 2022 SCHMITZ	0111.6249		MISCELLANEOUS OPER/
		63.49	MAMA DELUCAS-2/08/22 CC DINNER		112190	FEB 2022 SCHMITZ	0111.6249		MISCELLANEOUS OPER/
		500.00	PSN MN RWA-WATER CONFERENCE		112191	FEB 2022 NELSON	9601.6335		TRAINING
		70.00	MNGFOA MEMBERSHIP-LUND		112192	FEB 2022 LUND	0153.6451		MEMBERSHIP DUES
		227.64	GRANDVIEW LDGE-MCMA CONF HAGEN		112193	FEB 2022 HAGEN	0191.6331		TRAVEL & LODGING
		414.00	TERRACYCLE US-RECYCLING BOXES		112194	FEB 2022 FREDRICKSON	0192.6405		OFFICE & DATA PROCES
		499.00	ZOOM- ANNUAL ROOM ACCT		112194	FEB 2022 FREDRICKSON	0192.6405		OFFICE & DATA PROCES
		1,999.00	ZOOM- ANNUAL BUSINESS ACCT		112194	FEB 2022 FREDRICKSON	0192.6405		OFFICE & DATA PROCES
		19.98	NEWEGG- VIDEO ADAPTERS		112194	FEB 2022 FREDRICKSON	0192.6281		SMALL TOOLS & MINOR I
		6,869.04	FEB VEHICLE FUEL		112195	FEB 2022 PD FUEL	0211.6223		GASOLINE
		335.00	INTOXIMETERS - SQUAD 312 PBT		112196	FEB 2022 HEMMERICH	0230.6281		SMALL TOOLS & MINOR I
		320.00	R.M.COTTON-AIR FILTER		112197	FEB 2022 BRAY	0194.6249		MISCELLANEOUS OPER/
		54.57	COBORNS- DIESEL FUEL (DISCNT)		112197	FEB 2022 BRAY	0194.6225		DIESEL FUEL
		54.56	COBORNS- DIESEL FUEL (DISCNT)		112197	FEB 2022 BRAY	0194.6225		DIESEL FUEL
		222.91	ANOKA COUNTY LIC-TRAILER TABS		112197	FEB 2022 BRAY	0194.6249		MISCELLANEOUS OPER/
		1,528.72	GASOLINE FOR FEB		112198	FEB 2022 FIRE FUEL	0220.6223		GASOLINE
		356.84	DIESEL FUEL FEB		112199	FEB 2022 FIRE FUEL2	0220.6225		DIESEL FUEL
		225.00	BCA TRAIN ED - CG KH JB DMT		112200	FEB 2022 FRANKFURTH	0211.6335		TRAINING
		75.00	TLO - ONLINE INV SEARCH TOOL		112200	FEB 2022 FRANKFURTH	0211.6315		MISCELLANEOUS PROFE
		380.00	ECKBERGLAMMERS-ND JD USE FORCE		112200	FEB 2022 FRANKFURTH	0211.6335		TRAINING
		200.00	MN NURSERY-SHADE TREE COURSE		112201	FEB 2022 ANDERSON	0191.6335		TRAINING
		175.00	ISA - MEMBERSHIP		112201	FEB 2022 ANDERSON	0191.6451		MEMBERSHIP DUES
		323.66	ZIPS.COM - LOCKOUT TOOLS		112202	FEB 2022 BLUML	0211.6281		SMALL TOOLS & MINOR I
		96.00	SUPPORTPDFFILLER - CREATE EDIT		112202	FEB 2022 BLUML	0211.6405		OFFICE & DATA PROCES

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
99031522	3/15/2022		108768 COMDATA NETWORK INC						Continued
		201.18	JIMMY JOHN-RSRV TRAIN LUNCH 17		112202	FEB 2022 BLUML	0211.6331		TRAVEL & LODGING
		5.19	ECM-RECUR MONTH HERALD SUBSCR		112203	FEB 2022 SULLIVAN	9230.6451		MEMBERSHIP DUES
		45.00	EVVNT - ADVERTISING FOR BIZ EX		112203	FEB 2022 SULLIVAN	9230.6246	00923001	MARKETING & PROMOTI
		35.00	STAX-PLEAA MEMBER DUES		112204	FEB 2022 TORSETH	0211.6451		MEMBERSHIP DUES
		240.00	MN SHERIFFS-JT EB JH BODY CAM		112204	FEB 2022 TORSETH	0211.6335		TRAINING
		17.76	AMZN MKTP-C BATTERIES		112204	FEB 2022 TORSETH	0211.6233		BATTERIES EQUIP
		13.98	AMZN MKTP-COLOR PAPER		112204	FEB 2022 TORSETH	0211.6204		STATIONERY, ENVELOPE
		26.36	AMZN MKTP-WOOLITE & TIDE DETER		112204	FEB 2022 TORSETH	0211.6239		FIRST AID SUPPLIES
		72.91	AMZN MKTP-FRONT OFFICE SUPPLIE		112204	FEB 2022 TORSETH	0211.6208		MISCELLANEOUS OFFICI
		200.00	MN NURSERY-RIVERBLOOD CLASS		112205	FEB 2022 RIVERBLOOD	0452.6335		TRAINING
		519.55	NORTHLAND FOOLS-FF TRGN		112206	FEB 2022 SCHIFERLI	0220.6335		TRAINING
		265.20	CONWAY SHIELD-FRONT SHIELDS		112206	FEB 2022 SCHIFERLI	0220.6231		UNIFORMS & TURN-OUT
		41.99	AMZN-DRY ERASE BOARD		112206	FEB 2022 SCHIFERLI	0220.6249		MISCELLANEOUS OPERA
		15.92	COBORNS-TABLE CLOTHS EMPL EVNT		112207	FEB 2022 THORSTAD	0111.6249		MISCELLANEOUS OPERA
		200.00	MINNESOTA NURSERY-TREE CLASS		112208	FEB 2022 BERGE	0452.6335		TRAINING
		50.00	U OF M CONT - TREE INSP CLASS		112208	FEB 2022 BERGE	0452.6335		TRAINING
		1,665.64	DEPT OF NATURAL-MNDNR H2O USE		112208	FEB 2022 BERGE	0452.6372		WATER/IRRIGATION
		550.00	MN ST COLLEGE-MCFOA TRNG:CL,KS		112209	FEB 2022 LASHER	0130.6335		TRAINING
		54.07	AMAZON-FLOOR DRY BUCKET		112210	FEB 2022 KOHNER	0220.6281		SMALL TOOLS & MINOR I
		85.37	AMAZON-ASH BUCKET AND WIPES		112210	FEB 2022 KOHNER	0220.6249		MISCELLANEOUS OPERA
		230.88	GALLS-BOOTS, PANTS		112210	FEB 2022 KOHNER	0220.6231		UNIFORMS & TURN-OUT
		88.87	GALLS-UNIFORM PANTS		112210	FEB 2022 KOHNER	0220.6231		UNIFORMS & TURN-OUT
		100.00	MN STATE COLLEGE-TRAINING		112211	FEB 2022 RIEMER	0311.6335		TRAINING
		177.66	NORTHERN TOOL-HOSE REEL		112211	FEB 2022 RIEMER	0452.6249		MISCELLANEOUS OPERA
		177.66	NORTHERN TOOL-HOSE REEL		112211	FEB 2022 RIEMER	9601.6249		MISCELLANEOUS OPERA
		20,906.53							
99299680	3/4/2022		100601 MN DEPT OF REV WH						
		12,366.15			112095	0303221019386	9101.2172		STATE WITHHOLDING
		12,366.15							
99381483	3/4/2022		114790 GREAT WEST LIFE AND ANNUITY INS CO						
		11,416.10			112087	03032210193811	9101.2175		DEFERRED COMPENSAT
		11,416.10							
99387189	3/4/2022		114790 GREAT WEST LIFE AND ANNUITY INS CO						
		4,021.68			112088	03032210193812	9101.2176		LIFE/HEALTH-EMPLOYEE
		4,021.68							
99643062	3/4/2022		100398 PUBLIC EMPLOYEES RETIREMENT ASSN						
		25,892.45			112093	0303221019384	9101.2174		PERA-EMPLOYEE
		34,868.08			112094	0303221019385	9101.2183		PERA-EMPLOYER

Check #	Date	Amount	Supplier / Explanation	PO #	Doc No	Inv No	Account No	Subledger	Account Description
99643062	**3/4/2022**		**100398 PUBLIC EMPLOYEES RETIREMENT ASSN**						**Continued**
		60,760.53							
99704588	**3/4/2022**		**101306 IRS**						
		26,367.16			112096	0303221019387	9101.2171		FEDERAL WITHHOLDING
		15,227.37			112097	0303221019388	9101.2173		FICA & MEDICARE-EMPL
		15,227.37			112098	0303221019389	9101.2182		FICA & MEDICARE-EMPL
		56,821.90							
99706084	**3/4/2022**		**100223 ICMA RETIREMENT TRUST 457**						
		1,913.61			112085	0303221019381	9101.2175		DEFERRED COMPENSAT
		1,913.61							
		283,363.34	Grand Total						

Payment Instrument Totals

Checks	102,743.84
EFT Payments	179,638.30
A/P ACH Payment	981.20
Total Payments	283,363.34

Payment Group Control Number	3372		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
107442	ALLDATA	ACCT 101549392	PV	112118	001	00999	2/17/2022	INVC01466052	1,500.00
	ALLDATA P O BOX 848379 DALLAS TX 75284-8379			Summary Total					1,500.00
				Payment Amount					1,500.00
100618	ANCOM COMMUNICATIONS INC		PV	112232	001	00999	3/8/2022	106873	3,075.00
	ANCOM COMMUNICATIONS INC 1800 EAST CLIFF ROAD SUITE 17 BURNSVILLE MN 55337			Summary Total					3,075.00
				Payment Amount					3,075.00
100063	ASPEN MILLS	CUST 55303RPD	PV	112120	001	00999	3/1/2022	289749	72.50
	ASPEN MILLS			Summary Total					72.50
	8201 C CENTRAL AVE NE	55303RPD	PV	112121	001	00999	2/28/2022	289622	90.00
	SPRING LAKE PARK MN 55432			Summary Total					90.00
		55303RPD	PV	112122	001	00999	2/28/2022	289666	596.00
				Summary Total					596.00
		55303RFD	PV	112214	001	00999	3/3/2022	289947	83.50
				Summary Total					83.50
		CUST 55303RFD	PV	112235	001	00999	3/8/2022	290230	72.50
				Summary Total					72.50
		CUST 55303RPD	PV	112236	001	00999	3/7/2022	290179	81.00
				Summary Total					81.00
		CUST 55303RPD	PV	112237	001	00999	3/8/2022	290237	155.95
				Summary Total					155.95
		CUST 55303RPD	PV	112238	001	00999	3/9/2022	290310	317.30
				Summary Total					317.30
		CUST 55303RFD	PV	112239	001	00999	3/9/2022	290309	198.50
				Summary Total					198.50
				Payment Amount					1,667.25
119240	CHEWYS TOOL&SUPPLY LLC (CORNWELL DEALER)	RECEIPT# 49016	PV	112217	001	00999	2/24/2022	49016	995.95
	CHEWYS TOOL&SUPPLY LLC (CORNWELL DEALER)			Summary Total					995.95
	14885 191ST AVENUE NW	RECEIPT 49333	PV	112246	001	00999	3/9/2022	49333	143.77
	ELK RIVER MN 55330			Summary Total					143.77

Payment Group Control Number	3372		
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Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Payee Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
				Payment Amount					1,139.72
119134	CINTAS (FIRST AID VENDOR)	CUST #12444202/PAYER 20131575	PV	112132	001	00999	2/28/2022	5097616861	122.45
	CINTAS PO BOX 631025 CINCINNATI OH 45263-1025			Summary Total					122.45
				Payment Amount					122.45
114451	COMPASS MINERALS		PV	112125	001	00999	2/24/2022	962064	13,368.81
	COMPASS MINERALS P O BOX 277043 ATLANTA GA 30384-7043			Summary Total					13,368.81
			PV	112244	001	00999	3/1/2022	965435	7,029.70
				Summary Total					7,029.70
		MOISTURE DISCOUNT $1,376.77	PV	112247	001	00999	2/25/2022	963091	26,119.61
				Summary Total					26,119.61
				Payment Amount					46,518.12
106624	EHLERS AND ASSOCIATES, INC		PV	112248	001	00999	3/9/2022	90039	300.00
	EHLERS & ASSOCIATES, INC 3060 CENTRE POINTE DRIVE ROSEVILLE MN 55113-1105			Summary Total					300.00
				Payment Amount					300.00
118931	ELECTRIC SYSTEMS SOLUTIONS		PV	112249	001	00999	3/10/2022	7981	500.00
	ELECTRIC SYSTEMS SOLUTIONS 6021 167TH AVENUE NW RAMSEY MN 55303			Summary Total					500.00
			PV	112250	001	00999	3/10/2022	8080	150.00
				Summary Total					150.00
			PV	112251	001	00999	3/10/2022	8079	203.75
				Summary Total					203.75
				Payment Amount					853.75
100143	FERGUSON WATERWORKS # 2518	CUST 24740	PV	112140	001	00999	3/1/2022	0488674-2	34.09
	FERGUSON WATERWORKS 2516 P O BOX 802817 CHICAGO IL 60680-2817			Summary Total					34.09
		CUST 24740	PV	112141	001	00999	2/25/2022	0489695	620.27
				Summary Total					620.27

CITY OF RAMSEY
Create Payment Control Groups

Payment Group Control Number	3372		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Payee Name / Mailing Address	Stub Message	Document Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
				Payment Amount					654.36
112160	HOLIDAY COMPANIES		PV	112147	001	00999	3/1/2022	046801032200	276.25
	HOLIDAY COMPANIES 4567 AMERICAN BLVD W BLOOMINGTON MN 55437			Summary Total					276.25
				Payment Amount					276.25
114164	INITIAL DEFENSE PROTECTION SERVICES LLC		PV	112223	001	00999	3/7/2022	22-02	195.00
	INITIAL DEFENSE PROTECTION SERVICES LLC 13055 RIVERDALE DRIVE NW SUITE 500 COON RAPIDS MN 55448			Summary Total					195.00
				Payment Amount					195.00
106324	INSPECTRON INC		PV	112257	001	00999	3/3/2022	2022-249	6,500.00
	INSPECTRON INC CODE COMPLIANCE INSPECTIONS 15120 CHIPPENDALE AVE SUITE 202 ROSEMOUNT MN 55068			Summary Total					6,500.00
				Payment Amount					6,500.00
107712	KLAMM MECHANICAL CONTRACTORS	CUST RAMS005 / JOB 22-8090	PV	112258	001	00999	2/28/2022	4247	3,350.00
	KLAMM MECHANICAL CONTRACTORS 12409 COUNTY ROAD 11 BURNSVILLE MN 55337			Summary Total					3,350.00
				Payment Amount					3,350.00
119244	KRAEMER, JOE	WATER REBATE APPLICATION	PV	112263	001	00999	3/9/2022	032222	500.00
	JOE KRAEMER 5761 162ND CROSSING NW RAMSEY MN 55303			Summary Total					500.00
				Payment Amount					500.00
100259	LEAGUE OF MN CITIES INS TRUST	ACCT #40002716	PV	112103	001	00999	2/9/2022	40002716020922	274,111.00

Payment Group Control Number	3372		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	LEAGUE OF MN CITIES INS TRUST C/O BERKLEY RISK SERVICES INC P O BOX 581517 MINNEAPOLIS MN 55458-1517			Summary Total					274,111.00
				Payment Amount					274,111.00
100259	LEAGUE OF MN CITIES INS TRUST	LMC CA 113417	PV	112149	001	00999	2/22/2022	7049	1,000.00
	LEAGUE OF MN CITIES INS TRUST C/O BERKLEY RISK SERVICES INC P O BOX 581517 MINNEAPOLIS MN 55458-1517			Summary Total					1,000.00
				Payment Amount					1,000.00
100259	LEAGUE OF MN CITIES INS TRUST	Agreement# 1001389/claim 64824	PV	112224	001	00999	3/1/2022	18620	129.18
	LEAGUE OF MN CITIES INS TRUST C/O BERKLEY RISK SERVICES INC P O BOX 581517 MINNEAPOLIS MN 55458-1517			Summary Total					129.18
				Payment Amount					129.18
105991	M K GRAPHICS	NO. 6816	PV	112104	001	00999	2/25/2022	6816	316.86
	M K GRAPHICS 8224 FLORIDA COURT BROOKLYN PARK MN 55445			Summary Total					316.86
				Payment Amount					316.86
117588	MEDART INC	CUST 70856E	PV	112151	001	00999	3/3/2022	08294104	29.70
	MEDART INC 3801 THURSTON AVENUE ANOKA MN 55303			Summary Total					29.70
				Payment Amount					29.70
108208	METRO PRODUCTS INC		PV	112260	001	00999	2/23/2022	165145	33.05
	METRO PRODUCTS INC 7401 CENTRAL AVENUE NE FRIDLEY MN 55432			Summary Total					33.05
				Payment Amount					33.05

Payment Group Control Number	3372		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Payee Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
104920	MINNESOTA HIGHWAY SAFETY RESEARCH CNTR		PV	112261	001	00999	3/9/2022	337900-9076	910.00
	MINNESOTA HIGHWAY SAFETY RESEARCH CNTR 720 FOURTH AVENUE SOUTH ST CLOUD MN 56301-4498							Summary Total	910.00
								Payment Amount	910.00
100328	MN DEPT OF HEALTH WATER	SYSTEM 1020035 RAMSEY	PV	112107	001	00999	2/28/2022	02282022	12,092.00
	MN DEPT OF HEALTH DRINKING WATER PROTECTION SECTION P O BOX 64494 ST PAUL MN 55164-0494							Summary Total	12,092.00
								Payment Amount	12,092.00
100345	NAPA AUTO PARTS ELK RIVER		PV	112228	001	00999	3/7/2022	152500	49.47
	NAPA AUTO PARTS ELK RIVER 17137 YALE STREET NW P O BOX 1041 ELK RIVER MN 55330							Summary Total	49.47
								Payment Amount	49.47
115543	NATURAL ENDEAVORS LANDSCAPING INC	Snow Plow 6701 Hwy 10	PV	112154	001	00999	2/28/2022	1901 FEB 2022	185.00
	NATURAL ENDEAVORS LANDSCAPING INC 2662 S COON CREEK DRIVE ANDOVER MN 55304							Summary Total	185.00
								Payment Amount	185.00
119243	NEWLIN, TODD	WATER EFFICIENCY REBATE	PV	112262	001	00999	3/9/2022	032522	200.00
	TODD NEWLIN 14290 DYSPROSIUM STREET NW RAMSEY MN 55303							Summary Total	200.00
								Payment Amount	200.00
100391	POSTMASTER	Bulk Mailing Permit 131	PV	112160	001	00999	2/20/2022	02202022	265.00

Payment Group Control Number	3372		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	POSTMASTER 2168 - 7TH AVENUE NORTH ANOKA MN 55303			Summary Total					265.00
				Payment Amount					265.00
112183	PSD, LLC	CENTER STREET/SAPPHIRE	PV	112230	001	00999	2/22/2022	2022-1	141,740.15
	PSD, LLC 7533 SUNWOOD DRIVE NW #315 RAMSEY MN 55303			Summary Total					141,740.15
				Payment Amount					141,740.15
100421	REGAL AWARDS AND TROPHIES		PV	112264	001	00999	3/3/2022	210242	80.00
	REGAL AWARDS AND TROPHIES 15454 HEMATITE STREET NW ANOKA MN 55303			Summary Total					80.00
				Payment Amount					80.00
119121	SLOTH INSPECTIONS INC		PV	112162	001	00999	3/1/2022	02282022	5,715.00
	SLOTH INSPECTIONS INC 2089 175TH LANE NW ANDOVER MN 55304			Summary Total					5,715.00
				Payment Amount					5,715.00
114151	TASC (FEES)	TASC ID 4106-0579-1547	PV	112266	001	00999	2/21/2022	IN2314442	235.25
	TASC			Summary Total					235.25
	CLIENT INVOICES	TASC ID 4106-0579-1547	PV	112267	001	00999	2/21/2022	IN2314441	137.00
	P O BOX 88278 MILWAUKEE WI 53288-0001			Summary Total					137.00
				Payment Amount					372.25
100495	TWIN CITIES FLAG SOURCE		PV	112109	001	00999	3/1/2022	36089	172.00
	TWIN CITIES FLAG SOURCE 3240 - 199TH AVENUE NW ANOKA MN 55303			Summary Total					172.00

CITY OF RAMSEY
Create Payment Control Groups

Payment Group Control Number	3372		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	Check Payment		
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
				Payment Amount					172.00
100529	WENDELL'S INC	SALES ORDER 613654	PV	112163	001	00999	2/28/2022	2660859	12.90
	WENDELL'S INC 6601 BUNKER LAKE BLVD PO BOX 458 RAMSEY MN 55303-0458			Summary Total					12.90
				Payment Amount					12.90
				Total Amount to be Processed					504,065.46
				Total Number of Payments to be Processed					32

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Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
110402	ADVANCE AUTO PARTS	CUST 1872583256	PV	112271	001	09101	2/28/2022	02282022	1,242.44
	ADVANCE AUTO PARTS	CUST 1872583256	PV	112271	002	09101	2/28/2022	02282022	220.83
	AAP FINANCIAL SERVICES				Summary Total				1,463.27
	P O BOX 742063								
	ATLANTA GA 30374-2063								
					Payment Amount				1,463.27
100017	AIRGAS USA, LLC	PAYER 2030987	PV	112117	001	00999	2/28/2022	9986368517	31.25
	AIRGAS USA LLC				Summary Total				31.25
	P O BOX 734445		PV	112212	001	00999	3/4/2022	9123348877	253.80
	CHICAGO IL 60673-4445				Summary Total				253.80
					Payment Amount				285.05
110744	ALLINA HEALTH SYSTEM	CUST 10563	PV	112234	001	00999	2/28/2022	CI00017604	200.00
	ALLINA HEALTH SYSTEM				Summary Total				200.00
	MISC BILLING								
	NW 7710 P O BOX 9383								
	MINNEAPOLIS MN 55440-9383								
					Payment Amount				200.00
117343	AMAZON CAPITAL SERVICES INC	ACCT A3VYUQ4FSATYMN	PV	112115	001	00999	3/7/2022	19DN-TNGC-97R9	935.86
	AMAZON CAPITAL SERVICES INC				Summary Total				935.86
	PO BOX 035184	ACCT A3VYUQ4FSATYMN	PV	112119	001	00999	3/7/2022	17JQ-VNWF-YV4T	407.97
	SEATTLE WA 98124-5184				Summary Total				407.97
		ACCT A3VYUQ4FSATYMN	PV	112213	001	00999	3/7/2022	1JR7-DFF1-1FV9	498.59
					Summary Total				498.59
					Payment Amount				1,842.42
107587	ANOKA COUNTY TREASURY DEPARTMENT	CUST 130878	PV	112116	001	00999	2/24/2022	S220222G	30,148.00
	ANOKA COUNTY TREASURY DEPARTMENT				Summary Total				30,148.00
	2100 THIRD AVENUE	CUST 130878	PV	112233	001	00999	3/9/2022	HWYSQ42021	856.18
	ANOKA MN 55303				Summary Total				856.18
					Payment Amount				31,004.18
116848	BAYCOM INC	CUST ID 40676	PV	112215	001	00999	3/8/2022	EQUIPINV_036993	320.00
	BAYCOM INC				Summary Total				320.00

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	PO BOX 88013 MILWAUKEE WI 53288-8013								
				Payment Amount					320.00
103641	BOYER TRUCKS ROGERS	CUST 7645	PV	112216	001	00999	3/7/2022	003S4341	565.61
	BOYER TRUCKS			Summary Total					565.61
	P O BOX 18338	CUST 7645	PV	112240	001	00999	3/8/2022	003P18512	50.40
	MINNEAPOLIS MN 55418			Summary Total					50.40
		CUST 7645	PV	112241	001	00999	3/8/2022	003P18573	220.86
				Summary Total					220.86
		CUST 7645	PV	112242	001	00999	3/9/2022	003P18634	111.32
				Summary Total					111.32
		CUST 7645	PV	112243	001	00999	3/10/2022	003P18490	589.78
				Summary Total					589.78
				Payment Amount					1,537.97
116845	CADY BUSINESS TECHNOLOGIES INC	ACCT 16985	PV	112123	001	00999	3/2/2022	IN-800107281750	39.00
	CADY BUSINESS TECHNOLOGIES INC 3030 HARBOR LANE SUITE 104 PLYMOUTH MN 55447			Summary Total					39.00
				Payment Amount					39.00
114549	CHETS SHOES INC		PV	112124	001	00999	2/28/2022	51803	900.00
	CHETS SHOES INC 8870 RENDOVA STREET NE CIRCLE PINES MN 55014			Summary Total					900.00
				Payment Amount					900.00
116197	CINTAS CORPORATION	PAYER# 12455017	PV	112218	001	00999	3/4/2022	4112456485	33.75
	CINTAS CORPORATION CINTAS LOC #4K P O BOX 650838 DALLAS TX 75265-0838			Summary Total					33.75
				Payment Amount					33.75
100134	CUTTER SALES INC	ORDER #149011	PV	112128	001	00999	3/2/2022	156197	147.49
	CUTTER SALES INC			Summary Total					147.49
	8844 ZEALAND AVENUE	ORDER 149013	PV	112219	001	00999	3/7/2022	156234	64.03

Payment Group Control Number 3373
Bank Account 999.1010 CASH IN BANK 00002224
Version LOGIS004V
Originator TOAKES
Payment Instrument T A/P ACH Payment
Pay Through Date 12/31/2022

Payee Number	Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	NORTH								
	BROOKLYN PARK MN 55445			Summary Total					64.03
				Payment Amount					211.52
113306	DEFINITIVE TECHNOLOGY SOLUTIONS INC	ACCT #CO13	PV	112129	001	00999	3/2/2022	INV232756	28.84
	DEFINITIVE TECHNOLOGY SOLUTIONS INC 9401 JAMES AVENUE SOUTH SUITE 162 BLOOMINGTON MN 55431-2549			Summary Total					28.84
				Payment Amount					28.84
100144	DEHN OIL COMPANY	ACCT 63040029	PV	112126	001	00999	3/3/2022	25187954	3,990.51
	DEHN OIL COMPANY			Summary Total					3,990.51
	6735 141ST AVENUE NW	ACCT 63040029	PV	112127	001	00999	3/3/2022	25187955	5,274.00
	RAMSEY MN 55303			Summary Total					5,274.00
		ACCT 63040029	PV	112220	001	00999	3/7/2022	25188103	170.00
				Summary Total					170.00
				Payment Amount					9,434.51
101185	DO ALL PRINTING COM INC		PV	112130	001	00999	3/3/2022	54038	461.50
	DO ALL PRINTING COM INC			Summary Total					461.50
	6360 HIGHWAY 10 NW		PV	112245	001	00999	3/9/2022	54093	95.20
	RAMSEY MN 55303			Summary Total					95.20
				Payment Amount					556.70
118116	DTN LLC	ACCT 2554576	PV	112221	001	00999	3/4/2022	6092554	400.00
	DTN LLC 18205 CAPITOL AVENUE SUITE 100 OMAHA NE 68022			Summary Total					400.00
				Payment Amount					400.00
116175	ECKBERG LAMMERS ATTORNEYS AT LAW	02 2022	PV	112131	001	00999	2/28/2022	02 2022	6,092.40
	ECKBERG LAMMERS ATTORNEYS AT LAW			Summary Total					6,092.40
	1809 NORTHWESTERN AVENUE	01 2022	PV	112133	001	00999	1/31/2022	01 2022	6,090.71
	STILLWATER MN 55082			Summary Total					6,090.71

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Payee Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
				Payment Amount					12,183.11
100158	ECM PUBLISHERS INC	ACCT 370702	PV	112106	001	00999	2/18/2022	877949	365.50
	ECM PUBLISHERS INC			Summary Total					365.50
	4095 COON RAPIDS BLVD	ACCT 370702	PV	112134	001	00999	2/25/2022	879040	75.25
	COON RAPIDS MN 55433			Summary Total					75.25
		ACCT 370702	PV	112135	001	00999	2/25/2022	879039	59.13
				Summary Total					59.13
		ACCT 370702	PV	112136	001	00999	2/25/2022	879038	64.50
				Summary Total					64.50
		ACCT 370702	PV	112137	001	00999	2/25/2022	879037	91.38
				Summary Total					91.38
		ACCT 370702	PV	112138	001	00999	2/25/2022	879036	150.50
				Summary Total					150.50
				Payment Amount					806.26
114680	ELECTRICAL PRODUCTION SERVICES INC		PV	112105	001	00999	2/25/2022	15944	973.00
	ELECTRICAL PRODUCTION SERVICES INC 4201 NOREX DRIVE SUITE 200 CHASKA MN 55318			Summary Total					973.00
				Payment Amount					973.00
113321	FACTORY MOTOR PARTS CO	ACCT 13613	PV	112143	001	00999	2/28/2022	6-1614710	143.42
	FACTORY MOTOR PARTS CO BIN 139107 P O BOX 9107 MINNEAPOLIS MN 55480-9107			Summary Total					143.42
				Payment Amount					143.42
107099	FASTENAL	CUST MNTC80321	PV	112252	001	00999	3/9/2022	MNTC8200878	15.10
	FASTENAL COMPANY P O BOX 1286 WINONA MN 55987			Summary Total					15.10
				Payment Amount					15.10
106869	FORESTRY SUPPLIERS INC	CUST 774343	PV	112142	001	00999	3/2/2022	188182-00	497.41

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	FORESTRY SUPPLIERS INC 205 WEST RANKIN STREET P.O. BOX 8397 JACKSON MS 39284-8397			Summary Total					497.41
				Payment Amount					497.41
100186	FRANKENSIGNS INC	CUST 100186	PV	112253	001	00999	3/2/2022	278508	32.00
	FRANKENSIGNS			Summary Total					32.00
	9991 GOODHUE STREET NE	JOB 124550	PV	112270	001	00999	3/3/2022	278514	217.00
	P O BOX 490301 BLAINE MN 55449			Summary Total					217.00
				Payment Amount					249.00
100200	GOPHER STATE ONE CALL INC	ACCT MN00633	PV	112144	001	00999	2/28/2022	2020688	97.20
	GOPHER STATE ONE CALL 7223 PARKWAY DRIVE SUITE 210 HANOVER MD 21076-1317			Summary Total					97.20
				Payment Amount					97.20
100650	GRAINGER	ACCT 806511127	PV	112222	001	00999	3/4/2022	9234024512	29.93
	GRAINGER INC DEPT. 806511127 PALATINE IL 60038-0001			Summary Total					29.93
				Payment Amount					29.93
112564	GROUP HEALTH INC WORKSITE	CUST 2861	PV	112254	001	00999	2/23/2022	W847828	94.00
	GROUP HEALTH INC WORKSITE M.S. # 21109A P O BOX 1309 MINNEAPOLIS MN 55440-1309			Summary Total					94.00
				Payment Amount					94.00
119037	HOLSTAD & KNAAK, PLC	Feb Civil	PV	112145	001	00999	2/26/2022	02262022	4,050.00
	HKB LAW 4501 ALLENDALE DRIVE WHITE BEAR LAKE MN 55127			Summary Total					4,050.00
				Payment Amount					4,050.00

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Payee Name / Mailing Address	Stub Message	Ty	Document Number	Itm	Co	Due Date	Invoice Number	Payment Amount
112475	INNOVATIVE OFFICE SOLUTIONS	Innovative S27569	PV	112146	001	00999	3/2/2022	IN3695246	241.16
	INNOVATIVE OFFICE SOLUTIONS				Summary Total				241.16
	P O BOX 860627	Innovative S27569	PV	112255	001	00999	3/8/2022	IN3703057	267.72
	MINNEAPOLIS MN 55486-0001				Summary Total				267.72
		Innovative S27569	PV	112256	001	00999	3/10/2022	IN3706721	24.28
					Summary Total				24.28
					Payment Amount				533.16
100266	LOGIS		PV	112148	001	00999	2/28/2022	51774	910.00
	LOCAL GOVERNMENT INFORMATION SYSTEMS ASS				Summary Total				910.00
	5750 DULUTH STREET	100434	PV	112150	001	00999	3/1/2022	51809	19,974.00
	GOLDEN VALLEY MN 55422-4036				Summary Total				19,974.00
					Payment Amount				20,884.00
106616	MARTIN MCALLISTER, INC	CUST RAM004	PV	112259	001	00999	2/28/2022	14481	2,400.00
	MARTIN MCALLISTER, INC				Summary Total				2,400.00
	7650 EDINBOROUGH WAY #550								
	EDINA MN 55435								
					Payment Amount				2,400.00
100283	MENARDS COON RAPIDS	ACCT 30280262	PV	112226	001	00999	2/21/2022	67762	30.89
	MENARDS COON RAPIDS				Summary Total				30.89
	3045 MAIN STREET	ACCT 30280262	PV	112227	001	00999	3/3/2022	68294	44.97
	COON RAPIDS MN 55433				Summary Total				44.97
					Payment Amount				75.86
100284	MENARDS ELK RIVER	acct 31250289	PV	112152	001	00999	2/27/2022	47671	24.90
	MENARDS ELK RIVER				Summary Total				24.90
	19521 EVANS STREET NW	acct 31250289	PV	112153	001	00999	2/21/2022	47376	89.79
	ELK RIVER MN 55330-1077				Summary Total				89.79
					Payment Amount				114.69
100285	MET COUNCIL ENVIRONMENTAL SRV	CUST 5156	PV	112110	001	00999	3/2/2022	0001136615	82,457.59

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	MET COUNCIL ENVIRONMENTAL SRV P O BOX 856513 MINNEAPOLIS MN 55485-6513			Summary Total					82,457.59
				Payment Amount					82,457.59
100354	NEWMAN SIGNS INC	CUST# RAM-03-003	PV	112155	001	00999	2/28/2022	TRFINV037773	1,927.94
	NEWMAN SIGNS INC PO BOX 1728 JAMESTOWN ND 58402-1728			Summary Total					1,927.94
				Payment Amount					1,927.94
100363	NORTHERN SANITARY SUPPLY CO		PV	112108	001	00999	3/1/2022	203775	232.32
	NORTHERN SANITARY SUPPLY CO 341 COON RAPIDS BLVD MINNEAPOLIS MN 55433			Summary Total					232.32
				Payment Amount					232.32
117474	OERTEL ARCHITECTS LTD	PROJECT RAMSEY SALT BLDG	PV	112156	001	00999	3/3/2022	20-08.3-SALT	2,256.21
	OERTEL ARCHITECTS LTD 1795 ST CLAIR AVENUE ST PAUL MN 55105			Summary Total					2,256.21
				Payment Amount					2,256.21
112421	PERRILL	Roway Software	PV	112157	001	00999	3/1/2022	256806	200.00
	PERRIL 110 CHESHIRE LANE SUITE 105 MINNETONKA MN 55305			Summary Total					200.00
				Payment Amount					200.00
111488	POPP.COM INC	10007670-763-A1-NNN	PV	112159	001	00999	2/28/2022	#992720282	792.60
	POPP.COM INC 620 MENDELSSOHN AVE NO SUITE 101 GOLDEN VALLEY MN 55427			Summary Total					792.60
				Payment Amount					792.60
107978	PREMIER COMMERCIAL PROPERTIES INC	Prop Mgmt 6781 Hwy 10	PV	112158	001	00999	2/28/2022	8094	600.00

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Payee Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
	PREMIER COMMERCIAL PROPERTIES INC 299 COON RAPIDS BLVD NW #200 COON RAPIDS MN 55433							Summary Total	600.00
								Payment Amount	600.00
110330	RESHETAR SYSTEM INC		PV	112161	001	00999	2/28/2022	22-31471	2,985.00
	RESHETAR SYSTEM INC 730 BUNKER LAKE BLVD NW ANOKA MN 55303							Summary Total	2,985.00
								Payment Amount	2,985.00
107711	SCHINDLER ELEVATOR	BILLING ID 500143702	PV	112111	001	00999	3/1/2022	8105878097	1,543.65
	SCHINDLER ELEVATOR P O BOX 93050 CHICAGO IL 60673-3050							Summary Total	1,543.65
								Payment Amount	1,543.65
100453	SRF CONSULTING GROUP INC	RAMSEY QUIET ZONE AFFIRM LTR	PV	112139	001	00999	1/31/2022	14885.00-1	1,057.50
	SRF CONSULTING GROUP INC							Summary Total	1,057.50
	3701 WAYZATA BOULEVARD	RAMSEY QUIET ZONE AFFIRM LTR	PV	112265	001	00999	2/28/2022	14885.00-2	2,423.25
	SUITE 100 MINNEAPOLIS MN 55416-3791							Summary Total	2,423.25
								Payment Amount	3,480.75
100485	TIMESAVER OFF SITE SECRETARIAL INC		PV	112268	001	00999	3/1/2022	M27140	955.26
	TIMESAVER OFF SITE SECRETARIAL INC 21021 KAROLINE COURT N FOREST LAKE MN 55025							Summary Total	955.26
								Payment Amount	955.26
107705	TWIN CITY GARAGE DOOR CO	JOB 1C3039 / CUST 211648	PV	112269	001	00999	3/8/2022	Z205433	310.00
	TWIN CITY GARAGE DOOR CO 5601 BOONE AVE N MINNEAPOLIS MN 55428							Summary Total	310.00
								Payment Amount	310.00

R04570

CITY OF RAMSEY
Create Payment Control Groups

Payment Group Control Number	3373		
Bank Account	999.1010	CASH IN BANK	00002224
Version	LOGIS004V		
Originator	TOAKES		
Payment Instrument	T	A/P ACH Payment	
Pay Through Date	12/31/2022		

Payee Number	Name / Mailing Address	Stub Message	Document Ty	Number	Itm	Co	Due Date	Invoice Number	Payment Amount
106351	WATER LABORATORIES, INC		PV	112231	001	00999	3/4/2022	8934	660.00
	WATER LABORATORIES, INC 333 EAST MAIN STREET PO BOX 388 ELK RIVER MN 55330						Summary Total		660.00
							Payment Amount		660.00
112515	WSB AND ASSOCIATES INC	#17243-000-9 repl #19569-000-1	PV	112229	001	00999	3/7/2022	R-017243-000-9	688.00
	WSB AND ASSOCIATES INC 701 XENIA AVENUE SOUTH SUITE 300 MINNEAPOLIS MN 55416						Summary Total		688.00
							Payment Amount		688.00
							Total Amount to be Processed		190,492.67
							Total Number of Payments to be Processed		45

Accounts Payable Checks $504,065.46
ACH 190,492.67
$694,558.13

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Councilmember introduced the following resolution and moved for its adoption:

RESOLUTION #22-079

RESOLUTION APPROVING CASH DISBURSEMENTS MADE AND AUTHORIZING PAYMENT OF ACCOUNTS PAYABLE INVOICING RECEIVED DURING THE PERIOD OF MARCH 3, 2022, THROUGH MARCH 16, 2022

WHEREAS, the City of Ramsey Finance Department has made cash disbursements and received accounts payable invoicing during the period of March 3, 2022, through March 16, 2022, in the amount of $1,173,623.21 and

WHEREAS, the City Council of the City of Ramsey is required to authorize payment for all disbursement transactions.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) That the Ramsey City Council hereby approves the cash disbursements made and authorizes payment of the accounts payable invoices as detailed in the attached Bills List for the period March 3, 2022, through March 16, 2022, in the amount of $1,173,623.21.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember , and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

CC Regular Session **5. 5.**

Meeting Date: 03/22/2022

By: Diana Lund, Finance

Information

Title

Adopt Resolution #22-063 Approving the Transfer of Excess General Fund Revenues to the Equipment Revolving Fund, Facilities Construction Fund, Capital Maintenance Fund and Public Improvement Revolving (PIR) Fund.

Purpose/Background:

Adopt Resolution #21-073 Approving the Transfer of Excess General Fund Revenues to the Equipment Revolving Fund, Facilities Construction Fund, Capital Maintenance Fund and Public Improvement Revolving (PIR) Fund.

Purpose/Background:

The City Council originally adopted a policy on February 22, 1994, known as the Excess Revenue Policy (Resolution #94-02-045-Resolution Establishing a Financial Policy for the Purpose of Allocation of Excess/Deficient General Fund Revenues) with the last amendment of this policy occurring on May 10, 2016 (Resolution #16-05-089) a copy of which is attached.

The Excess Revenue Policy states that the fund balance will be at 50% of the next year's operating expenditures, plus any encumbrances and compensated absences. After meeting these fund balance requirements at year-ending December 31, 2021, $409,801.32 remained as excess revenues to be transferred from the General Fund.

The majority of the excess revenue was attributed to building permit revenue exceeding budget for 2021.

As stated in the policy, transfers from the General Fund would be as such:

Facilities Construction Fund (10%) $ 40,980.12
Equipment Revolving Fund (30%) $122,940.40
Capital Maintenance Fund (30%) $122,940.40
Public Improvement Revolving (PIR) Fund (30%) $122,940.40

Notification:

The excess/deficient revenue policy with the 2021 excess revenue amount was presented to the City Council at its worksession of March 8, 2022. The recommendation at this meeting was to follow the current policy and distribute the funds to the four funds as stated.

Recommendation:

Staff recommends that $409,801.32 be transferred from the General Fund to the Equipment Revolving Fund in the amount of $122,940,40, the Capital Maintenance Fund in the amount of $122,940.40, the Public Improvement Revolving Fund in the amount of $122,940.40 and the Facilities Construction Fund in the amount of $40,980.12 per the Allocation of the Excess Revenue/Deficient policy

Action:

Motion to adopt Resolution #22-063 Approving the Transfer of Excess General Fund Revenues to the Equipment Revolving Fund, Facilities Construction Fund, Capital Maintenance Fund and Public Improvement Revolving (PIR) at the stated rates.

Attachments

Res #16-05-089 Excess/Deficient Revenue Policy

Res #22-063 Transfer 2021 Excess Revenue

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/16/2022 10:53 AM
Form Started By: Diana Lund		Started On: 03/09/2022 09:18 AM
Final Approval Date: 03/16/2022		

Councilmember Johns introduced the following resolution and moved for its adoption:

RESOLUTION #16-05-089

RESOLUTION ESTABLISHING A FINANCIAL POLICY FOR PURPOSE OF ALLOCATION OF EXCESS/DEFICIENT GENERAL FUND REVENUES

WHEREAS, this is an amendment to the policy adopted February 22, 1994 under Resolution #94-02-045; and

WHEREAS, this policy was further amended by Resolution #04-10-320 adopted October 26, 2004; and

WHEREAS, this policy was further amended by Resolution #10-04-082 adopted April 13, 2010; and

WHEREAS, this policy was further amended by Resolution #11-11-217 adopted November 7, 2011; and

WHEREAS, actual revenues can be over or under actual expenditures at the end of the fiscal year; and

WHEREAS, the State Auditor recommends a fund balance of 35-50% of next year's operating expenditures; and

WHEREAS, the city's policy will have the fund balance at 50% of next year's operating expenditures, plus prior-year encumbrances (if any) plus compensated absences; and

WHEREAS, the city's special revenue funds will not be figured into the calculation of the overall fund balance total as these funds have special designated purposes;

WHEREAS, there exists a need for additional funding sources for certain revolving, trust and replacement funds.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) That the Finance Director is hereby directed to implement the following Financial Policy for the Purpose of Allocation of Excess/Deficient General Fund Revenues:

   When both restricted and unrestricted resources are available for use, it is the City's policy to first use restricted resources, and then use unrestricted resources as they are needed.

   When committed, assigned, or unassigned resources are available for use, it is the City's policy to use resources in the following order; 1) committed, 2) assigned, and 3) unassigned.

   When actual revenues exceed actual expenditures in a given year, the excess shall be allocated as follows:

a) Any excess shall be first allocated to "Assigned" fund balance to bring that portion of fund balance to an amount equal to fifty percent (50%) of the next years adopted operating budget plus prior-year encumbrances (if any) plus compensated absences.

b) Any excess after complying with fund balance requirements in steps a) and b) shall be allocated to revolving, trust and replacement funds in the following manner:

Thirty Percent (30%) to Fund #234 - Equipment Replacement Fund
Thirty Percent (30%) to Fund #810 – Capital Maintenance Fund
Ten percent (10%) to Fund #412 – Public Facilities Construction Fund
Thirty percent (30%) to Fund #400 - Public Improvement Revolving Fund

When actual expenditures exceed actual revenues in a given year, the deficit shall be treated as follows:

a) "Assigned" fund balance shall first be adjusted to an amount equal to fifty percent (50%) of the next years adopted operating budget plus prior year encumbrances (if any) plus compensated absences.

b) If shortage after complying with fund balance requirement in step a) and b) shall draw funds in the following manner:

Thirty Percent (30%) to Fund #234 - Equipment Replacement Fund
Thirty Percent (30%) to Fund #810 – Capital Maintenance Fund
Ten percent (10%) to Fund #412 – Public Facilities Construction Fund
Thirty percent (30%) to Fund #400 - Public Improvement Revolving Fund

2) The Ramsey City Council hereby establishes this policy effective with the year ended December 31, 2016.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Williams and upon vote being taken thereon, the following voted in favor thereof:

Mayor Strommen
Councilmember Johns
Councilmember Williams
Councilmember Kuzma
Councilmember Riley
Councilmember Shryock

and the following voted against the same:

None

and the following abstained:

None

Councilmember introduced the following resolution and moved for its adoption:

RESOLUTION #22-063

RESOLUTION APPROVING THE TRANSFER OF EXCESS GENERAL FUND REVENUES TO THE EQUIPMENT REVOLVING FUND, FACILITIES CONSTRUCTION FUND, CAPITAL MAINTENANCE FUND AND PUBLIC IMPROVEMENT REVOLVING FUND (PIR)

WHEREAS, during the year 2021, the Ramsey City Council acted on matters impacting revenue and expenditure budgets of the City's General Fund for items that were not included in the original budget for the year ended December 31, 2021; and

WHEREAS, it has been determined that there are excess revenues over and above amounts necessary to meet the fund balance requirements for the year ended December 31, 2021; and

WHEREAS, $409,801.32 remained as excess revenues to be transferred from the General Fund at year ended December 31, 2021; and

WHEREAS, Resolution #16-05-089 states that excess year-end General Fund revenues will be distributed to the Equipment Revolving Fund (30%), Facilities Construction Fund (10%), the Capital Maintenance Fund (30%) and the Public Improvement Revolving Fund (30%); and

WHEREAS, $122,940.40 will be transferred from the General Fund to each of the Equipment Revolving Fund, Capital Maintenance Fund and Public Improvement Revolving Fund and $40,980.12 to the Facilities Construction Fund.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA:

1) That the Ramsey City Council hereby approves the transfer of excess General Fund Revenues in the amount of $409,801.32 to the Equipment Revolving Fund, the Facilities Construction Fund, Capital Maintenance Fund and Public Improvement Revolving Fund at the amounts of $122,940.40, $40,980.12, $122,940.40 and $122,940.40, respectively.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this 22nd day of March, 2022.

Mayor

ATTEST:

City Clerk

CC Regular Session **5. 6.**

Meeting Date: 03/22/2022

By: Diana Lund, Finance

Information

Title

Adopt Resolution #22-064 Electing Standard Allowance under the Revenue Loss Provision of ARPA

Purpose/Background:

The City is to receive approximately $3M in Federal Funds from the American Rescue Plan Act (ARPA) Funds that will be distributed through the state in two equal payments - the first half the city received in July 2021 and the second half is proposed to be received in the summer of 2022.

Staff presented possible uses of how these funds could be used at the work session of July 13, 2021 which was towards the construction of the water treatment plant and police body-worn cameras. These were eligible uses as outlined by the U.S. Department of Treasury's interim final rule in May 2021.

On January 6, 2022 the US Treasury issued a final rule which provides broader flexibility and greater simplicity in how the funds may be spent. The final rule will replace the existing interim final rule on April 1, 2022.

According to the final rule, recipients may elect a "standard allowance" of $10 million to spend on government services through the period of performance (March 3, 2020 to December 31, 2024, or December 31, 2026 for projects in process). Under this option, the Treasury presumes that up to $10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount, which would be $3M for Ramsey) to fund government services.

Government services generally include any service traditionally provided by a government.

Some common examples, as outlined, of eligible government services:

- Road building and maintenance, and other infrastructure
- General government administration, staff and administrative facilities
- Provision of police, fire and other public safety services (including purchases of fire trucks and police vehicles

Government services is the most flexible eligible use category under the ARPA program, and funds are subject to streamlined reporting and compliance requirements.

It is recommended that the City pass a resolution electing the Standard Allowance option under the Revenue Loss Provision of ARPA.

Notification:

At the work session of March 8, 2022, there was a general consensus of the City Council that they would like to utilize the $10M Standard Allowance for the City's share of its ARPA funds. Outside of using ARPA funds for the purchase of body-worn cameras for the city's police officers, possible uses of the funds will be discussed during the 2023 budget work sessions. The city has until December 31, 2026 to expend the funds, but funds be "obligated for" or contracted by December 31, 2024.

Observations/Alternatives:
Discussed at previous work session.

Funding Source:
NA

Recommendation:
Staff recommends electing the Standard Allowance option.

Action:
Motion to Adopt Resolution #22-064 Electing Standard Allowance under the Revenue Loss Provision of ARPA.

Attachments

Reso #22-064 Standard Allowance Option
Final Rule ARPA
Summary of Final Rule - ARPA

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/16/2022 02:07 PM
Form Started By: Diana Lund		Started On: 03/09/2022 09:19 AM
Final Approval Date: 03/16/2022		

RESOLUTION #22-064

A RESOLUTION TO ELECT THE STANDARD ALLOWANCE AVAILABLE UNDER THE REVENUE LOSS PROVISION OF THECORONAVIRUS LOCAL FISCAL RECOVERY FUND ESTABLISHED UNDER THE AMERICAN RESCUE PLAN ACT

WHEREAS, Congress adopted the American Rescue Plan Act in March 2021 ("ARPA") which included $65 billion in recovery funds for cities across the country.

WHEREAS, ARPA funds are intended to provide support to state, local, and tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 in their communities, residents, and businesses.

WHEREAS, 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).

WHEREAS, 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.

WHEREAS, $3,029,414 has been allocated to the City of Ramsey("City") pursuant to the ARPA.

WHEREAS, The Coronavirus State and Local Fiscal Recovery Funds ensures that governments have the resources needed to fight the pandemic and support families and businesses struggling with its public health and economic impacts, maintain vital public services, even amid declines in revenue, and build a strong, resilient, and equitable recovery by making investments that support long-term growth and opportunity.

WHEREAS, In May 2021, the US Department of Treasury ("Treasury") published the Interim Final Rule describing eligible and ineligible uses of funds as well as other program provisions, sought feedback from the public on these program rules, and began to distribute funds.

WHEREAS, on January 6, 2022, Treasury issued the final rule. The final rule delivers broader flexibility and greater simplicity in the program, responsive to feedback in the comment process.

WHEREAS, the final rule offers a standard allowance for revenue loss of up to $10 million, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation.

WHEREAS, recipients that select the standard allowance may use that amount, in many cases their full award, for government services, with streamlined reporting requirements.

NOW THEREFORE, **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

THE CITY ELECTS THE STANDARD ALLOWANCE AVAILABLE UNDER THE REVENUE LOSS PROVISION OF THE AMERICAN RESCUE PLAN ACE IN THE AMOUNT OF $3,029,414 TO BE USED FOR THE GENERAL PROVISION OF GOVERNMENT SERVICES.

The motion for the adoption of the following resolution was duly seconded by Councilmember and upon vote being taken theron, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

Attested:

_____
City Clerk

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505–AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is adopting as final the interim final rule published on May 17, 2021, with amendments. This rule implements the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: The provisions in this final rule are effective April 1, 2022.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Director, Coronavirus State and Local Fiscal Recovery Funds, Office of Recovery Programs, Department of the Treasury, (844) 529–9527.

SUPPLEMENTARY INFORMATION:

I. Introduction

Overview

Since the first case of coronavirus disease 2019 (COVID–19) was discovered in the United States in January 2020, the pandemic has caused severe, intertwined public health and economic crises. In March 2021, as these crises continued, the American Rescue Plan Act of 2021 (ARPA) [1] established the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide state, local, and Tribal governments [2] with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery. The U.S. Department of the Treasury (Treasury) issued an interim final rule implementing the SLFRF program on May 10, 2021 [3] and has since disbursed over $240 billion to state, local, and Tribal governments and received over 1,500 public comments on the interim final rule. Treasury is now issuing this final rule which responds to public comments, implements the ARPA statutory provisions on eligible and ineligible uses of SLFRF funds, and makes several changes to the provisions of the interim final rule, summarized below in the section Executive Summary of Major Changes.

Since Treasury issued the interim final rule in May 2021, both the public health and economic situations facing the country have evolved. On the public health front, the United States has made tremendous progress in the fight against COVID–19, including a historic vaccination campaign that has reached over 80 percent of adults with at least one dose and is reaching millions of children as well.[4] However, the disease continues to present an imminent threat to public health, especially among unvaccinated individuals. As the Delta variant spread across the country this summer and fall, the United States faced another severe wave of cases, deaths, and strain on the healthcare system, with the risk of hospitalization and mortality exponentially greater to unvaccinated Americans. COVID–19 has now infected over 50 million and killed over 800,000 Americans since January 2020; tens of thousands of Americans continue to be infected each day.[5] Even as the nation recovers, new and emerging COVID–19 variants may continue to pose threats to both public health and the economy. Moving forward, state, local, and Tribal governments will continue to play a major role in responding through vaccination campaigns, testing, and other services.

The economic recovery similarly has made tremendous progress but faces continued risks from the disease and the disruptions it has caused. In the early months of the pandemic, the United States experienced the sharpest economic downturn on record, with unemployment spiking to 14.8 percent in April 2020.[6] The economy has gradually added back jobs, with growth accelerating in the first half of 2021.[7] However, as the Delta variant spread, the intensified health risks and renewed disruptions slowed growth, demonstrating the continued risks from the virus. By fall 2021, the economy had exceeded its pre-pandemic size [8] and unemployment had fallen below 5 percent,[9] but despite this progress, too many Americans remain unemployed, out of the labor force, or unable to pay their bills, with this pain particularly acute among lower-income Americans and communities of color. Again, moving forward, state, local, and Tribal governments will remain on the frontlines of the economic response and rebuilding a stronger economy in the aftermath of the pandemic.

However, as state, local, and Tribal governments continue to face substantial needs to respond to public health and economic conditions, they have also experienced severe impacts from the pandemic and resulting recession. State, local, and Tribal governments cut over 1.5 million jobs in the early months of the pandemic amid sharp declines in revenue and remain over 950,000 jobs below their pre-pandemic levels.[10] As the Great Recession demonstrated, austerity among state, local, and Tribal governments can hamper overall economic growth and severely curtail the ability of governments to serve their constituents.

Recognizing these imperatives, the SLFRF program provides vital resources for state, local, and Tribal governments to respond to the pandemic and its economic effects and to replace revenue lost due to the public health emergency, preventing cuts to government services. Specifically, the ARPA provides that SLFRF funds [11] 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

[1] Public Law 117–2. *https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf.*

[2] Throughout this Supplementary Information, Treasury uses ''state, local, and Tribal governments'' or ''recipients'' to refer generally to governments receiving SLFRF funds; this includes states, territories, Tribal governments, counties, metropolitan cities, and nonentitlement units of local government.

[3] 86 FR 26786 (May 17, 2021).

[4] Centers for Disease Control and Prevention, COVID Data Tracker: COVID–19 Vaccinations in the United States, *https://covid.cdc.gov/covid-data-tracker/#vaccinations* (last visited December 31, 2021).

[5] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited December 7, 2021).

[6] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/UNRATE* (last visited December 7, 2021).

[7] *Id.*

[8] U.S. Bureau of Economic Analysis, Real Gross Domestic Product [GDPC1], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/GDPC1* (last visited December 7, 2021).

[9] U.S. Bureau of Labor Statistics, *supra* note 6.

[10] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited December 7, 2021).

[11] The ARPA adds section 602 of the Social Security Act, which creates the State Fiscal Recovery Fund, and section 603 of the Social Security Act, which creates the Local Fiscal Recovery Fund (together, SLFRF). Sections 602 and 603 contain substantially similar eligible uses; the primary difference between the two sections is that section 602 establishes a fund for states, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties.

public health emergency by providing premium pay to eligible workers;

(c) For the provision of government services to the extent of the reduction in revenue due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress specified two types of ineligible uses of funds: funds may not be used for deposit into any pension fund or, for states and territories only, to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation.

Issued May 10, 2021, Treasury's interim final rule provided further detail on eligible uses of funds within the four statutory categories, ineligible uses of funds, and administration of the program. The interim final rule provided state, local, and Tribal governments substantial flexibility to determine how best to use payments from the SLFRF program to meet the needs of their communities. The interim final rule aimed to facilitate swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of eligible uses of funds that state, local, and Tribal governments may consider.

State, local, and Tribal governments are already deploying SLFRF funds to make an impact in their communities. The SLFRF program ensures that state, local, and Tribal governments have the resources needed to fight the pandemic, sustain and strengthen the economic recovery, maintain vital public services, and make investments that support long-term growth, opportunity, and equity. Treasury looks forward to supporting and engaging with state, local, and Tribal governments as they use these funds to make transformative investments in their communities. Finally, with so many pressing and effective ways to use SLFRF funds, there is no excuse for waste, fraud, or abuse of these funds.

Treasury received over 1,500 comments spanning nearly all aspects of the interim final rule. The final rule considers and responds to comments, provides clarification to many aspects of the interim final rule, and makes several changes to eligible uses under the program, summarized immediately below.

Executive Summary of Major Changes and Clarifications

The final rule provides broader flexibility and greater simplicity in the program, in response to public comments. Among other clarifications and changes, the final rule provides for the following:

- *Public Health and Negative Economic Impacts:* In addition to programs and services, the final rule clarifies that recipients may use funds for capital expenditures that support an eligible COVID–19 public health or economic response. For example, recipients may build certain affordable housing, childcare facilities, schools, hospitals, and other projects consistent with the requirements in this final rule and the Supplementary Information.

In addition, the final rule presumes that an expanded set of households and communities are ''impacted'' or ''disproportionately impacted'' by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. Further, the final rule provides a broader set of enumerated eligible uses available for these communities as part of COVID–19 public health and economic response, including making affordable housing, childcare, and early learning services eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

Further, the final rule allows for a broader set of uses to restore and support government employment, including hiring above a recipient's pre-pandemic baseline, providing funds to employees that experienced pay cuts or furloughs, avoiding layoffs, and providing retention incentives.

- *Premium Pay:* The final rule offers more streamlined options to provide premium pay, by broadening the share of essential workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline essential workers.
- *Revenue Loss:* The final rule offers a standard allowance for revenue loss of up to $10 million, not to exceed a recipient's SLFRF award amount, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation. Recipients that select the standard allowance may use that amount for government services.
- *Water, Sewer, and Broadband Infrastructure:* The final rule significantly broadens eligible broadband infrastructure investments to address challenges with broadband access, affordability, and reliability, and adds additional eligible water and sewer infrastructure investments, including a broad range of lead remediation and stormwater management projects.

Structure of the Supplementary Information

In addition to this Introduction, this Supplementary Information is organized into four sections: (1) Eligible Uses, (2) Restrictions on Use, (3) Program Administration Provisions, and (4) Regulatory Analyses.

The Eligible Uses section describes the standards to determine eligible uses of funds in each of the four eligible use categories:

(1) Responding to the public health and negative economic impacts of the pandemic (which includes several sub-categories)

(2) Providing premium pay to essential workers

(3) Providing government services to the extent of revenue loss due to the pandemic, and

(4) Making necessary investments in water, sewer, and broadband infrastructure.

Each eligible use category has separate and distinct standards for assessing whether a use of funds is eligible. Standards, restrictions, or other provisions in one eligible use category do not apply to the others. Therefore, recipients should first determine which eligible use category a potential use of funds fits within, then assess whether the potential use of funds meets the eligibility standard or criteria for that category. In the case of uses to respond to the public health and negative economic impacts of the pandemic, recipients should also determine which sub-category the eligible use fits within (*i.e.,* public health, assistance to households, assistance to small businesses, assistance to nonprofits, aid to impacted industries, or public sector capacity and workforce), then assess whether the potential use of funds meets the eligibility standard for that sub-category. Treasury does not pre-approve uses of funds; recipients are advised to review the final rule and may pursue eligible projects under it.

In some sections of the rule, Treasury identifies specific uses of funds that are eligible, called ''enumerated eligible uses''; for example, Treasury provides many enumerated eligible uses of funds to respond to the public health and negative economic impacts of the pandemic. Uses of funds that are not specifically named as eligible in this

final rule may still be eligible in two ways. First, under the revenue loss eligible use category, recipients have broad latitude to use funds for government services up to their amount of revenue loss due to the pandemic. A potential use of funds that does not fit within the other three eligible use categories may be permissible as a government service, which recipients can fund up to their amount of revenue loss. For example, transportation infrastructure projects are generally ineligible as a response to the public health and negative economic impacts of the pandemic; however, a recipient could fund these projects as a government service up to its amount of revenue loss, provided that other restrictions on use do not apply. See sections Revenue Loss and Restrictions on Use for further information. Second, the eligible use category for responding to the public health and negative economic impacts of the pandemic provides a non-exhaustive list of enumerated eligible uses, which means that the listed eligible uses include some, but not all, of the uses of funds that could be eligible. The Eligible Uses section provides a standard for determining if other uses of funds, beyond those specifically enumerated, are eligible. If a recipient would like to pursue a use of funds that is not specifically enumerated, the recipient should use the standard and other guidance provided in the section Public Health and Negative Economic Impacts to assess whether the use of funds is eligible.

Next, the Restrictions on Use section describes limitations on how funds may be used. Treasury has divided the Restriction on Use section into (A) statutory restrictions under the ARPA, which include (1) offsetting a reduction in net tax revenue, and (2) deposits into pension funds, and (B) other restrictions on use, which include (1) debt service and replenishing reserves, (2) settlements and judgments, and (3) general restrictions. These restrictions apply to all eligible use categories; however, some restrictions apply only to certain types of recipient governments, and recipients are advised to review the final rule to determine which restrictions apply to their type of government (*e.g.,* state, territory, Tribal government, county, metropolitan city, or nonentitlement unit of government). To reiterate, for recipient governments covered by a specific restriction, that restriction applies to all eligible use categories and any use of funds under the SLFRF program. Specifically:

- For states and territories only, funds may not be used to offset directly or indirectly a reduction in net tax revenue resulting from a change in state or territory law.
- For all recipients except Tribal governments, funds may not be used for deposits into a pension fund.
- For all recipients, funds may not be used for debt service or replenishing financial reserves.
- All recipients must also comply with three general restrictions. First, a recipient may not use SLFRF funds for a program, service, or capital expenditure that conflicts with or contravenes the statutory purpose of ARPA, including a program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID–19. Second, recipients may not use SLFRF funds in violation of the conflict-of-interest requirements contained in the Award Terms and Conditions, including any self-dealing or violation of ethics rules. Lastly, recipients should be aware that federal, state, and local laws and regulations, outside of SLFRF program requirements, also apply, including for example, environmental laws and federal civil rights and nondiscrimination requirements, which include prohibitions on discrimination on the basis of race, color, national origin, sex (including sexual orientation and gender identity), religion, disability, age, or familial status (having children under the age of 18).

The Program Administration Provisions section describes the processes and requirements for administering the program on an ongoing basis, specifically as relates to the following: Distribution of funds, timeline for using funds, transfer of funds from a recipient to different organizations, use of funds for program administration, reporting on use of funds, and remediation and recoupment of funds used for ineligible purposes. Of note, SLFRF funds may only be used for costs incurred within a specific time period, beginning March 3, 2021, with all funds obligated by December 31, 2024 and all funds spent by December 31, 2026. Recipients are advised to also consult Treasury's Reporting and Compliance Guidance for additional information on program administration processes and requirements, including applicability of the Uniform Guidance.

Finally, the section Regulatory Analyses provides Treasury's analysis of the impacts of this rulemaking, as required by several laws, regulations, and Executive Orders.

Throughout this Supplementary Information, statements using the terms ''should'' or ''must'' refer to requirements, except when used in summarizing opinions expressed in public comments. Statements using the term ''encourage'' refer to recommendations, not requirements.

II. Eligible Uses

A. Public Health and Negative Economic Impacts

Background

Since the first case of COVID–19 was discovered in the United States in January 2020, the disease has infected over 50 million and killed over 800,000 Americans.[12] The disease—and necessary measures to respond—have had an immense public health and economic impact on millions of Americans across many areas of life, as detailed below in the respective sections on Public Health and Negative Economic Impacts. Since the release of the interim final rule in May 2021, the country has made major progress in fighting the disease and rebuilding the economy but faces continued risks, as illustrated by the spread of the Delta variant and the resulting slowdown in the economic recovery. The SLFRF program, and Treasury's interim final rule, provide substantial flexibility to recipients to respond to pandemic impacts in their local community; this flexibility is designed to help state, local, and Tribal governments adapt to the evolving public health emergency and tailor their response as needs evolve and to the particular local needs of their communities.

Indeed, state, local, and Tribal governments face continued needs to respond at scale to the public health emergency. This includes continued public health efforts to slow the spread of the disease, to increase vaccination rates and provide vaccinations to new populations as they become eligible, to protect individuals living in congregate facilities, and to address the broader impacts of the pandemic on public health. Similarly, while a strong economic recovery is underway, the economy remains 3.9 million jobs below its pre-pandemic level, pointing to the continued need for response efforts, with low-income workers and communities of color facing elevated rates of unemployment and economic hardship.[13] Long-standing disparities in health and economic outcomes in

[12] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited December 31, 2021).

[13] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS] *https://fred.stlouisfed.org/series/PAYEMS* (last visited December 7, 2021).

underserved [14] communities, that amplified and exacerbated the impacts of the pandemic, also present continued barriers to full and equitable recovery.

As state, local, and Tribal governments work to meet the public health and economic needs of their communities, these governments are also confronting the need to rebuild their own capacity. Facing severe budget challenges during the pandemic, many state, local, and Tribal governments have been forced to make cuts to services or their workforces, including cutting over 1.5 million jobs from February to May 2020, or delay critical investments. As of fall 2021, state, local, and Tribal government employment remained over 950,000 jobs below pre-pandemic levels.[15] In the recovery from the Great Recession, cuts to state, local, and Tribal governments became a meaningful drag on economic growth for several years, and the SLFRF program provides the resources needed to re-invest in vital public services and workers to avoid this outcome.[16]

1. General Provisions: Structure and Standards

Background: Sections 602(c)(1)(A) and 603(c)(1)(A) of the Social Security Act establish that recipients may use funds ''to respond to the public health emergency with respect to COVID–19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.'' The interim final rule established three categories within this eligible use: (1) Public health responses for those impacted by the pandemic, including the general public; (2) responses to the negative economic impacts that were experienced by those impacted as a result of the pandemic; and (3) additional services, either as a public health response or a response to the negative economic impacts of the pandemic, for disproportionately impacted communities.

The interim final rule established the method to determine which specific programs or services may be eligible to respond to the public health emergency or to respond to the negative economic impacts of the public health emergency within this framework. The interim final rule included multiple enumerated uses that are eligible within each of these categories when provided to eligible populations, including populations that the interim final rule presumed to have been *impacted* (in the case of public health responses and responses to negative economic impacts) or *disproportionately impacted* (in the case of disproportionately impacted communities). Finally, the interim final rule also allowed recipients to designate additional individuals or classes as impacted or disproportionately impacted. The standards for each of these criteria under the interim final rule are discussed below.

To assess whether a program or service would be eligible to respond to the public health emergency or its negative economic impacts, the interim final rule stated that, ''the recipient [is required] to, first, identify a need or negative impact of the COVID–19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact [. . . .] [E]ligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID–19 public health emergency.'' The enumerated eligible uses were presumed to meet this criterion.

With respect to uses not specifically enumerated in the interim final rule as eligible public health responses, the interim final rule stated that, ''[t]o assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID–19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.''

With respect to uses not specifically enumerated in the interim final rule as eligible responses to a negative economic impact of the public health emergency, the interim final rule stated that ''[e]ligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID–19 public health emergency and whether, and the extent to which, the use would respond to or address this harm.[17] A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID–19 public health emergency.'' The interim final rule went on to say that: ''In addition, the eligible use must 'respond to' the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses.''

Throughout this final rule, Treasury refers to households, communities, small businesses, nonprofits, and industries that experienced public health or negative economic impacts of the pandemic as ''impacted.'' The first section in the interim final rule under this eligible use category included public health responses for these impacted classes. The second category in the interim final rule under this eligible use category included responses to the negative economic impacts that were experienced by these impacted classes as a result of the pandemic.

The interim final rule further recognized that certain populations have experienced disproportionate health or negative economic impacts during the pandemic, as pre-existing disparities in these communities amplified the impacts of the pandemic. For example, the interim final rule recognized that the negative economic effects of the pandemic were particularly pronounced among lower-income families, who were more likely to experience income loss and more likely to have a job that required in-person work. The interim final rule recognized the role of pre-existing social vulnerabilities and disparities in driving the disparate health and economic outcomes and presumed that programs designed to address these health or economic disparities are responsive to the public health or negative economic impacts of the COVID–19 public health emergency, when provided in disproportionately impacted communities. In addition to identifying certain populations and communities

[14] Treasury uses ''underserved'' to refer to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. In the interim final rule, Treasury generally used the term ''disadvantaged'' to refer to these same populations and communities.

[15] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited December 7, 2021).

[16] Tracy Gordon, State and Local Budgets and the Great Recession, Brookings Institution (Dec. 31, 2012), *http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession.*

[17] In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of section 602 and 603 of the Social Security Act.

presumed to be disproportionately impacted, it also empowered recipients to identify other disproportionately impacted households, populations, communities, or small businesses. The interim final rule provided that, in identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served.

Throughout this final rule, Treasury refers to those households, communities, small businesses, and nonprofits that experienced disproportionate public health or negative economic impacts of the pandemic as ''disproportionately impacted.'' The third category in the interim final rule under this eligible use included public health responses and responses to the negative economic impacts for these disproportionately impacted classes.

The interim final rule provided significant flexibility for recipients to determine which households, populations, communities, or small businesses have been impacted and/or disproportionately impacted by the pandemic and to identify appropriate responses. The interim final rule included several provisions to provide simple methods for recipients to identify impacts and design programs to address those impacts. First, the interim final rule allowed recipients to demonstrate a negative economic impact on a population or class and provide assistance to households or small businesses that fall within that population or class. In such cases, the recipient need only demonstrate that an individual household or business is within the class that experienced a negative economic impact, rather than requiring a recipient to demonstrate that each individual household or small business experienced a negative economic impact, because the impact was already identified for the class.

Second, in the interim final rule, Treasury presumed that certain populations have been impacted or disproportionately impacted and are thus eligible for services that respond to these impacts or disproportionate impacts. Specifically, the interim final rule permitted recipients to presume that households that experienced unemployment, increased food or housing insecurity, or are low- or moderate-income experienced a negative economic impact from the pandemic. The interim final rule also permitted recipients to presume that certain services provided in Qualified Census Tracts (QCTs), to individuals living in QCTs, or by Tribal governments are responsive to disproportionate impacts of the pandemic. In addition to the populations presumed to be impacted or disproportionately impacted, under the interim final rule, recipients could identify other impacted households or classes, as described above, as well as other populations, households, or geographic areas that are disproportionately impacted by the pandemic.

Third, as mentioned previously, the interim final rule included a non-exhaustive list of uses of funds that Treasury identified as responsive to the impacts or disproportionate impacts of the pandemic. Treasury refers to these as ''enumerated eligible uses.''

To summarize, the interim final rule identified certain populations that are presumed to be *impacted* by the pandemic (and specific enumerated uses of funds that are responsive to that impact) and populations that are presumed to be *disproportionately impacted* by the pandemic (and specific enumerated uses of funds that are responsive to those disproportionate impacts). In addition, the interim final rule provided standards for recipients to assess whether additional uses of funds, beyond the enumerated eligible uses, are eligible for impacted and disproportionately impacted populations and permitted recipients to identify other households or classes that experienced impacts of the pandemic or disproportionate impacts of the pandemic.

Rule Structure

Public Comment: Many commenters expressed concern regarding the structure of the eligible uses, indicating they found the structure of the public health and negative economic impacts section of the interim final rule to be confusing or difficult to navigate. Other commenters indicated that they understood the enumerated uses to be the only eligible uses and/or the presumed eligible populations to be the only eligible populations. Several commenters expressed frustration about the number of eligible uses specifically enumerated in the interim final rule, which they considered too few, and commenters proposed a wide range of additional enumerated eligible uses (for further discussion, see the section Public Health and section Negative Economic Impacts). Commenters expressed concern with pursuing uses of funds not explicitly enumerated in the eligible use section or uncertainty regarding the broad flexibility provided under the interim final rule to pursue additional programs that respond to the public health or negative economic impacts of the pandemic or the process for doing so.

Treasury Response: Treasury recognizes that many commenters felt the structure of the interim final rule could be clarified. These comments are consistent with many of the questions that Treasury has received from recipients, which requested clarification regarding the category their desired response fits into. Treasury observes that these comments and questions generally fall into four categories: (1) How to identify the correct public health or negative economic impact category for a particular response, (2) how to identify whether a particular use is eligible, (3) how to identify an impacted or disproportionately impacted class, and (4) whether an enumerated use can be provided to a class other than those presumed impacted or disproportionately impacted. In response to comments, Treasury is adjusting the structure of the public health and negative economic impacts eligible use section of the final rule to improve clarity and make it easier for recipients to interpret and apply the final rule.

Specifically, Treasury is restructuring the rule to aid recipients in determining whether a particular response is eligible and how the particular response might be eligible under a particular category. This restructuring reinforces the fundamental criteria that a use of funds is eligible based on its responsiveness to a public health or negative economic impact experienced by individuals, households, small businesses, nonprofits, or impacted industries (together ''beneficiaries'').[18] This restructuring is intended to make the rule easier to navigate and to implement, including any criteria or conditions on particular uses of funds.

The reorganization of the public health and negative economic impacts section of the final rule is also intended to clarify the enumerated eligible uses described in the interim final rule. The reorganization itself is not intended to change the scope of the enumerated uses that were included in the interim final rule or that were allowable under the interim final rule. In some cases, specific enumerated uses are being altered, and those changes are discussed

[18] Note that small businesses, nonprofits, and industries may also function as subrecipients. For additional information on these distinctions see section Distinguishing Subrecipients versus Beneficiaries.

as changes within the section on that enumerated use.

The final rule streamlines and aligns services and standards that are generally applicable or are provided for public health purposes. Under this approach, eligible uses to respond to the public health emergency are organized based on the type of public health problem: (1) COVID–19 mitigation and prevention, (2) medical expenses, (3) behavioral health care, and (4) preventing and responding to violence. Under this approach, eligible uses to respond to the negative economic impacts of the public health emergency are organized based on the type of beneficiary: (1) Assistance to households, (2) assistance to small businesses, and (3) assistance to nonprofits, alongside a fourth standalone eligibility category for aid to travel, tourism, hospitality, and other impacted industries. The first three categories, assistance to households, small businesses, and nonprofits, include enumerated eligible uses for impacted and disproportionately impacted beneficiaries. This change in structure is intended to provide a framework that clearly identifies the intended beneficiaries of uses of funds and provides clarity about what types of assistance are ''responsive to the pandemic or its negative economic impacts'' for these beneficiaries.

a. Standards for Identifying a Public Health or Negative Economic Impact

Standards: Designating a Public Health Impact

Public Comment: Many commenters expressed uncertainty about how to determine whether a use of funds, beyond those specifically enumerated as eligible, might be an eligible public health response. For example, many commenters submitted questions asking whether specific uses of funds would be eligible. Others described what they considered to be impacts of the pandemic and argued that uses of funds to respond to these issues should be eligible. Some commenters requested that Treasury provide additional detail to guide their assessments of eligible uses of funds. For example, a commenter requested more clarification around exactly what and whose medical expenses can be covered. These comments ranged in their specificity and covered the full range of the enumerated eligible uses.

Treasury Response: Treasury is clarifying that when assessing whether a program or service is an eligible use to respond to the public health impacts of the COVID–19 public health emergency, the Department will consider the two eligibility requirements discussed below. These standards apply to all proposed public health uses.

First, there must be a negative public health impact or harm experienced by an individual or a class. For ease of administration, the interim final rule allowed, and the final rule maintains the ability for, recipients to identify a public health impact on a population or group of individuals, referred to as a ''class,'' and to provide assistance to that class. In determining whether an individual is eligible for a program designed to address a harm experienced by a class, the recipient need only document that the individual is within the class that experienced a public health impact, see section Standards: Designating Other Impacted Classes. In the case of some impacts, for example impacts of COVID–19 itself that are addressed by providing prevention and mitigation services, such a class could reasonably include the general public.

Second, the program, service, or other intervention must address or respond to the identified impact or harm. The final rule maintains the interim final rule requirement that eligible uses under this category must be in response to the disease itself or other public health harms that it caused.[19]

Responses must be reasonably designed to benefit the individual or class that experienced the public health impact or harm. Uses of funds should be assessed based on their responsiveness to their intended beneficiaries and the ability of the response to address the impact or harm experienced by those beneficiaries.

Responses must also be related and reasonably proportional to the extent and type of public health impact or harm experienced. Uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they experienced. In evaluating whether a use is reasonably proportional, recipients should consider relevant factors about the harm identified and the response. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

If a recipient intends to fund capital expenditures in response to the public health impacts of the pandemic, recipients should refer to the section Capital Expenditures for details about the eligibility of capital expenditures.

Standards: Designating a Negative Economic Impact

Public Comment: Many commenters expressed uncertainty about how to determine whether uses of funds, beyond those specifically enumerated as eligible, might be eligible responses to negative economic impacts. For example, many commenters submitted questions asking whether specific uses of funds would be eligible. Others described what they considered to be impacts of the pandemic and argued that uses of funds to respond to these issues should be eligible. Some commenters requested that Treasury provide additional detail to guide their assessments of eligible uses of funds. These comments ranged in their specificity and covered the full range of eligible uses to respond to negative economic impacts. Several commenters asked for clarification about what types of food assistance would be considered eligible. Another commenter requested that the establishment of outdoor dining be eligible. Many commenters inquired about homeless shelters as an eligible use of SLFRF funds.

Commenters also expressed uncertainty about the ability to establish classes, including geographic areas, that experienced a negative economic impact or disagreed with the requirement that an individual entity be impacted by the pandemic in order to receive assistance. For example, a commenter argued that interventions should not be limited to individuals or businesses that experienced an economic impact and should instead be used broadly to support economic growth. These commenters argued that an expenditure that supports a more robust economy may help combat the pandemic's negative economic impacts, and it can do so even if funding is provided to individuals or entities that did not themselves experience a negative economic impact during the pandemic.

Treasury Response: The final rule maintains the standard articulated in

[19] In designing an intervention to mitigate COVID–19, the recipient should consider guidance from public health authorities, particularly the Centers for Disease Control and Prevention (CDC), in assessing appropriate COVID–19 mitigation and prevention strategies (*see* Centers for Disease Control and Prevention, COVID–19, *https://www.cdc.gov/coronavirus/2019-ncov/index.html*). A program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID–19 or discourage compliance with practices in line with CDC guidance for stopping the spread of COVID–19 is not a permissible use of funds.

the interim final rule. For clarity, the final rule re-articulates that when assessing whether a program or service is an eligible use to respond to the negative economic impacts of the COVID–19 public health emergency, Treasury will consider the two eligibility requirements discussed below.

First, there must be a negative economic impact, or an economic harm, experienced by an individual or a class. The recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID–19 public health emergency. A recipient should first consider whether an economic harm exists and then whether this harm was caused or made worse by the COVID–19 public health emergency. This approach is consistent with the text of the statute, which provides that funds in this category must be used to ''respond to the public health emergency with respect to . . . its negative economic impacts.''

While economic impacts may either be immediate or delayed, individuals or classes that did not experience a negative economic impact from the public health emergency would not be eligible beneficiaries under this category. As noted above, the interim final rule permitted recipients to presume that households that experienced unemployment, increased food or housing insecurity, or are low- or moderate-income experienced a negative economic impact from the pandemic. For discussion of the final rule's approach to this presumption, see section Populations Presumed Eligible.

The final rule also maintains several provisions included in the interim final rule and subsequent guidance that are intended to ease administration of identifying that the beneficiary experienced a negative economic impact or harm. For example, the interim final rule allowed, and the final rule maintains the ability for, recipients to demonstrate a negative economic impact on a population or group, referred to as a ''class,'' and to provide assistance to households, small businesses, or nonprofits that fall within that class. In such cases, the recipient need only demonstrate that the household, small business, or nonprofit is within the class that experienced a negative economic impact, see section Standards: Designating Other Impacted Classes. This would allow, for example, an internet access assistance program for all households with children to support those households' ability to participate in healthcare, work, and educational activities like extending learning opportunities, among other critical activities. In that case, the recipient would only need to identify a negative economic impact to the class of ''households with children'' and would not need to document or otherwise demonstrate that each individual household served experienced a negative economic impact.

Second, the response must be designed to address the identified economic harm or impact resulting from or exacerbated by the public health emergency. In selecting responses, the recipient must assess whether, and the extent to which, the use would respond to or address this harm or impact. This approach is consistent with the text of the statute, which provides that funds may be used to ''respond to'' the ''negative economic impacts'' of the public health emergency ''including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.'' The list of potential responses (''assistance'' or ''aid'') suggests that responses should address the ''negative economic impacts'' of particular types of beneficiaries (*e.g.,* households or small businesses).

Responses must be reasonably designed to benefit the individual or class that experienced the negative economic impact or harm. Uses of funds should be assessed based on their responsiveness to their intended beneficiary and the ability of the response to address the impact or harm experienced by that beneficiary.[20]

Responses must also be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses.[21] Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide assistance in a very small amount to a group that experienced severe harm and in a much larger amount to a group that experienced relatively little harm. In evaluating whether a use is reasonably proportional, recipients should consider relevant factors about the harm identified and the response. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

Finally, recipients should be aware of the distinction between beneficiaries of funds and subrecipients; a recipient may provide services to beneficiaries through subrecipients that did not experience a negative economic impact, see section Distinguishing Subrecipients versus Beneficiaries. That is, a recipient may award SLFRF funds to an entity that did not experience a negative economic impact in order to implement a program or provide a service to beneficiaries on its behalf. Such transfers, when implementing a public health or negative economic impact response, should be responsive to and designed to benefit individuals, households, small businesses, nonprofits, or impacted industries that did experience a public health or negative economic impact.

Determining the Appropriate Eligible Use Category

Public Comment: Some commenters expressed uncertainty about how to analyze negative economic impacts to different entities (*e.g.,* households, small businesses, nonprofits). For example, commenters asked whether a nonprofit, which did not experience a negative economic impact itself, could be granted funds to provide services to individuals experiencing homelessness, who did experience negative economic impacts. Other commenters proposed providing assistance to support the expansion of small businesses, under the theory that this would create more job opportunities for unemployed workers who experienced negative economic impacts.

Treasury Response: In the final rule, Treasury is clarifying that recipients should assess a potential use of funds based on which beneficiary experienced the negative economic impact, in other words, the households, small businesses, nonprofits, or impacted industries that experienced the negative economic impact.

Treasury notes that recipients may award SLFRF funds to many different types of organizations to carry out eligible uses of funds and serve beneficiaries on behalf of a recipient.

[20] For example, expenses such as excessive compensation to employees or expenses which have already been reimbursed through another federal program, are not reasonably designed to address a negative economic impact to a beneficiary.

[21] For example, a program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID–19 or discourage compliance with practices in line with CDC guidance for stopping the spread of COVID–19 is not a permissible use of funds.

When a recipient provides funds to another entity to carry out eligible uses of funds and serve beneficiaries the entity becomes a subrecipient (see section Distinguishing a Subrecipient versus a Beneficiary). For example, a recipient may grant funds to a nonprofit organization to provide food assistance (an eligible use) to low-income households (the beneficiaries). Recipients only need to assess whether the beneficiaries experienced a negative economic impact and whether the eligible use responds to that impact, consistent with the two-part framework described above; the organization carrying out the eligible use does not need to have experienced a negative economic impact if it is serving as the vehicle for reaching the beneficiaries. When making determinations about how to implement a program, recipients should consider whether that method of program implementation is an effective and efficient method to implement the program and do so in accordance with the Uniform Guidance provisions that govern procurements and sub-granting of federal funds, as applicable.

As noted above, recipients should analyze eligible uses based on the beneficiary of the assistance or the entity that experienced a negative economic impact. Assistance to a small business or to an impacted industry must respond to a negative economic impact experienced by that small business or industry. Recipients may not provide assistance to small businesses or impacted industries that did not experience a negative economic impact, although recipients can identify negative economic impacts for classes, rather than individual businesses, and may also presume that small businesses in certain areas experienced impacts; see section General Provisions: Structure and Standards and section Assistance to Small Businesses for details.

Several examples illustrate the application of these concepts. For example, a recipient could provide assistance to households via a contract with a business to create subsidized jobs for the long-term unemployed; in this case the business is a subrecipient and need not have experienced a negative economic impact, but the recipient would need to identify a specific connection between the assistance provided and addressing the negative economic impact experienced by the unemployed households. The recipient could, for instance, document the subsidized jobs created under the contract and their reservation for long-term unemployed individuals. Similarly, a recipient might provide assistance to a small business that experienced a pandemic-related loss of revenue. This small business is a beneficiary and may use those funds in many ways, potentially including hiring or retaining staff. However, general assistance to a business that did not experience a negative economic impact under the theory that this assistance generally grows the economy and therefore enhances opportunities for unemployed workers would not be an eligible use, because such assistance is not reasonably designed to impact the individuals or classes that experienced a negative economic impact. In other words, there is not a reasonable connection between the assistance provided and an impact on the beneficiaries. Such an activity would be attenuated from and thus not reasonably designed to benefit the households that experienced the negative economic impact.

b. Populations Presumed Eligible

Presumed Eligibility: Impacted and Disproportionately Impacted Households and Communities

Background: As noted above, the interim final rule allowed recipients to presume that certain households were impacted or disproportionately impacted by the pandemic and thus eligible for responsive programs or services. Specifically, under the interim final rule, recipients could presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low- or moderate-income experienced negative economic impacts resulting from the pandemic, and recipients may provide services that respond to these impacts.

The interim final rule also recognized that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities and allowed for a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities. Under the interim final rule, recipients were allowed to presume that families residing in QCTs or receiving services provided by Tribal governments were disproportionately impacted by the pandemic.

Definition of Low- and Moderate-Income

Public Comment: As noted earlier, many commenters sought a definition for ''low- and moderate-income'' to provide recipients greater clarity on which specific households could be presumed to be impacted by the pandemic.

Treasury Response: The final rule maintains the presumptions identified in the interim final rule and defines low- and moderate-income for the purposes of determining which households and populations recipients may presume to have been impacted. To simplify the administration of this presumption, the final rule adopts a definition of low- and moderate-income based on thresholds established and used in other federal programs.

Definitions. The final rule defines a household as *low income* if it has (i) income at or below 185 percent of the Federal Poverty Guidelines (FPG) for the size of its household based on the most recently published poverty guidelines by the Department of Health and Human Services (HHS) or (ii) income at or below 40 percent of the Area Median Income (AMI) for its county and size of household based on the most recently published data by the Department of Housing and Urban Development (HUD).[22]

The final rule defines a household as *moderate income* if it has (i) income at or below 300 percent of the FPG for the size of its household based on the most recently published poverty guidelines by HHS or (ii) income at or below 65 percent of the AMI for its county and size of household based on the most recently published data by HUD.[23]

Recipients may determine whether to measure income levels for specific households or for a geographic area based on the type of service to be provided. For example, recipients developing a program that serves specific households (*e.g.,* a subsidy for internet access, a childcare program) may measure income at the household level. Recipients providing a service that reaches a general geographic area (*e.g.,* a park) may measure median income of that area.

Further, recipients should generally use the income threshold for the size of the household to be served (*e.g.,* when providing childcare to a household of five, recipients should reference the income threshold for a household of five); however, recipients may use the income threshold for a default household size of three if providing

[22] AMI is also often referred to as median family income for the area. Since AMI is synonymous with this term and used more generally, the final rule refers to AMI.

[23] For the six New England states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, HUD provides AMI for towns rather than counties. Recipients in these states should use the AMI corresponding to their town when determining thresholds for both low and moderate income.

services that reach a general geographic area or if doing so would simplify administration of the program to be provided (*e.g.,* when developing a park, recipients should use the income threshold for a household size of three and compare it to median income of the geographic area to be served).

Note that recipients can also identify and serve other classes of households that experienced negative economic impacts or disproportionate impacts from the pandemic; recipients can identify these classes based on their income levels, including above the levels defined as low- and moderate-income in the final rule. For example, a recipient may identify that households in their community with incomes above the final rule threshold for low-income nevertheless experienced disproportionate impacts from the pandemic and provide responsive services. See section General Provisions: Standards for Identifying Other Eligible Populations for details on applicable standards.

Applicable levels. For reference, the FPG is commonly referred to as the federal poverty level (FPL) and is related to—although distinct from—the U.S. Census Bureau's poverty threshold. The final rule uses the FPG when referring specifically to the HHS guidelines, as these are the quantitative metrics used for determining low- and moderate-income households.

The FPG by household size for 2021 is included in the table below. Recipients should refer to HHS Poverty Guidelines for this information, which is updated annually and available on the HHS website.[24] For calculating the thresholds of 40 percent and 65 percent of AMI, recipients should refer to the annual HUD Section 8 50 percent income limits by county and household size published by HUD and available on the HUD website; in particular, recipients should calculate the 40 percent threshold as 0.8 times the 50 percent income limit, and recipients should calculate the 65 percent threshold as 1.3 times the 50 percent income limit.[25] Finally, for median income of Census Tracts and other geographic areas, recipients should refer to the most recent American Community Survey 5-year estimates available through the Census website.[26]

2021 Federal Poverty Guidelines

Household size	48 contiguous states and the District of Columbia	Alaska	Hawaii
1	$12,880	$16,090	$14,820
2	17,420	21,770	20,040
3	21,960	27,450	25,260
4	26,500	33,130	30,480
5	31,040	38,810	35,700
6	35,580	44,490	40.920
7	40,120	50,170	46,140
8	44,660	55,850	51,360

For families/households with more than 8 persons, add the following amounts for each additional person:
48 Contiguous States and the District of Columbia: $4,540.
Alaska: $5,680.
Hawaii: $5,220.
Source: "HHS Poverty Guidelines for 2021," available at *https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines.*

Rationale. In defining low income, the final rule uses both the FPG and AMI to account for national trends and regional differences. The metric of 185 percent of FPG aligns with some other programs; for instance, under the National School Lunch Program, students with household incomes under 185 percent of FPG qualify for free or reduced-price lunch, and schools often use eligibility for free or reduced-price lunch as an indicator of low-income status under Title 1–A of the Elementary and Secondary Education Act. Eligibility for other programs, such as the Federal Communications Commission's e-Rate program and the Special Supplemental Nutrition Program for Women, Infants and Children employ this metric as well. In addition, 185 percent of the FPG for a family of four is $49,025, which is approximately the wage earnings for a two-earner household in which both earners receive the median wage in occupations, such as waiters and waitresses and hotel clerks, that were heavily impacted by COVID–19.[27] This measure is targeted toward those at the bottom of the income distribution and thus helps to promote use of SLFRF funds towards populations with the greatest needs. At the same time, with approximately one-quarter of Americans below 185 percent of the poverty threshold, this approach is broad enough to facilitate use of SLFRF funds across many jurisdictions.[28] Because regions have different cost and income levels, this definition also allows for upward adjustment based on AMI for those regions where 40 percent of AMI exceeds 185 percent of FPG. The metric of 40 percent of AMI is based on the midpoint of values often used to designate certain categories of low-income households; specifically, it is the midpoint of the 30 percent income limit and the 50 percent income limit

[24] U.S. Department of Health and Human Service, HHS Poverty Guidelines for 2021, *available at https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines.*

[25] U.S. Department of Housing and Urban Development, FY 2021 Section 8 Income Limits, *available at https://www.huduser.gov/portal/datasets/il/il21/Section8-FY21.xlsx.* Recipients may refer to the list of counties (and New England towns) identified by state and metropolitan area for identifying the appropriate area. U.S. Department of Housing and Urban Development, FY 2021 List of Counties (and New England Towns) Identified by State and Metropolitan Area, *available at https://www.huduser.gov/portal/datasets/il/il21/area-definitions-FY21.pdf.*

[26] The U.S. Census Bureau provides an interactive map: U.S. Census Bureau, Median Household Income State Selection Map, *available at https://data.census.gov/cedsci/map?q=Median%20Household%20Income&g=0100000US%2404000%24001&tid=ACSST5Y2019.S1901&cid=S1901_C01_012E&vintage=2019.* The U.S. Census Bureau also provides an interactive table: U.S. Census Bureau, Median Household Income In The Past 12 Months (In 2019 Inflation-Adjusted Dollars), *available at https://data.census.gov/cedsci/table?q=b19013&tid=ACSDT5Y2019.B19013&hidePreview=true.*

[27] *See* U.S. Bureau of Labor Statistics, Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/current/oes_nat.htm* (last visited December 7, 2021).

[28] U.S. Census Bureau, Poverty Status by State, *https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pov/pov-46.html* (last visited December 7, 2021).

used in programs such as the Community Development Block Grant (CDBG) Program.

In defining moderate income, the final rule uses both the FPG and AMI to account for national trends and regional differences. While there are different definitions of moderate income, 300 percent of FPG falls within the range commonly used by researchers.[29] Analysis of median wages among a sample of occupations likely impacted by the pandemic also suggests that an income cutoff of 300 percent of FPG would include many households with workers in such occupations.[30] Moreover, the metric of 300 percent of FPG covers households that, while above the poverty line, often lack economic security.[31] Treasury determined the AMI threshold for moderate income by maintaining the same ratio of FPG multiplier to AMI multiplier as in the definition of low income. This anchors the threshold to the existing definitions of moderate income from the literature while taking into account geographical variation in income and expenses in the same manner as the definition of low income.

Eligibility Presumptions

Public Comment: Many commenters believed that a broader range of groups should be considered presumptively impacted and disproportionately impacted, arguing that many households had been affected by the pandemic and that broader presumed eligibility would help recipients provide assistance quickly and effectively.

Treasury also received many comments on the presumption that families living in QCTs or receiving services from Tribal governments were disproportionately impacted by the pandemic. While many commenters supported the interim final rule's recognition of disproportionate impacts of the pandemic on low-income communities, many commenters disagreed with treating QCTs as the only presumed eligible group of disproportionately impacted households, apart from households served by Tribal governments. While acknowledging a potential increase in administrative burden, commenters recommended that Treasury presume other households or geographic areas, in addition to QCTs, were disproportionately impacted; suggestions included all low- and moderate-income households, geographic areas designated as Opportunity Zones, Difficult Development Areas (DDAs), areas with a certain amount of Real Estate Advantage Program (REAP) recipients, or use of eligibility criteria from the Community Reinvestment Act. One commenter generally recommended that a clearer definition of ''disproportionately impacted'' should be provided and that any definition should include communities of color and people of limited means. Another recommended specific eligibility for people that had recently interacted with the criminal justice system. Many commenters representing Tribal governments and groups recommended a presumption of eligibility for all Tribal uses of funds, clarification that off reservation members remained eligible, and broad flexibility on use of funds.

Additionally, commenters noted that some areas are technically eligible to be QCTs but fall short because of the aggregate population of eligible tracts. One commenter noted that these areas should be considered the same as QCTs for the purpose of SLFRF funds. Some commenters argued that rural counties typically have few QCTs despite high levels of poverty and disruption caused by the COVID–19 pandemic. Other rural commenters recommended that the designation be by county rather than at a more granular level, arguing that the QCT designation is biased towards urban areas and understates the harm done to rural America. Many commenters representing Tribal governments supported the presumption that services provided by Tribal governments respond to disproportionate impacts.

Treasury Response

Summary: While households residing in QCTs or served by Tribal governments were presumed to be disproportionately impacted, Treasury emphasizes that under the interim final rule recipients could also identify other households, populations, or geographic areas that were disproportionately impacted by the pandemic and provide services to respond.

The final rule maintains the presumptions identified in the interim final rule, as well as recipients' ability to identify other impacted or disproportionately impacted classes. The final rule also allows recipients to presume that low-income households were disproportionately impacted, and as discussed above, defines low- and moderate-income. Finally, under the final rule recipients may also presume that households residing in the U.S. territories or receiving services from territorial governments were disproportionately impacted.

Households presumed to be impacted: Impacted households are those that experienced a public health or negative economic impact from the pandemic.

With regard to public health impacts, recipients may presume that the general public experienced public health impacts from the pandemic for the purposes of providing services for COVID–19 mitigation and behavioral health. In other words, recipients may provide a wide range of enumerated eligible uses in these categories to the general public without further analysis. As discussed in the introduction, COVID–19 as a disease has directly affected the health of tens of millions of Americans, and efforts to prevent and mitigate the spread of the disease are needed and in use across the country. Further, the stress of the pandemic and resulting recession have affected nearly all Americans. Accordingly, the final rule presumes that the general public are impacted by and eligible for services to respond to COVID–19 mitigation and prevention needs, as well as behavioral health needs.

With regard to negative economic impacts, as with the interim final rule, under the final rule recipients may presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. The final rule's definition of low- and moderate-income, by providing standard metrics based on widely available data, is intended to simplify administration for recipients.

Households presumed to be disproportionately impacted: Disproportionately impacted households are those that experienced a

[29] For instance, Melissa Kearney et al. (2013) cap the ''struggling lower middle-income class'' at 250 percent of the federal poverty level, while Isabel Sawhill and Edward Rodrigue (2015) define the ''middle class'' as those with incomes of at least 300 percent of the poverty line. Melissa Kearney et al., ''A Dozen Facts about America's Struggling Lower-Middle Class,'' The Hamilton Project (December 2013), *https://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/THP_12LowIncomeFacts_Final.pdf;* Isabel Sawhill and Edward Rodrigue, ''An Agenda for Reducing Poverty and Improving Opportunity,'' Brookings Institution, *https://www.brookings.edu/wp-content/uploads/2016/07/Sawhill_FINAL.pdf.*

[30] Data on median annual wages from: U.S. Bureau of Labor and Statistics, Occupational Employment and Wage Statistics, *available at https://www.bls.gov/oes/current/oes_nat.htm* (last visited December 7, 2021).

[31] For instance, households earning between 200 and 300 percent of the FPG have significantly higher rates of food and housing insecurity than those earning above 300 percent of the FPG. Table 1, Kyle J. Caswell and Stephen Zuckerman, Food Insecurity, Housing Hardship, and Medical Care Utilization, Urban Institute (June 2018), *https://www.urban.org/sites/default/files/publication/98701/2001896_foodinsecurity_housinghardship_medicalcareutilization_finalized.pdf.*

disproportionate, or meaningfully more severe, impact from the pandemic. As discussed in the interim final rule, pre-existing disparities in health and economic outcomes magnified the impact of the COVID–19 public health emergency on certain households and communities. As with the interim final rule, under the final rule recipients may presume that households residing in QCTs or receiving services provided by Tribal governments were disproportionately impacted by the pandemic. In addition, under the final rule recipients may presume that low-income households were disproportionately impacted by the pandemic. Finally, under the final rule recipients may also presume that households residing in the U.S. territories or receiving services from territorial governments were disproportionately impacted.

Treasury notes that households presumed to be disproportionately impacted would also be presumptively impacted, as these households have not only experienced pandemic impacts but have experienced disproportionate pandemic impacts; as a result, these households are presumptively eligible for responsive services for both impacted and disproportionately impacted households.

Many different geographic, income-based, or poverty-based presumptions could be used to designate disproportionately impacted populations. The combination of permitting recipients to use QCTs, low-income households, and services provided by Tribal or territorial governments as presumptions balances these varying methods. Specifically, QCTs are a commonly used designation of geographic areas based on low incomes or high poverty rates of households in the community; for recipients providing geographically targeted services, QCTs may provide a simple metric with readily available maps for use. However, Treasury recognizes that QCTs do not capture all underserved populations, including for reasons noted by commenters. By allowing recipients to also presume that low-income households were disproportionately impacted, the final rule provides greater flexibility to serve underserved households or communities. Data on household incomes is also readily available at varying levels of geographic granularity (*e.g.,* Census Tracts, counties), again permitting flexibility to adapt to local circumstances and needs. Finally, Treasury notes that, as discussed further below, recipients may also identify other households, populations, and communities disproportionately impacted by the pandemic, in addition to those presumed to be disproportionately impacted.

Additionally, Tribal and territorial governments may face both disproportionate impacts of the pandemic and administrability challenges with operationalizing the income-based standard; therefore, Treasury has presumed that services provided by these governments respond to disproportionate pandemic impacts. Given a lack of regularly published data on household incomes in most territories,[32] as well as a lack of poverty guidelines developed for these jurisdictions,[33] it may be highly challenging to assess disproportionate impact in these communities according to an income- or poverty-based standard. Similarly, data on incomes in Tribal communities are not readily available.[34] Finally, as described in the sections on Public Health and Negative Economic Impacts, Tribal communities have faced particularly severe health and economic impacts of the pandemic. Similarly, available research suggests that preexisting health and economic disparities in the territories amplified the impact of the pandemic on these communities.[35]

Categorical Eligibility

Public Comment: Several commenters suggested that the final rule permit recipients to rely on a beneficiary's eligibility for other federal benefits programs as an easily administrable proxy for identifying a group or population that experienced a negative economic impact as a result of the COVID–19 public health emergency (*i.e.,* categorical eligibility). In other words, a recipient would determine that individuals or households are eligible for an SLFRF-funded program based on the individual or household's eligibility in another program, typically another federal benefit program. Commenters noted that categorical eligibility is a common policy in program administration that can significantly ease administrative burden on both program administrators and beneficiaries.

Treasury Response: Treasury agrees that allowing recipients to identify impacted and disproportionately impacted beneficiaries based on their eligibility for other programs with similar income tests would ease administrative burden. To the extent that the other program's eligibility criteria align with a population or class that experienced a negative economic impact of the pandemic, this approach is also consistent with the process allowed under the final rule for recipients to determine that a class has experienced a negative economic impact, and then document that an individual receiving services is a member of the class. For these reasons, the final rule recognizes categorical eligibility for the following programs and populations:

- *Impacted households.* Treasury will recognize a household as impacted if it otherwise qualifies for any of the following programs:
  - Children's Health Insurance Program (CHIP)
  - Childcare Subsidies through the Child Care and Development Fund (CCDF) Program
  - Medicaid
  - National Housing Trust Fund (HTF), for affordable housing programs only
  - Home Investment Partnerships Program (HOME), for affordable housing programs only
- *Disproportionately impacted households.* Treasury will recognize a household as disproportionately impacted if it otherwise qualifies for any of the following programs:
  - Temporary Assistance for Needy Families (TANF)
  - Supplemental Nutrition Assistance Program (SNAP)
  - Free and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs
  - Medicare Part D Low-income Subsidies
  - Supplemental Security Income (SSI)
  - Head Start and/or Early Head Start
  - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
  - Section 8 Vouchers
  - Low-Income Home Energy Assistance Program (LIHEAP)
  - Pell Grants
  - For services to address educational disparities, Treasury will recognize Title

[32] For instance, the American Community Survey does not include all territories. U.S. Census Bureau, Areas Published, *https://www.census.gov/programs-surveys/acs/geography-acs/areas-published.html* (last visited November 9, 2021).

[33] U.S. Department of Health and Human Services, *supra* note 24.

[34] For instance, data from the American Community Survey is based on geographical location rather than Tribal membership. U.S. Census Bureau, My Tribal Area, *https://www.census.gov/Tribal/Tribal_glossary.php.*

[35] Lina Stoylar et. al., Challenges in the U.S. Territories: COVID–19 and the Medicaid Financing Cliff, Kaiser Family Foundation (May 18, 2021), *https://www.kff.org/coronavirus-covid-19/issue-brief/challenges-in-the-u-s-territories-covid-19-and-the-medicaid-financing-cliff/.*

I eligible schools [36] as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible

c. Standards for Identifying Other Eligible Populations

Standards: Designating Other Impacted Classes

Public Comment: Treasury received multiple comments requesting additional clarification about how classes of impacted individuals may be designated, as well as questions asking whether recipients must demonstrate a specific public health or negative economic impact to each entity served (*e.g.,* each household receiving assistance under a program). There were several comments requesting that specific geographic designations, like a county or Impact Zone, be eligible to use as a determining boundary.

Treasury Response: The interim final rule allowed, and the final rule maintains, the ability for recipients to demonstrate a public health or negative economic impact on a class and to provide assistance to beneficiaries that fall within that class. Consistent with the scope of beneficiaries included in sections 602(c)(1)(A) and 603(c)(1)(A) of the Social Security Act, Treasury is clarifying that a recipient may identify such impacts for a class of households, small businesses, or nonprofits. In such cases, the recipient need only demonstrate that the household, small business, or nonprofit is within the relevant class. For example, a recipient could determine that restaurants in the downtown area had generally experienced a negative economic impact and provide assistance to those small businesses to respond. When providing this assistance, the recipient would only need to demonstrate that the small businesses receiving assistance were restaurants in the downtown area. The recipient would not need to demonstrate that each restaurant served experienced its own negative economic impact.

In identifying an impacted class and responsive program, service, or capital expenditure, recipients should consider the relationship between the definition of the class and proposed response. Larger and less-specific classes are less likely to have experienced similar harms and thus the responses are less likely to be responsive to the harms identified. That is, as the group of entities being served by a program has a wider set of fact patterns, or the type of entities, their circumstances, or their pandemic experiences differ more substantially, it may be more difficult to determine that the class has actually experienced the same or similar negative economic impact and that the response is appropriately tailored to address that impact.

Standard: Designating Other Disproportionately Impacted Classes

Summary of Interim Final Rule: As noted above, the interim final rule provided a broad set of enumerated eligible uses of funds in disproportionately impacted communities, including to address pre-existing disparities that contributed to more severe pandemic impacts in these communities. The interim final rule presumed that these services are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments. Recipients may also provide these services to ''other populations, households, or geographic areas disproportionately impacted by the pandemic'' and, in identifying these disproportionately impacted communities, should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the group identified.

Public Comment: A significant number of commenters expressed uncertainty regarding the process for determining eligibility for disproportionately impacted communities beyond QCTs. A commenter noted that a clearer definition of ''disproportionately impacted'' should be delineated and that any definition should include communities of color and people of limited means. Some commenters suggested a template or checklist to see if an area meets the standard for disproportionately impacted communities outside of QCTs. Some commenters stated that QCT and non-QCT beneficiaries should be treated the same.

Treasury Response: Under the interim final rule, presuming eligibility for services in QCTs, for populations living in QCTs, and for Tribal governments was intended to ease administrative burden, providing a simple path for recipients to offer services in underserved communities, and is not an exhaustive list of disproportionately impacted communities. To further clarify, the final rule codifies the interpretive framework discussed above, including presumptions of groups disproportionately impacted, as well as the ability to identify other disproportionately impacted populations, households, or geographies (referred to here as disproportionately impacted classes).

As discussed in the interim final rule, in identifying other disproportionately impacted classes, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. For example, the interim final rule considered data regarding the rate of COVID–19 infections and deaths in low-income and socially vulnerable communities, noting that these communities have experienced the most severe health impacts, compared to national averages. Similarly, the interim final rule considered the high concentration of low-income workers performing essential work, the reduced ability to socially distance, and other pre-existing public health challenges, all of which correlate with more severe COVID–19 outcomes. The interim final rule also considered the disproportionate economic impacts of the pandemic, citing, for example, the rate of job losses among low-income persons as compared to the general population. The interim final rule then identified QCTs, a common, readily accessible, and geographically granular method of identifying communities with a large proportion of low-income residents, as presumed to be disproportionately impacted by the pandemic.

In other words, the interim final rule identified disproportionately impacted populations by assessing the impacts of the pandemic and finding that some populations experienced meaningfully more severe impacts than the general public. Similarly, to identify disproportionately impacted classes, recipients should compare the impacts experienced by that class to the typical or average impacts of the pandemic in their local area, state, or nationally.

Recipients may identify classes of households, communities, small businesses, nonprofits, or populations that have experienced a disproportionate impact based on academic research or government research publications, through analysis of their own data, or through analysis of other existing data sources. To augment their analysis, or when quantitative data is not readily available, recipients may also consider qualitative research and sources like resident interviews or

[36] *Title I eligible schools* means schools eligible to receive services under section 1113 of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6313), including schools served under section 1113(b)(1)(C) of that Act.

feedback from relevant state and local agencies, such as public health departments or social services departments. In both cases, recipients should consider the quality of the research, data, and applicability of analysis to their determination.

In designing a program or service that responds to a disproportionately impacted class, a recipient must first identify the impact and then identify an appropriate response. To assess disproportionate impact, recipients should rely on data or research that measures the public health or negative economic impact. An assessment of the effects of a response (*e.g.,* survey data on levels of resident support for various potential responses) is not a substitute for an assessment of the impact experienced by a particular class. Data about the appropriateness or desirability of a response may be used to assess the reasonableness of a response, once an impact or disproportionate impact has been identified but should not be the basis for assessing impact.

2. Public Health

Background

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.[37] Since that time, and through present day, the United States has faced numerous waves of the virus that have brought acute strain on health care and public health systems. At various points in the pandemic, hospitals and emergency medical services have seen significant influxes of patients; response personnel have faced shortages of personal protective equipment; testing for the virus has been scarce; and congregate living facilities like nursing homes have seen rapid spread.

Since the initial wave of the COVID–19 pandemic, the United States has faced several additional major waves that continued to impact communities and stretch public health services. The summer 2020 wave impacted communities in the south and southwest. As the weather turned colder and people spent more time indoors, a wave throughout fall and winter 2020 impacted communities in almost every region of the country as the virus reached a point of uncontrolled spread and over 3,000 people died per day due to COVID–19.[38]

In December 2020, the Food and Drug Administration (FDA) authorized COVID–19 vaccines for emergency use, and soon thereafter, mass vaccination in the United States began. At the time of the interim final rule publication in May 2021, the number of daily new infections was steeply declining as rapid vaccination campaigns progressed across the country. By summer 2021, COVID–19 cases had fallen to their lowest level since early months of the pandemic, when testing was scarce. However, throughout late summer and early fall, the Delta variant, a more infectious and transmittable variant of the SARS–CoV–2 virus, sparked yet another surge. From June to early September, the seven-day moving average of reported cases rose from 12,000 to 165,000.[39]

As of December 2021, COVID–19 in total has infected over 50 million and killed over 800,000 Americans.[40] Preventing and mitigating the spread of COVID–19 continues to require a major public health response from federal, state, local, and Tribal governments.

First, state, local, and Tribal governments across the country have mobilized to support the national vaccination campaign. As of December 2021, more than 80 percent of adults have received at least one dose, with more than 470 million total doses administered.[41] Additionally, more than 15 million children over the age of 12 have received at least one dose of the vaccine and over 47 million people have received a booster dose.[42] Vaccines for younger children, ages 5 through 11, have been approved and are reaching communities and families across the country. As new variants continue to emerge globally, the national effort to administer vaccinations and other COVID–19 mitigation strategies will be a critical component of the public health response.

In early reporting on uses of SLFRF funds, recipients have indicated that they plan to put funds to immediate use to support continued vaccination campaigns. For example, one recipient has indicated that it plans to use SLFRF funds to support a vaccine incentive program, providing $100 gift cards to residents at community vaccination clinics. The program aimed to target communities with high public health needs.[43] Another recipient reported that it is partnering with multiple agencies, organizations, and providers to distribute COVID–19 vaccinations to homebound residents in assisted living facilities.[44]

State, local, and Tribal governments have also continued to execute other aspects of a wide-ranging public health response, including increasing access to COVID–19 testing and rapid at-home tests, contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts, public health surveillance (*e.g.,* monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs.

State, local, and Tribal governments have also supported major efforts to prevent COVID–19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included, for example, implementing infection prevention measures or making ventilation improvements.

In particular, state, local, and Tribal governments have mounted significant efforts to safely reopen schools. A key factor in school reopening is the ability to implement COVID–19 mitigation strategies such as providing masks and other hygiene resources, improving air-quality and ventilation, increasing outdoor learning and eating spaces, testing and contact tracing protocols, and a number of other measures.[45] For example, one recipient described plans to use SLFRF funds to further invest in school health resources that were critical components of school reopening and reducing the spread of COVID–19 in schools. Those investments include the increasing school nurses and social

[37] Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), *https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html.*

[38] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID–19 Cases and Deaths in the US Reported to CDC, by State/Territory, *https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases* (last visited December 7, 2021).

[39] *Id.*

[40] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited December 31, 2021).

[41] Centers for Disease Control and Prevention, COVID Data Tracker: COVID–19 Vaccinations in the United States, *https://covid.cdc.gov/covid-data-tracker/#vaccinations* (last visited December 7, 2021).

[42] *Id.*

[43] Columbus, Ohio Recovery Plan, *https://www.columbus.gov/recovery/.*

[44] Luzerne County, Pennsylvania Recovery Plan, *https://www.luzernecounty.org/DocumentCenter/View/26304/Final-Interim-Recovery-Plan-Performance-Report-83121.*

[45] This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Guidance for COVID–19 Prevention in K–12 Schools (November 5, 2021), *available at https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html.*

workers, improved ventilation systems, and other health and safety measures.

The need for public health measures to respond to COVID–19 will continue moving forward. This includes the continuation of vaccination campaigns for the general public, booster doses, and children. This also includes monitoring the spread of COVID–19 variants, understanding the impact of these variants, developing approaches to respond, and monitoring global COVID–19 trends. Finally, the long-term health impacts of COVID–19 will continue to require a public health response, including medical services for individuals with ''long COVID,'' and research to understand how COVID–19 impacts future health needs and raises risks for the tens of millions of Americans who have been infected.

The COVID–19 pandemic also negatively impacted other areas of public health, particularly mental health and substance use. In January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.[46] The mental health impacts of the pandemic have been particularly acute for adults ages 18 to 24, racial and ethnic minorities, caregivers for adults, and essential workers, with all reporting significantly higher rates of considering suicide.[47] The proportion of children's emergency department visits related to mental health has also risen noticeably.[48] Similarly, rates of substance use and overdose deaths have spiked: Preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from April 2020 to April 2021, bringing the estimated overdose death toll for a 12-month period over 100,000 for the first time ever.[49] The CDC also found that 13 percent of adults started or increased substance use to cope with stress related to COVID–19 and 26 percent reported having symptoms of trauma- and stressor-related disorder (TRSD) related to the pandemic.[50]

Another public health challenge exacerbated by the pandemic was violent crime and gun violence, which increased during the pandemic and has disproportionately impacted low-income communities.[51] According to the Federal Bureau of Investigation (FBI), although the property crime rate fell 8 percent in 2020, the violent crime rate increased 6 percent in 2020 compared to 2019 data.[52] In particular, the estimated number of aggravated assault offenses rose 12 percent, while murder and manslaughter increased 30 percent from 2019 to 2020.[53] The proportion of homicides committed with firearms rose from 73 percent in 2019 to 76 percent in 2020.[54] Exposure to violence can create serious short-term and long-term harmful effects to health and development, and repeated exposure to violence may be connected to negative health outcomes.[55] Addressing community violence as a public health issue may help prevent and even reduce additional harm to individuals, households, and communities.[56]

Many communities are using SLFRF funds to invest in holistic approaches in violence prevention that are rooted in targeted outreach and addressing root causes. For example, the City of St. Louis is planning to invest in expanding a ''community responder'' model designed to provide clinical help and to divert non-violent calls away from the police department. Additionally, the city will expand access to mental health services, allowing residents to seek support at city recreation centers, libraries, and other public spaces.[57] Similarly, Los Angeles County will further invest in its ''Care First, Jails Last'' program which seeks to replace ''arrest and incarceration'' responses with health interventions.[58]

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.[59] The CDC has found that racial and ethnic minorities are at increased risk for infection, hospitalization, and death from COVID–19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.[60]

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 308 deaths per 100,000 compared to the U.S. average of 238 deaths per 100,000, as of December 2021.[61] Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national average, with 325 deaths per 100,000 as of December 2021.[62] Over the course of the

[46] Nirmita Panchal et al., The Implications of COVID–19 for Mental Health and Substance Abuse (Feb. 10, 2021), *https://www.kff.org/coronavirus covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text= Older%20adults%20are%20also%20 more, prior%20to%20the%20current%20crisis;* Mark É. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID–19 Pandemic—United States, June 24–30 2020, Morb. Mortal. Wkly. Rep. 69(32):1049–57 (Aug. 14, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm.*

[47] *Id.*

[48] Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1–October 17, 2020, Morb. Mortal. Wkly. Rep. 69(45):1675–80 (Nov. 13, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm.*

[49] Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, *https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm* (last visited May 8 December 6, 2021).

[50] Panchal, *supra* note 46; Mark É. Czeisler et al., *supra* note 46.

[51] The White House, FACT SHEET: More Details on the Biden-Harris Administration's Investments in Community Violence Interventions (April 7, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/07/fact-sheet-more-details-on-the-biden-harris-administrations-investments-in-community-violence-interventions/.*

[52] Federal Bureau of Investigation, FBI Releases 2020 Crime Statistics (September 27, 2021) *https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2020-crime-statistics.*

[53] *Id.*

[54] *Id.*

[55] The Educational Fund to Stop Gun Violence, Community Gun Violence, *https://efsgv.org/learn/type-of-gun-violence/community-gun-violence/* (last visited November 9, 2021).

[56] Giffords Law Center, Healing Communities in Crisis: Lifesaving Solutions to the Urban Gun Violence Epidemic (March 2016), *https://giffords.org/wp-content/uploads/2019/01/Healing-Communities-in-Crisis.pdf.*

[57] St. Louis, MO Recovery Plan, *https://www.stlouis-mo.gov/government/recovery/covid-19/arpa/plan/.*

[58] Los Angeles County, CA Recovery Plan, *http://file.lacounty.gov/SDSInter/bos/supdocs/160391.pdf.*

[59] Office of the White House, National Strategy for the COVID–19 Response and Pandemic Preparedness (Jan. 21, 2021), *https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf.*

[60] In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID–19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. *See* Sebastian D. Romano et al., Trends in Racial and Ethnic Disparities in COVID–19 Hospitalizations, by Region—United States, March–December 2020, MMWR Morb Mortal Wkly Rep 2021, 70:560–565 (Apr. 16, 2021), *https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.*

[61] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID–19 Cases and Deaths in the United States, by County-level Population Factors, *https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths* (last visited December 7, 2021).

[62] The CDC's Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID–19 Cases and Deaths in the United States, by Social

Continued

pandemic, Native Americans have experienced more than one and a half times the rate of COVID–19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.[63] Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID–19 mortality.[64] In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who face greater risk of exposure.[65]

Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.[66] The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.[67]

Summary of the Interim Final Rule Approach to Public Health

Summary: As discussed above, the interim final rule provided flexibility for recipients to pursue a wide range of eligible uses to ''respond to'' the COVID–19 public health emergency. Uses of funds to ''respond to'' the public health emergency address the SARS-CoV–2 virus itself, support efforts to prevent or decrease spread of the virus, and address other impacts of the pandemic on public health. The interim final rule implemented these provisions by identifying a non-exhaustive list of programs or services that may be funded as responding to COVID–19 (''enumerated eligible uses''), along with considerations for evaluating other potential uses of funds not explicitly listed. Enumerated eligible uses are discussed below. For guidance on how to determine whether a particular use is allowable, beyond those enumerated, see section Standards: Identifying a Public Health Impact.

Enumerated eligible uses under this section built and expanded upon permissible expenditures under the Coronavirus Relief Fund; for clarity, the interim final rule expressly listed as eligible uses the uses permissible under the Coronavirus Relief Fund, with minor exceptions.[68] The interim final rule also recognized that the nature of the COVID–19 public health emergency, and responsive policy measures, programs, and services, had changed over time and is expected to continue evolving.

The interim final rule categorized enumerated eligible uses to respond to the public health emergency into several categories: (1) COVID–19 mitigation and prevention, (2) medical expenses, (3) behavioral health care, (4) public health and safety staff, (5) expenses to improve the design and execution of health and public health programs, and (6) eligible uses to address disparities in public health outcomes. For each category in turn, this section describes public comments received and Treasury's responses, as well as comments received proposing additional enumerated eligible uses.

Reorganizations and Cross-References: In some cases, enumerated eligible uses included in the interim final rule under responding to the public health emergency have been re-categorized in the organization of the final rule to enhance clarity. For discussion of eligible uses for public health and safety staff and to improve the design and execution of public health programs, please see section Public Sector Capacity and Workforce in General Provisions: Other. For discussion of eligible uses to address disparities in public health outcomes, please see section Assistance to Households in Negative Economic Impacts.

Conversely, discussion of eligible assistance to small businesses and nonprofits to respond to public health impacts has been moved from Assistance to Small Businesses and Assistance to Nonprofits in Negative Economic Impacts to this section. This change is consistent with the interim final rule, which provides that appropriate responses to address the public health impacts of COVID–19 may be provided to any type of entity.

a. COVID–19 Mitigation and Prevention

COVID–19 public health response and mitigation tactics. Recognizing the broad range of services and programming needed to contain COVID–19, the interim final rule provided an extensive list of enumerated eligible uses to prevent and mitigate COVID–19 and made clear that the public health response to the virus is expected to continue to evolve over time, necessitating different uses of funds.

Enumerated eligible uses of funds in this category included: Vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (*e.g.,* monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (*e.g.,* nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools; ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of

Vulnerability Index, *https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths* (last visited December 7, 2021).

[63] Centers for Disease Control and Prevention, Risk for COVID–19 Infection, Hospitalization, and Death By Race/Ethnicity, *https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html* (last visited December 7, 2021).

[64] *See, e.g.,* Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID–19 (Dec. 10, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html* (last visited December 7, 2021).

[65] Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID–19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249;* Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, JAMA 324(4):388–90 (2020), *available at https://jamanetwork.com/journals/jama/fullarticle/2767630.*

[66] *See, e.g.,* Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID–19—34 Jurisdictions, January–May 2020, Morb. Mort. Wkly. Rep. 70(5):155–61 (Feb. 5, 2021), *https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm;* Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID–19: Protecting Vulnerable Communities During a Pandemic, Health Affairs Blog (Mar. 19, 2020), *https://www.healthaffairs.org/do/10.1377/hblog20200319.757883/full/.*

[67] *See, e.g.,* Centers *for Disease Control and Prevention, supra note 62;* Benfer & Wiley, *supra* note 66; Nathaniel M. Lewis et al., Disparities in COVID–19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation—Utah, March 3–July 9, 2020, Morb. Mortal. Wkly. Rep. 69(38):1369–73 (Sept. 25, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm.*

[68] Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID–19 will continue to be eligible under the ARPA, including those not explicitly listed in the final rule, with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section Public Sector Capacity and Workforce in General Provisions: Other) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see section Restrictions on Use: Debt Service).

public health data systems; other public health responses; and capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID–19 mitigation tactics. These enumerated uses are consistent with guidance from public health authorities, including the CDC.

Public Comment: Many commenters were supportive of expansive enumerated eligible uses for mitigating and preventing COVID–19, noting the wide range of activities that governments may undertake and the continued changing landscape of pandemic response. Some commenters requested that Treasury engage in ongoing consideration of and consultation on evolving public health needs and resulting eligible expenses. Some commenters noted that their jurisdiction does not have an official public health program, for example smaller jurisdictions or those that do not have a health department, and requested clarification on whether their public health expenses would still be eligible in compliance with program rules.

Treasury Response: In the final rule, Treasury is maintaining an expansive list of enumerated eligible uses to mitigate and prevent COVID–19, given the wide-ranging activities that governments may take to further these goals, including ''other public health responses.'' Note that the final rule discusses several of these enumerated uses in more detail below.

Treasury is further clarifying that when providing COVID–19 prevention and mitigation services, recipients can identify the impacted population as the general public. Treasury presumes that all enumerated eligible uses for programs and services, including COVID–19 mitigation and prevention programs and services, are reasonably proportional responses to the harm identified unless a response is grossly disproportionate to the type or extent of harm experienced. Note that capital expenditures are not considered ''programs and services'' and are not presumed to be reasonably proportional responses to an identified harm except as provided in section Capital Expenditures in General Provisions: Other. In other words, recipients can provide any COVID–19 prevention or mitigation service to members of the general public without any further analysis of impacts of the pandemic on those individuals and whether the service is responsive.

This approach gives recipient governments an extensive set of eligible uses that can adapt to local needs, as well as evolving response needs and developments in understanding of transmission of COVID–19. Treasury emphasizes how the enumerated eligible uses can adapt to changing circumstances. For example, when the interim final rule was released, national daily COVID–19 cases were at relatively low levels and declining;[69] as the Delta variant spread and cases peaked in many areas of the country, particularly those with low vaccination rates, government response needs and tactics evolved, and the SLFRF funds provided the ability to quickly and nimbly adapt to new public health needs. Treasury also notes that funds may be used to support compliance with and implementation of COVID–19 safety requirements, including vaccination requirements, testing programs, or other required practices.

Recipient governments do not need to have an official health or public health program in order to utilize these eligible uses; any recipient can pursue these eligible uses, though Treasury recommends consulting with health and public health professionals to support effective implementation.

The CDC has provided recommendations and guidelines to help mitigate and prevent COVID–19. The interim final rule and final rule help support recipients in stopping the spread of COVID–19 through these recommendations and guidelines.[70] The final rule reflects changing circumstances of COVID–19 and provides a broad range of permissible uses for mitigating and preventing the spread of the disease, in a manner consistent with CDC guidelines and recommendations.

The purpose of the SLFRF funds is to mitigate the fiscal effects stemming from the COVID–19 public health emergency, including by supporting efforts to stop the spread of the virus. The interim final rule and final rule implement this objective by, in part, providing that recipients may use SLFRF funds for COVID–19 mitigation and prevention.[71] A program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID–19 or discourage compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID–19 is not a permissible use of funds. In other words, recipients may not use funds for a program that undermines practices included in the CDC's guidelines and recommendations for stopping the spread of COVID–19. This includes programs that impose a condition to discourage compliance with practices in line with CDC guidance (*e.g.,* paying off fines to businesses incurred for violation of COVID–19 vaccination or safety requirements), as well as programs that require households, businesses, nonprofits, or other entities not to use practices in line with CDC guidance as a condition of receiving funds (*e.g.,* requiring that businesses abstain from requiring mask use or employee vaccination as a condition of receiving SLFRF funds).

Vaccination programs and vaccine incentives. At the time of the interim final rule release, many vaccination programs were using mass vaccination tactics to rapidly reach Americans en masse for first vaccine doses.[72] Since that time, the FDA has authorized booster vaccine doses for certain groups and certain vaccines and has also authorized vaccines for youths[73] [74] The inclusion of ''vaccination programs'' as an eligible use allows for adaptation as the needs of programs change or new groups become eligible for different types of vaccinations.

Public Comment: Since the release of the interim final rule, many recipient governments have also requested clarification on whether vaccine incentives are a permissible use of funds.

Treasury Response: Treasury issued guidance clarifying that ''[vaccine] programs that provide incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, are an allowable

[69] *See* Centers for Disease Control and Prevention, COVID Data Tracker, *https://covid.cdc.gov/covid-data-tracker/#trends_dailycases* (last visited December 7, 2021).

[70] *See* Centers for Disease Control and Prevention, COVID–19, *https://www.cdc.gov/coronavirus/2019-ncov/index.html* (last visited November 8, 2021).

[71] *See* § 35.6(b); Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26786.

[72] Centers for Disease Control and Prevention, COVID Data Tracker: COVID–19 Vaccinations in the United States, *https://covid.cdc.gov/covid-data-tracker/#vaccinations* (last visited October 18, 2021).

[73] U.S. Food and Drug Administration, Coronavirus (COVID–19) Update: FDA Takes Additional Actions on the Use of a Booster Dose for COVID–19 Vaccines, *https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age* (last visited November 8, 2021).

[74] U.S. Food and Drug Administration, FDA Authorizes Pfizer-BioNTech COVID–19 Vaccine for Emergency Use in Children 5 through 11 Years of Age, *https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age* (last visited November 8, 2021).

use of funds so long as such costs are reasonably proportional to the expected public health benefit.'' [75] This use of funds remains permissible under the final rule.

Capital Expenditures

Public Comment: Many commenters requested clarification around the types and scope of permissible capital investments in public facilities to meet pandemic operational needs; ventilation improvements in congregate settings, health care settings, or other key locations; and whether support for prevention and mitigation in congregate facilities could include facilities renovations, improvements, or construction of new facilities, or if the facilities must solely be used for COVID–19 response.

Treasury Response: For clarity, Treasury has addressed the eligibility standard for capital expenditures, or investments in property, facilities, or equipment, in one section of this Supplementary Information; see section Capital Expenditures in General Provisions: Other. In recognition of the importance of capital expenditures in the COVID–19 public health response, Treasury enumerates that the following projects are examples of eligible capital expenditures, as long as they meet the standards for capital expenditures in section Capital Expenditures in General Provisions: Other:

- Improvements or construction of COVID–19 testing sites and laboratories, and acquisition of related equipment;
- Improvements or construction of COVID–19 vaccination sites;
- Improvements or construction of medical facilities generally dedicated to COVID–19 treatment and mitigation (*e.g.,* emergency rooms, intensive care units, telemedicine capabilities for COVID–19 related treatment);
- Expenses of establishing temporary medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs;
- Acquisition of equipment for COVID–19 prevention and treatment, including ventilators, ambulances, and other medical or emergency services equipment;
- Improvements to or construction of emergency operations centers and acquisition of emergency response equipment (*e.g.,* emergency response radio systems);
- Installation and improvements of ventilation systems;
- Costs of establishing public health data systems, including technology infrastructure;
- Adaptations to congregate living facilities, including skilled nursing facilities, other long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities, as well as public facilities and schools (excluding construction of new facilities for the purpose of mitigating spread of COVID–19 in the facility); and
- Mitigation measures in small businesses, nonprofits, and impacted industries (*e.g.,* developing outdoor spaces).

Other clarifications on COVID–19 mitigation: Medical care, supports for vulnerable populations, data systems, carceral settings. Based on public comments and questions received from recipients following the interim final rule, Treasury is making several further clarifications on enumerated eligible uses in this category.

Public Comment: Several commenters requested clarification on eligible uses of funds for medical care; Treasury addresses those comments in the section Medical Expenses below.

Public Comment: Recipients posed questions on the type and scope of activities eligible as ''supports for vulnerable populations to access medical or public health services.''

Treasury Response: Enumerated eligible uses should be considered in the context of the eligible use category or section where they appear; in this case, ''supports for vulnerable populations to access medical or public health services'' appears in the section COVID–19 Mitigation and Prevention. As such, these eligible uses should help vulnerable or high-risk populations access services that mitigate COVID–19, for example, transportation assistance to reach vaccination sites, mobile vaccination or testing programs, or on-site vaccination or testing services for homebound individuals, those in group homes, or similar settings.

Public Comment: Some commenters asked whether ''enhancement of public health data systems'' could include investments in software, databases, and other information technology resources that support responses to the COVID–19 public health emergency but also provide benefits for other use cases and long-term capacity of public health departments and systems.

Treasury Response: These are permissible uses of funds under the interim final rule and remain eligible under the final rule.

Assistance to Businesses and Nonprofits To Implement COVID–19 Mitigation Strategies

Background: As detailed above, Treasury received many public comments describing uncertainty about which eligible use category should be used to assess different potential uses of funds. As a result, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity, consistent with the principle that uses of funds should be assessed based on their intended beneficiary. For example, COVID–19 mitigation and prevention serves the general public or specific populations within the public. However, in the interim final rule, assistance to small businesses, nonprofits, and impacted industries to implement COVID–19 mitigation and prevention strategies was categorized in the respective sections within Negative Economic Impacts. The final rule consolidates all COVID–19 mitigation and prevention within Public Health.

Public Comment: Treasury has received multiple comments and questions about which eligible use permits the recipient to provide assistance to businesses and nonprofits to address the public health impacts of COVID–19.

Treasury Response: In the final rule, these services have been re-categorized under COVID–19 mitigation and prevention to reflect the fact that this assistance responds to public health impacts of the pandemic rather than the negative economic impacts to a small business, nonprofit, or impacted industry. When providing COVID–19 mitigation and prevention services, recipients can identify the impacted entity as small businesses, nonprofits, or businesses in impacted industries in general. As with all enumerated eligible uses, recipients may presume that all COVID–19 mitigation and prevention programs and services are reasonably proportional responses to the harm identified unless a response is grossly disproportionate to the type or extent of harm experienced. Note that capital expenditures are not considered ''programs and services'' and are not presumed to be reasonably proportional responses to an identified harm except as provided in section Capital Expenditures in General Provisions: Other. In other words, recipients can provide any COVID–19 prevention or mitigation service to small businesses, nonprofits, and businesses in impacted

[75] Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.* Note that programs may provide incentives to individuals who have already received a vaccination if the incentive is reasonably expected to increase the number of people who choose to get vaccinated or motivate people to get vaccinated sooner and the costs are reasonably proportional to the expected public health benefit.

industries without any further analysis of impacts of the pandemic on those entities and whether the service is responsive.

In some cases, this means that an entity not otherwise eligible to receive assistance to respond to negative economic impacts of the pandemic, for example an entity that did not experience a negative economic impact, may still be eligible to receive assistance under this category for COVID–19 mitigation and prevention services.

Uses of funds can include loans, grants, or in-kind assistance to small businesses, nonprofits, or other entities to implement COVID–19 prevention or mitigation tactics, such as vaccination; testing; contact tracing programs; physical plant changes to enable greater use of outdoor spaces or ventilation improvements; enhanced cleaning efforts; and barriers or partitions. For example, this would include assistance to a restaurant to establish an outdoor patio, given evidence showing much lower risk of COVID–19 transmission outdoors.[76] Uses of funds can also include aid to travel, tourism, hospitality, and other impacted industries to implement COVID–19 mitigation and prevention measures to enable safe reopening, for example, vaccination or testing programs, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Recipients providing assistance to small businesses, nonprofits, or impacted industries that includes capital expenditures (*i.e.,* expenditures on property, facilities, or equipment) should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards for these expenditures. Recipients providing assistances in the form of loans should review the section Treatment of Loans Made with SLFRF Funds in General Provisions: Other.

Recipients should also be aware of the difference between beneficiaries of assistance and subrecipients when working with small businesses, nonprofits, or impacted industries. As noted above, Treasury presumes that the general public, as well as small businesses, nonprofits, and impacted industries in general, has been impacted by the COVID–19 disease itself and is eligible for services that mitigate or prevent COVID–19 spread. As such, a small business, nonprofit, or impacted industry receiving assistance to implement COVID–19 mitigation measures is a beneficiary of assistance (*e.g.,* granting funds to a small business to develop an outdoor patio to reduce transmission). In contrast, if a recipient contracts with, or grants funds to, a small business, nonprofit, or impacted industry to carry out an eligible use for COVID–19 mitigation on behalf of the recipient, the entity is a subrecipient (*e.g.,* contracting with a small business to operate COVID–19 vaccination sites). For further information on distinguishing between beneficiaries and subrecipients, as well as the impacts of the distinction on reporting and other requirements, see section Distinguishing Subrecipients versus Beneficiaries.

b. Medical Expenses

Background: The interim final rule also included as an enumerated eligible use medical expenses, including medical care and services to address the near-term and potential longer-term impacts of the disease on individuals infected.

Public Comment: Some commenters sought clarification on the types of medical expenses eligible and for whom, including whether funds could be used under this category for expanding health insurance coverage (*e.g.,* subsidies for premiums, expanding a group health plan), improvements to healthcare facilities or establishment of new medical facilities, direct costs of medical services, and costs to a self-funded health insurance plan (*e.g.,* a county government health plan) for COVID–19 medical care.

Treasury Response: In the final rule, Treasury is maintaining this enumerated eligible use category and clarifying that it covers costs related to medical care provided directly to an individual due to COVID–19 infection (*e.g.,* treatment) or a potential infection (*e.g.,* testing). This can include medical costs to uninsured individuals; deductibles, co-pays, or other costs not covered by insurance; costs for uncompensated care at a health provider; emergency medical response costs; and, for recipients with a self-funded health insurance plan, excess health insurance costs due to COVID–19 medical care. These are medical expenses due to COVID–19 and distinguish this category of eligible uses from other related eligible uses, like COVID–19 mitigation and prevention and health insurance expenses to households, to provide greater clarity for recipients in determining which category of eligible uses they should review to assess a potential use of funds. For discussion of eligibility for programs to expand health insurance coverage, see section Assistance to Households.

c. Behavioral Health Care

Background: Recognizing that the public health emergency, necessary mitigation measures like social distancing, and the economic downturn have exacerbated mental health and substance use challenges for many Americans, the interim final rule included an enumerated eligible use for mental health treatment, substance use treatment, and other behavioral health services, including a non-exhaustive list of specific services that would be eligible under this category.

Public Comment: Many commenters expressed support for the interim final rule's recognition of behavioral health impacts of the pandemic and eligible uses under this category. Several commenters requested clarification on the types of eligible services under this category, specifically whether both acute and chronic care are included as well as services that often do not directly accept insurance payments, like peer support groups. Some commenters highlighted the importance of cultural competence in providing effective behavioral health services. Some commenters suggested that funding should be available broadly and quickly for this purpose, recommending that funding available for behavioral health not be tied to the amount of revenue loss experienced by the recipient.

Treasury Response: In the final rule, Treasury is maintaining this enumerated eligible use category and clarifying that it covers an expansive array of services for prevention, treatment, recovery, and harm reduction for mental health, substance use, and other behavioral health challenges caused or exacerbated by the public health emergency. The specific services listed in the interim final rule also remain eligible.[77]

Treasury is further clarifying that when providing behavioral health services, recipients can identify the impacted population as the general public and, as with all enumerated eligible uses, presume that all programs and services are reasonably proportional responses to the harm identified unless a response is grossly disproportionate to the type or extent of harm experienced. In contrast, capital expenditures are not

[76] *See* Centers for Disease Control and Prevention, Participate in Outdoor and Indoor Activities, *https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/outdoor-activities.html* (last visited November 8, 2021).

[77] Hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

considered ''programs and services'' and are not presumed to be reasonably proportional responses to an identified harm except as provided in section Capital Expenditures in General Provisions: Other.

In other words, recipients can provide behavioral health services to members of the general public without any further analysis of impacts of the pandemic on those individuals and whether the service is responsive. Recipients may also use this eligible use category to respond to increased rates of behavioral health challenges at a population level or, at an individual level, new behavioral health challenges or exacerbation of pre-existing challenges, including new barriers to accessing treatment.

Services that respond to these impacts of the public health emergency may include services across the continuum of care, including both acute and chronic care, such as prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs (*e.g.,* from emergency departments or criminal justice system involvement), outreach to individuals not yet engaged in treatment, harm reduction, and supports for long-term recovery (*e.g.,* peer support or recovery coaching, housing, transportation, employment services).

Recipients may also provide services for special populations, for example, enhanced services in schools to address increased rates of behavioral health challenges for youths, mental health first responder or law enforcement-mental health co-responder programs to divert individuals experiencing mental illness from the criminal justice system, or services for pregnant women with substance use disorders or infants born with neonatal abstinence syndrome. Finally, recipients may use funds for programs or services to support equitable access to services and reduce racial, ethnic, or socioeconomic disparities in access to high-quality treatment.

Eligible uses of funds may include services typically billable to insurance [78] or services not typically billable to insurance, such as peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services. Recipients may also use funds in conjunction with other federal grants or programs (see section Program Administration Provisions), though eligible services under SLFRF are not limited to those eligible under existing federal programs.

Given the public health emergency's exacerbation of the ongoing opioid and overdose crisis, Treasury highlights several ways that funds may be used to respond to opioid use disorder and prevent overdose mortality.[79] Specifically, eligible uses of funds include programs to expand access to evidence-based treatment like medications to treat opioid use disorder (*e.g.,* direct costs or incentives for emergency departments, prisons, jails, and outpatient providers to offer medications and low-barrier treatment), naloxone distribution, syringe service programs, outreach to individuals in active use, post-overdose follow up programs, programs for diversion from the criminal justice system, and contingency management interventions.

Finally, for clarity, Treasury has addressed the eligibility standard for capital expenditures, or investments in property, facilities, or equipment, in one section of this Supplementary Information; see section Capital Expenditures in General Provisions: Other. Examples of capital expenditures related to behavioral health that Treasury recognizes as eligible include behavioral health facilities and equipment (*e.g.,* inpatient or outpatient mental health or substance use treatment facilities, crisis centers, diversion centers), as long as they adhere to the standards detailed in the Capital Expenditures section.

d. Preventing and Responding to Violence

Background: The interim final rule highlighted that some types of violence had increased during the pandemic and that the ability of victims to access services had decreased, noting as an example the challenges that individuals affected by domestic violence face in accessing services. Accordingly, the interim final rule enumerated as an eligible use, in disproportionately impacted communities, evidence-based community violence intervention programs. Following the release of the interim final rule, Treasury received several recipient questions regarding whether and how funds may be used to respond to an increase in crime, violence, or gun violence in some communities during the pandemic. Treasury released further guidance identifying how enumerated eligible uses and eligible use categories under the interim final rule could support violence reduction efforts, including rehiring public sector staff, behavioral health services, and services to address negative economic impacts of the pandemic that may aid victims of crime. The guidance also identified an expanded set of enumerated eligible uses to address increased gun violence.

Public Comment: Several commenters expressed support for this use of funds.

Treasury Response: In the final rule, Treasury is maintaining enumerated eligible uses in this area and clarifying how to apply eligibility standards. Throughout the final rule, enumerated eligible uses should respond to an identified impact of the COVID–19 public health emergency in a reasonably proportional manner to the extent and type of harm experienced. Many of the enumerated eligible uses—like behavioral health services, services to improve employment opportunities, and services to address educational disparities in disproportionately impacted communities—that respond to the public health and negative economic impacts of the pandemic may also have benefits for reducing crime or aiding victims of crime. For example, the pandemic exacerbated the impact of domestic violence, sexual assault, and human trafficking; enumerated eligible uses like emergency housing assistance, cash assistance, or assistance with food, childcare, and other needs could be used to support survivors of domestic violence, sexual assault, or human trafficking who experienced public health or economic impacts due to the pandemic.

Public Comment: Several commenters expressed support for community violence intervention programs or argued that traditional public safety approaches had negatively impacted the social determinants of health in their communities. Several commenters recommended inclusion of approaches like mental health or substance use diversion programs.

Treasury Response: Treasury recognizes the importance of comprehensive approaches to challenges like violence. The final rule includes an enumerated eligible use for community violence intervention programs in all communities, not just the disproportionately impacted communities eligible under the interim final rule. Given the increased rate of violence during the pandemic, Treasury has determined that this enumerated

[78] However, SLFRF funds may not be used to reimburse a service that was also billed to insurance.

[79] In line with the Department of Health and Human Services, Overdose Prevention Strategy, *https://www.hhs.gov/overdose-prevention/,* and the Office of National Drug Control Policy, Administration's Statement on Drug Policy Priorities for Year One (April 1, 2021), *https://www.whitehouse.gov/wp-content/uploads/2021/03/BidenHarris-Statement-of-Drug-Policy-Priorities-April-1.pdf.*

eligible use is responsive to the impacts of the pandemic in all communities. The final rule incorporates guidance issued after the interim final rule on specifically types of services eligible, including:

- Evidence-based practices like focused deterrence, street outreach, violence interrupters, and hospital-based violence intervention models, complete with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance; and
- Capacity-building efforts at community violence intervention programs like funding more intervention workers, increasing their pay, providing training and professional development for intervention workers, and hiring and training workers to administer the programs.

Public Comment: Some commenters sought further clarification on whether some of the enumerated eligible uses are considered responsive to all crime, violent crime, or gun violence.

Treasury Response: Enumerated eligible uses that respond to an increase in gun violence may be pursued in communities experiencing an increase in gun violence associated with the pandemic, specifically: (1) Hiring law enforcement officials—even above pre-pandemic levels—or paying overtime where the funds are directly focused on advancing community policing strategies for gun violence, (2) additional enforcement efforts to reduce gun violence exacerbated by the pandemic, including prosecuting gun traffickers, dealers, and other parties contributing to the supply of crime guns, as well as collaborative federal, state, and local efforts to identify and address gun trafficking channels, and (3) investing in technology and equipment to allow law enforcement to more efficiently and effectively respond to the rise in gun violence resulting from the pandemic, for example technology to assist in the identification of guns whose serial numbers have been damaged.

3. Negative Economic Impacts

a. Assistance to Households

Background

While the U.S. economy is now on the path to a strong recovery, the public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 22 million jobs were lost in March and April 2020.[80] One year later, in April 2021, the economy still remained over 8 million jobs below its pre-pandemic peak,[81] and the unemployment rate hovered around 6 percent.[82]

In the months since Treasury issued the interim final rule in May 2021, the economy has made large strides in its recovery. The economy gained over 4 million jobs in the seven months from May to November 2021;[83] the unemployment rate fell more than 1.5 percentage points to 4.2 percent, which is the lowest rate since February 2020;[84] and the size of the nation's economy surpassed the pre-pandemic peak in the second quarter of 2021.[85]

While the economy has made immense progress in its recovery since May 2021, the economy has also faced setbacks that illustrate the continued risks to the recovery. As the Delta variant spread across the country this summer and fall, the United States faced another severe wave of cases, deaths, and strain on the healthcare system, which contributed to a slowdown in the pace of recovery in the third quarter.[86] Supply chain disruptions have also demonstrated the difficulties of restarting a global economy.[87] Moreover, although many Americans have returned to work as of November 2021, the economy remains 3.9 million jobs below its pre-pandemic peak,[88] and 2.4 million workers have dropped out of the labor market altogether relative to February 2020.[89] Thus, despite much progress, there is a continued need to respond to the pandemic's economic effects to ensure a full, broad-based, and equitable recovery.

Indeed, the pandemic's economic impacts continue to affect some demographic groups more than others. Rates of unemployment remain particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 4.2 percent in November 2021, but certain groups saw much higher rates: 6.7 percent for Black workers, 5.2 percent for Hispanic or Latino workers, and 5.7 percent for workers without a high school diploma.[90] Job losses have also been particularly steep among low-wage workers, with these workers remaining furthest from recovery as of the end of 2020.[91] A severe recession, and its concentrated impact among low-income workers, has amplified food and housing insecurity, with an estimated nearly 20 million adults living in households where there is sometimes or often not enough food to eat and an estimated 12 million adults living in households that were not current on rent.[92]

While economic effects have been seen across many communities, there are additional disparities by race and income. For example, approximately

[80] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS* (last visited December 7, 2021).

[81] *Id.*

[82] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/UNRATE* (last visited December 7, 2021).

[83] U.S. Bureau of Labor Statistics, *supra* note 80.

[84] U.S. Bureau of Labor Statistics, *supra* note 82.

[85] U.S. Bureau of Economic Analysis, Real Gross Domestic Product [GDPC1], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/GDPC1* (last visited December 7, 2021).

[86] U.S. Department of the Treasury, Economy Statement by Catherine Wolfram, Acting Assistant Secretary for Economy Policy, for the Treasury Borrowing Advisory Committee (November 1, 2021), available at *https://home.treasury.gov/news/press-releases/jy0453.*

[87] Yuka Hayashi, IMF Cuts Global Growth Forecast Amid Supply-Chain Disruptions, Pandemic Pressures, Wall Street Journal (October 12, 2021), available at *https://www.wsj.com/articles/imf-cuts-global-growth-forecast-amid-supply-chain-disruptions-warns-of-inflation-risks-11634043601.*

[88] U.S. Bureau of Labor Statistics, *supra* note 80.

[89] U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CLF16OV* (last visited December 7, 2021).

[90] U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (December 6, 2021), *https://www.bls.gov/news.release/empsit.t01.htm* (last visited December 7, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (December 6, 2021), *https://www.bls.gov/web/empsit/cpseea04.htm* (last visited December 7, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (December 6, 2021), *https://www.bls.gov/web/empsit/cpseea05.htm* (last visited December 7, 2021).

[91] Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), *https://files.epi.org/pdf/219418.pdf. See also,* Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID–19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (July 2021), *https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf.*

[92] Center on Budget and Policy Priorities, Tracking the COVID–19 Recession's Effects on Food, Housing, and Employment Hardships, *https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and* (last visited December 17, 2021).

half of low-income, Black, and Hispanic parents reported difficulty covering costs related to food, housing, utility, or medical care.[93] Over the course of the pandemic, inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without childcare during the day.[94] Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.6 percentage points [95] during the pandemic as compared to 1.3 percentage points for Black men [96] and 1.7 percentage points for White women.[97]

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.[98] In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores [99] and reduced familial and childhood wellbeing.[100] These potential long-term economic consequences underscore the continued need for robust policy support.

Low- and moderate-income households, those with income levels at or below 300 percent of the federal poverty level (FPL), face particular hardships and challenges. These households report much higher rates of food insecurity and housing hardships than households with higher incomes. For example, households with incomes at or below 300 percent FPL are several times more likely to have reported struggling with food insecurity compared to households with income above 300 percent FPL.[101] Similarly, low- and moderate-income households reported being housing insecure [102] at rates more than twice as high as higher-income households, and low- and moderate-income households reported housing quality hardship [103] at rates statistically significantly greater than the rate for higher-income households.[104] The economic crisis caused by the pandemic worsened economic outcomes for workers in many low- and moderate-income households. Industries that employed low-wage workers experienced a disproportionate level of job loss. For example, from February 2020 to February 2021, the hospitality and leisure industry lost nearly 3.5 million jobs.[105] While the entire industry was impacted, 72 percent of the job losses occurred in the lowest wage service occupations compared to only a 6 percent rate of job loss in the highest wage management and finance jobs.[106] Similar trends exist in other heavily impacted industries. In public education, the lowest wage occupations, service and transportation jobs, saw a job loss rate of 20 and 26 percent, respectively.[107] During that same time period, the highest wage occupations in public education, management, actually saw jobs increase by 7 percent.[108]

While many households suffered negative economic outcomes as a result of the COVID–19 pandemic and economic recession, households with low incomes were impacted in disproportionate and exceptional ways. From January 2020 to March 2021, low-wage workers experienced job loss at a rate five times higher than middle-wage workers, and high-wage workers actually experienced an increase in job opportunities.[109] Because workers in low-income households were more likely to lose their job or experience reductions in pay, those same households were also more likely to experience economic hardships like trouble paying utility bills, affording rent or mortgage payments, purchasing food, and paying for medical expenses.[110] The disproportionate negative impacts the pandemic has had on low-income families extend beyond financial insecurity. For example, low-income families have reported higher levels of social isolation, stress, and other negative mental health outcomes during the pandemic. While over half of all U.S. adults report that their mental health was negatively affected by the pandemic, adults with low incomes reported major negative mental health impacts at a rate nearly twice that of adults with high incomes.[111]

[93] Michael Karpman, Dulce Gonzalez, Genevieve M. Kenney, Parents Are Struggling to Provide for Their Families during the Pandemic, Urban Institute (May 2020), *https://www.urban.org/research/publication/parents-are-struggling-provide-their-families-during-pandemic?utm_source=urban_researcher&utm_medium=email&utm_campaign=covid_parents&utm_term=lhp.*

[94] Women have carried a larger share of childcare responsibilities than men during the COVID–19 crisis. *See, e.g.,* Gema Zamarro & María J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID–19, Rev. Econ. Household 19:11–40 (2021), *available at https://link.springer.com/article/10.1007/s11150-020-09534-7;* Titan Alon et al., The Impact of COVID–19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), *available at https://www.nber.org/papers/w26947.*

[95] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300032* (last visited December 7, 2021).

[96] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300031* (last visited December 7, 2021).

[97] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300029* (last visited December 7, 2021).

[98] *See, e.g.,* Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2011), *https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/.*

[99] Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession, National Consumer Law Center (Dec. 2013), *https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.*

[100] Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., Children of the Great Recession, Russell Sage Foundation (Aug. 2016), *available at https://www.russellsage.org/publications/children-great-recession.*

[101] Kyle J. Casewell and Stephen Zuckerman, Food Insecurity, Housing Hardship, and Medical Care Utilization, Urban Institute (June 2018), available at *https://www.urban.org/sites/default/files/publication/98701/2001896_foodinsecurity_housinghardship_medicalcareutilization_finalized.pdf.*

[102] Housing insecurity is defined as not paying the full amount of rent or mortgage and/or utility bills (gas, oil, or electricity) sometime in the previous 12 months.

[103] Housing quality hardship is defined as an affirmative response to one or more questions related to problems with a respondent's physical dwelling: Pests and/or insects; leaking roof or ceiling; windows that are broken or cannot shut; exposed electrical wires; broken plumbing (toilet, hot water, other); holes in walls, ceiling, or floor; no appliances (refrigerator or stove); and no phone (of any kind).

[104] *Id.*

[105] Elise Gould and Melat Kassa. Low-wage, low-hours workers were hit hardest in the COVID–19 recession: The State of Working America 2020 employment report, Economic Policy Institute (May 2021), available at *https://www.epi.org/publication/swa-2020-employment-report/.*

[106] *Id.*

[107] *Id.*

[108] *Id.*

[109] R. Chetty, J. Friedman, N. Hendren, M. Stepner, & Team, T. O. I., The Economic Impacts of COVID–19: Evidence from a New Public Database Built Using Private Sector Data (No. w27431; p. w27431) (2020), National Bureau of Economic Research. *https://doi.org/10.3386/w27431.*

[110] M. Despard, Michal Grinstein-Weiss, Yung Chun, and Stephen Roll, COVID–19 job and income loss leading to more hunger and financial hardship, Brookings Institute (July 13, 2020), *https://www.brookings.edu/blog/upfront/2020/07/13/covid-19-job-and-income-loss-leading-to-more-hunger-and-financial-hardship/.*

[111] N. Panchal, R. Kamal, C. Muñana, & P. Chidambaram, The Implications of COVID–19 for Mental Health and Substance Use, Kaiser Family Foundation (February 10, 2021), *https://*

Summary of Interim Final Rule and Final Rule Structure

Summary: The interim final rule provided a non-exhaustive list of enumerated eligible uses to respond to the negative economic impacts of the pandemic through assistance to households, as well as a standard for assessing whether uses of funds beyond those enumerated are eligible.

The interim final rule described enumerated eligible uses for assistance to households in several categories: (1) Assistance to unemployed workers, (2) state Unemployment Insurance Trust Funds, (3) assistance to households, and (4) expenses to improve the efficacy of economic relief. Note that the interim final rule posed several questions to the public on enumerated eligible uses for assistance to households; comments on these questions are addressed in the relevant subject matter section below.

In addition, in recognition that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities, the interim final rule also provided a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities, specifically: (1) Building stronger communities through investments in housing and neighborhoods, (2) addressing educational disparities, and (3) promoting healthy childhood environments. In the interim final rule, under the Public Health section, recipients could also provide services to address health disparities and increase access to health and social services; these eligible uses have been re-organized into the Assistance to Households section to consolidate responses in disproportionately impacted communities and enhance clarity.

This section addresses enumerated eligible uses in the final rule to respond to negative economic impacts to households. As a reminder, recipients may presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low or moderate income experienced negative economic impacts resulting from the pandemic, and recipients may provide services to them that respond to these impacts, including these enumerated eligible uses.

For guidance on how to determine whether a particular use, beyond those enumerated, is eligible; further detail on which households and communities are presumed eligible for services; and how to identify eligible households and communities beyond those presumed eligible, see section General Provisions: Structure and Standards.

Reorganizations and Cross-References: The final rule reorganizes all enumerated eligible uses for impacted and disproportionately impacted households into the section Assistance to Households, with the exception that expenses to improve the efficacy of economic relief has been re-categorized into a different section of the final rule for increased clarity; for discussion of that use category, see section General Provisions: Other.

Note that in conducting this reorganization, and based on further analysis and in response to comments, Treasury has determined that several enumerated uses included in the interim final rule for disproportionately impacted communities are directly responsive to negative economic impacts experienced by impacted households. In the final rule, these uses have been moved from ''disproportionately impacted'' to ''impacted'' households accordingly, making these services available to both disproportionately impacted and impacted households. These uses include assistance applying for public benefits or services; programs or services that address or mitigate the impacts of the COVID–19 public health emergency on childhood health or welfare, including childcare, early learning services, programs to provide home visits, and services for families involved in the child welfare system and foster youth; programs to address the impacts of lost instructional time for students; [112] and programs or services that address housing insecurity, lack of affordable housing, or homelessness.

The following activities remain enumerated eligible uses for disproportionately impacted households: Remediation of lead paint or other lead hazards; housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity; and programs or services that address educational disparities, including assistance to high-poverty school districts to advance equitable funding across districts and geographies and evidence-based services to address the academic, social, emotional, and mental health needs of students.

Enumerated Eligible Uses for Impacted Households

The interim final rule included several enumerated eligible uses to provide assistance to households or populations facing negative economic impacts due to COVID–19. Enumerated eligible uses included: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; cash assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. It also posed a question as to what other types of services or costs Treasury should consider as eligible uses to respond to the negative economic impacts of COVID–19.

This section addresses each of these enumerated eligible uses in turn, with the exception of job training, which has been re-categorized for increased clarity to the eligible use for ''assistance to unemployed and underemployed workers.'' In general, commenters supported inclusion of these enumerated eligible uses to address key economic needs among households due to the pandemic, and Treasury is maintaining these eligible uses in the final rule, in line with commenters' recommendations.

1. Food assistance. The interim final rule included an enumerated eligible use for food assistance. Some commenters expressed support for this eligible use and emphasized the importance of aid to address food insecurity. Some commenters raised questions as to whether food assistance funds could be used to augment services provided through organizations like food banks, churches, and other food delivery services, or generally be sub-awarded to these organizations.

Treasury Response: Treasury is maintaining this enumerated eligible use without change. Recipients may, as was the case under the interim final rule, administer programs through a wide range of entities, including nonprofit and for-profit entities, to carry out eligible uses on behalf of the recipient government (see section Distinguishing Subrecipients versus Beneficiaries). Further, Treasury is clarifying that capital expenditures related to food banks and other facilities primarily dedicated to addressing food insecurity are eligible; recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General

www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/.

[112] For which recipients may presume that any student who did not have access to in-person instruction for a significant period of time was impacted by the pandemic.

Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

2. Emergency housing assistance. The interim final rule included an enumerated eligible use for rent, mortgage, or utility assistance and counseling and legal aid to prevent eviction or homelessness.

Public Comment: Several commenters supported the inclusion of eviction prevention activities as an eligible use given the high number of households behind on rent and potentially at risk of eviction. Following release of the interim final rule, Treasury had also received requests for elaboration on the types of eligible services in this category. Some commenters also recommended including assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, as an enumerated eligible use.

Treasury Response: In response to requests for elaboration on the types of eligible services for eviction prevention, Treasury has provided further guidance that these services include ''housing stability services that enable eligible households to maintain or obtain housing, such as housing counseling, fair housing counseling, case management related to housing stability, outreach to households at risk of eviction or promotion of housing support programs, housing related services for survivors of domestic abuse or human trafficking, and specialized services for individuals with disabilities or seniors that support their ability to access or maintain housing,'' as well as ''legal aid such as legal services or attorney's fees related to eviction proceedings and maintaining housing stability, court-based eviction prevention or eviction diversion programs, and other legal services that help households maintain or obtain housing.'' [113] Treasury also emphasized that recipients may work with court systems, nonprofits, and a wide range of other organizations to implement strategies to support housing stability and prevent evictions.

In the final rule, Treasury is maintaining these enumerated eligible uses, including those described in the interim final rule and later guidance, in line with commenters' recommendations. To enhance clarity, Treasury is also elaborating on some types of services included under this eligible use category; this remains a non-exhaustive list of eligible services. For example, eligible services under this use category include: Rent, rental arrears, utility costs or arrears (*e.g.,* electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil), reasonable accrued late fees (if not included in rental or utility arrears), mortgage payment assistance, financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default, mortgage principal reduction, facilitating mortgage interest rate reductions, counseling to prevent foreclosure or displacement, relocation expenses following eviction or foreclosure (*e.g.,* rental security deposits, application or screening fees). Treasury is clarifying that assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, was permissible under the interim final rule and continues to be so under the final rule. In addition, Treasury is also clarifying that recipients may administer utility assistance or address arrears on behalf of households through direct or bulk payments to utility providers to facilitate utility assistance to multiple consumers at once, so long as the payments offset customer balances and therefore provide assistance to households.

This eligible use category also includes emergency assistance for individuals experiencing homelessness, either individual-level assistance (*e.g.,* rapid rehousing services) or assistance for groups of individuals (*e.g.,* master leases of hotels, motels, or similar facilities to expand available shelter).

Further, Treasury is clarifying that transitional shelters (*e.g.,* temporary residences for people experiencing homelessness) are eligible capital expenditures. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Note that this enumerated eligible use describes ''emergency housing assistance,'' or assistance for responses to the immediate or near-term negative economic impacts of the pandemic. The final rule also clarifies and expands the ability of recipients to use SLFRF funds to address the general lack of affordable housing and housing challenges underscored by the pandemic. For discussion of affordable housing eligible uses, including services that primarily increase access to affordable, high-quality housing and support stable housing and homeownership over the long term, see the eligible use for ''promoting long-term housing security: Affordable housing and homelessness.''

3. Emergency assistance for pressing needs: Burials, home repairs, weatherization, or other needs. The interim final rule included an enumerated eligible use for emergency assistance for burials, home repairs, weatherization, and other needs; these types of programs may provide emergency assistance for pressing and unavoidable household needs. Treasury did not receive comments on this eligible use and is maintaining it in the final rule.

Background on Home Repairs and Weatherization: The economic downturn has meant fewer households had the resources needed to make necessary home repairs and improvements. In May 2021, 28 percent of landlords reported deferring maintenance and 27 percent of tenants reported maintenance requests going unanswered.[114] While small and cosmetic repairs can often wait, deferring major repairs, such as plumbing needs, can result in unsafe and unhealthy living environments and, eventually, the need for more expensive repairs and fixes.

In addition to repairs, many homes are in need of weatherization. Weatherization assistance helps low- and moderate-income Americans save energy, reduce their utility bills, and keeps them and their homes safe. One in three households is energy insecure,[115] meaning they do not have the ability to meet their energy needs.[116] Weatherization efforts are particularly important for low- and moderate-income households. Households of color, renters, and households with low or moderate incomes are all more likely to report energy insecurity.[117] These

[113] *See FAQ 2.21.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

[114] Jung Hyun Choi, Laurie Goodman, and Daniel Pang, The Pandemic Is Making It Difficult for Mom-and-Pop Landlords to Maintain Their Properties, Urban Institute (July 23, 2021), *https://www.urban.org/urban-wire/pandemic-making-it-difficult-mom-and-pop-landlords-maintain-their-properties.*

[115] U.S. Energy Information Administration, Residential Energy Consumption Survey (2017), Retrieved from *https://www.eia.gov/consumption/residential/data/2015/hc/php/hc11.1.php.*

D. Hernández, Understanding 'energy insecurity' and why it matters to health, Social Science & Medicine, 167, 1–10 (2016), *https://doi.org/10.1016/j.socscimed.2016.08.029.*

[116] Hernández, D. (2016). Understanding 'energy insecurity' and why it matters to health. Social Science & Medicine, 167, 1–10. *https://doi.org/10.1016/j.socscimed.2016.08.029.*

[117] U.S. Energy Information Administration, Residential Energy Consumption Survey (RECS) *https://www.eia.gov/consumption/residential/data/2015/hc/php/hc11.1.php.* (last visited November 9, 2021)

disparities are partially a result of economic hardship but are also caused by inequitable access to housing with proper insulation, up to date heating, cooling, and ventilation systems, and functioning and up to date lighting and appliances.[118] While programs that address the effects of energy hardships, like the Low-Income Home Energy Assistance Program (LIHEAP), are critical, weatherization attempts to address root causes by addressing issues that lead to energy insecurities.

4. Internet access or digital literacy assistance. The interim final rule included an enumerated eligible use for assistance to households for internet access or digital literacy assistance. This enumerated eligible use, which responds to the negative economic impacts of the pandemic on a household by providing assistance that helps them secure internet access or increase their ability to use computers and the internet, is separate from the eligible use category for investments in broadband infrastructure, under Sections 602(c)(1)(D) and 603(c)(1)(D), which is used to build new broadband networks through infrastructure construction or modernization. For discussion of broadband infrastructure investment in the final rule, see section Broadband Infrastructure in Infrastructure.

Background: The COVID–19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among other critical activities, school, healthcare, and work. Recognizing the need for such connectivity, SLFRF funds can be used to make necessary investments in broadband infrastructure that increase access over the long term, as well as the necessary supports to purchase internet access or gain digital literacy skills needed to complete activities of daily living during the pandemic.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA internet Use Survey data, noting that Americans turn to broadband internet service for every facet of daily life including work, study, and healthcare.[119] With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

However, even in areas where broadband infrastructure exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).[120] According to a 2021 Pew Research Center study, 20 percent of non-broadband users say that the monthly cost of home broadband is the primary reason they do not have broadband at home, and 40 percent say that cost is one reason for their lack of home broadband.[121] Further, according to another survey, 22 percent of parents with homebound schoolchildren during the COVID–19 pandemic say that it is very or somewhat likely that their children will have to rely on public wi-fi to finish their schoolwork because there is no reliable internet connection at home; this percentage nearly doubles for lower-income parents, 40 percent of whom noted that their children will have to rely on public wi-fi.[122] The same survey showed that 36 percent of lower-income parents with homebound children say their child will not be able to complete their schoolwork because they do not have access to a computer at home.[123]

Public Comment: Many commenters highlighted the importance of broadband access during the pandemic, including for remote work and education, and argued that affordability presents a major barrier to broadband adoption by households; in other words, many households live in areas that have broadband infrastructure and service available but are unable to purchase service for their household due to the high cost. These commenters argued that broadband must be affordable to be accessible.

Commenters proposed several potential responses to affordability concerns. Some commenters recommended that building ''gap networks,'' or broadband networks built at low cost to provide affordable service in areas where it is lacking, be eligible as assistance to households to respond to the negative economic impacts of the pandemic, even if they do not meet the technical standards for eligibility under the eligible use category of broadband infrastructure investment, especially the required speed standards for new service. These commenters argued that the networks have shown promise as a timely means to expand access to affordable broadband internet during the pandemic, even if they may not provide service speeds needed for more intensive internet uses. Another commenter requested eligible uses include funding cellular towers to decrease costs. One commenter recommended that affordability should be addressed through other programs but not SLFRF given that affordability and availability may require nuanced solutions that would be complex to combine.

Treasury Response: The interpretive framework and enumerated eligible uses allow recipients flexibility to address identified pandemic impacts, including through solutions that take into account the particularized issues in their community. Given extensive commenter feedback on the importance of affordability to achieving broadband access, and the centrality of broadband to participating in work, education, healthcare, and other activities during the pandemic, affordability programs are an appropriate eligible use to respond to the negative economic impacts of the pandemic and Treasury is maintaining the enumerated eligible use for assistance to households for internet access and digital literacy programs in the final rule.

Building or constructing new broadband networks is an infrastructure investment and is governed by a separate clause in the statute. Treasury has addressed comments on ''gap networks'' that require infrastructure build-out in the section Broadband Infrastructure in Infrastructure.

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[118] A. Drehobl, & L. Ross, Lifting the high energy burden in America's largest cities: How energy efficiency can improve low income and underserved communities, American Council for an Energy Efficient Economy (2016), *https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf.*

[119] *See, e.g.,* Nation Telecommunications and Information Administration, More than Half of American Households Used the Internet for Health-Related Activities in 2019, NTIA Data Show (December 7, 2020), *https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show;* Nation Telecommunications and Information Administration, Nearly a Third of American Employees Worked Remotely in 2019, NTIA Data Show (September 3, 2020) *https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show;* and generally, Nation Telecommunications and Information Administration, Digital Nation Data Explorer (June 10, 2020), *https://www.ntia.gov/data/digital-nation-data-explorer.*

[120] BroadbandSearch Blog Post, How Do U.S. Internet Costs Compare To The Rest Of The World?, *available at https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide.*

[121] Pew Research Center, Mobile Technology and Home Broadband 2021 (June 3, 2021), *https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/.*

[122] Pew Research Center, 53% of Americans Say the internet Has Been Essential During the COVID–19 Outbreak (April 30, 2020), *https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/.*

[123] *Id.*

Public Comment: Some commenters also use the term ''gap networks'' to refer to equipment installed as part of wi-fi systems, such as routers, repeaters, and access points; this equipment provides consumer access to an existing broadband network and does not require new network build-out or construction. These commenters recommended that Treasury permit, as assistance to households for internet access, investments in public wi-fi networks, free wi-fi in public housing communities, and other equipment that offers internet access to end users by utilizing existing broadband networks.

Other commenters recommended that eligible uses in this category include providing devices and equipment necessary to access the internet, like computers and routers, directly to low-income households.

Treasury Response: Treasury has determined that these services, which expand internet access without constructing new networks, are an appropriate enumerated eligible use as assistance to households to respond to a negative economic impact, and they are permitted under the final rule. Treasury is clarifying that eligible uses under this category can also include a wide range of programs and services to expand internet access and digital literacy, such as subsidies for the cost of internet service, other programs that support adoption of internet service where available, digital literacy programs, or programs that provide devices and equipment to access the internet (*e.g.,* programs that provide equipment like tablets, computers, or routers) to households. Recipients seeking to use funds for equipment should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures (*e.g.,* equipment, property, and facilities).

5. Cash assistance. The interim final rule included as an enumerated eligible use cash assistance and provided that cash transfers must be ''reasonably proportional'' to the negative economic impact they address and may not be ''grossly in excess of the amount needed to address'' the impact. In assessing whether a transfer is reasonably proportional, recipients may ''consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID–19 crisis,'' and transfers ''grossly in excess of such amounts'' are not eligible.

Public Comment: Several commenters expressed support for this eligible use, noting that this is a common policy tool for some governments to support the well-being of households and individuals in their communities. Some commenters requested that Treasury set a specific dollar amount for permissible cash transfers, and Treasury has also received recipient questions on whether specific types of transfers, such as those to a substantial share of the population in the jurisdiction, would be a permissible use of funds.

Treasury Response: Treasury is maintaining this enumerated eligible use in the final rule, in line with commenters' recommendations. Because the final rule is intended to provide flexibility to recipients to respond to the particularized pandemic impacts in their communities, which may vary in type and intensity, setting a specific dollar threshold for eligible cash transfers would fail to recognize the particularized needs of communities and limit recipients' flexibility to tailor their response to those needs.

To provide greater clarity, Treasury is elaborating on the analysis that recipients may undertake to assess the eligibility of specific cash assistance programs or transfers. Cash transfers, like all eligible uses in this category, must respond to the negative economic impacts of the pandemic on a household or class of households. For the reasons discussed above, recipients may presume that low- and moderate-income households (as defined in the final rule), as well as households that experienced unemployment, food insecurity, or housing insecurity, experienced a negative economic impact due to the pandemic.

Recipients may also identify other households or classes of households that experienced a negative economic impact of the pandemic and provide cash assistance that is reasonably proportional to, and not grossly in excess of, the amount needed to address the negative economic impact. For example, in the ARPA, Congress authorized Economic Impact Payments to households at certain income levels, identifying and responding to a negative economic impact of the pandemic on these households.

Finally, Treasury has reiterated in the final rule that responses to negative economic impacts should be reasonably proportional to the impact that they are intended to address. Uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide assistance in a very small amount to a group that experienced severe harm and in a much larger amount to a group that experienced relatively little harm.

6. Survivor's benefits. The interim final rule included an enumerated eligible use for survivor's benefits to surviving family members of individuals who have died from COVID–19, including cash assistance to widows, widowers, or dependents.

Public Comment: Treasury did not receive any comments on the inclusion of survivor's benefits as an enumerated use for impacted households in the interim final rule.

Treasury Response: This use of funds remains eligible under the final rule. Consistent with the general reorganization noted above, the final rule organizes survivor's benefits under assistance to households to clarify that households are the intended beneficiaries of survivor's benefits.

7. Assistance accessing or applying for public benefits or services. Recognizing that eligible households often face barriers to accessing public benefits or services that improve health and economic outcomes, the interim final rule included as an enumerated eligible use in disproportionately impacted communities, public benefits navigators to assist community members with navigating and applying for available federal, state, and local public benefits or services. Treasury also clarified in subsequent guidance after the interim final rule that this eligible use category would include outreach efforts to increase uptake of the Child Tax Credit.

Background: The under-enrollment of eligible households in social assistance programs is a well-recognized and persistent challenge. There are many reasons why a household may not be receiving a particular benefit even though they are eligible. For many federal programs, enrollment processes vary from state-to-state. Sometimes, households are simply unaware that they are eligible for a particular benefit.[124] For example, despite having one of the highest rates of participation of any benefits program, nearly 20 percent of eligible individuals do not participate in the Supplementary Nutritional Assistance Program

[124] Amy Finkelstein & Matthew J Notowidigdo, Take-Up and Targeting: Experimental Evidence from SNAP, The Quarterly Journal of Economics, vol 134(3), pages 1505–1556 (2019), *https://www.nber.org/papers/w24652.*

(SNAP).[125] In other cases, policies like public charge and asset testing can discourage otherwise eligible households.[126] While the gap between households that need assistance and the number of households participating in public benefit programs has always existed, narrowing that gap and ensuring households receive the support they need is critical in mitigating the negative economic impacts of the pandemic.

Public Comment: Treasury has also received feedback from recipients and stakeholders noting the need to increase awareness and uptake of assistance programs, including gaps that remain in enrollment of eligible households in programs to address the negative economic impacts of the pandemic.[127]

Treasury Response: Treasury has determined that this impact of the pandemic is widely experienced across many jurisdictions and programs or services to increase awareness and uptake of assistance programs would respond to the pandemic's negative economic impact in all communities. As such, in the final rule, this use is eligible for any impacted household or class of households, not only in disproportionately impacted communities.

8. Promoting healthy childhood environments. The interim final rule included programs and services that promote healthy childhood environments as an enumerated eligible use for disproportionately impacted households. The interim final rule listed three programs or services included under this use: Childcare; programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use. The interim final rule also included an enumerated eligible use for early learning services in disproportionately impacted communities, to address disparities in education.

Public Comment: Childcare and Early Learning: Treasury received multiple comments that were supportive of the provision of childcare. Treasury has also received multiple comments and questions indicating that recipients have identified a need for childcare for a broader range of households and communities, for example those that may need childcare in order to return to work, in addition to households and communities disproportionately impacted by the pandemic. Several commenters expressed uncertainty about how childcare facilities should interact with the boundaries of a QCT. Finally, one commenter recommended that pre-K or early learning services encompass care for infants and toddlers, arguing that these types of care are often more expensive or challenging to access for families.

Background: Childcare and Early Learning: As daycares and schools closed in-person activities during the pandemic, many working families were left without childcare during the day.[128] Although daycare centers and schools have since reopened in many communities, there remains a persistent childcare shortage as childcare employment levels have not fully rebounded since the sharp decline in childcare employment at the beginning of the pandemic.[129] As a result, working parents in communities across the country, and more specifically women, may face challenges entering or reentering the labor force.[130]

Low-income households are also more likely to lose access to quality childcare.[131] The widespread closure of childcare centers combined with a lack of access to paid family leave means parents in low-income households are more likely to experience a reduction of income or leave their jobs due to a lack of childcare options.[132]

Additionally, childcare providers serving primarily low-income families were less likely to remain open during the pandemic because of tighter profit margins and general community financial insecurity, compared to childcare providers serving primarily high-income families.[133] [134]

In addition to disruptions to childcare, early learning services were also significantly impacted by the pandemic, and the disruption of these services had widespread ramifications for learning loss, parental support, and equity. Early learning centers have seen declined enrollment across the board, though there was a larger dip in enrollment for low-income households.[135] This lower enrollment coincides with a diminishing workforce, as similarly to childcare, early childhood educators have been leaving the profession due to long hours, low pay,[136] and health and safety concerns.[137] As a result, children's school readiness has suffered, leading to potential long-term impacts on life outcomes.[138] The impact also extended

[125] United States Department of Agriculture, Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2016 to Fiscal Year 2018 (May 2021), *https://fns-prod.azureedge.net/sites/default/files/resource-files/Trends2016-2018.pdf.*

[126] Jeremy Barofsky et al., Spreading Fear: The Announcement Of The Public Charge Rule Reduced Enrollment In Child Safety-Net Programs, Health Affairs (October 2020), *https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.00763.*

[127] *See, e.g.,* U.S. Department of the Treasury, By ZIP Code: Number of Children under Age 18 with a Social Security Number Who Are Not Found on a Tax Year 2019 or 2020 Tax Return but who Appear on a Tax Year 2019 Form 1095 and Associated Number of Policy Holders (June 2021), *https://home.treasury.gov/system/files/131/Estimated-Counts-of-Children-Unclaimed-for-CTC-by-ZIP-Code-2019.pdf.*

[128] Women have carried a larger share of childcare responsibilities than men during the COVID–19 crisis. See, *e.g.,* Gema Zamarro & Mari´a J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID–19, Rev. Econ. Household 19:11–40 (2021), available at *https://link.springer.com/article/10.1007/s11150-020-09534-7;* Titan Alon et al., The Impact of COVID–19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), available at *https://www.nber.org/papers/w26947.*

[129] *See, e.g.,* Center For The Study Of Child Care Employment (CSCCE), Child Care Sector Jobs: BLS Analysis (November 8, 2021), *https://cscce.berkeley.edu/child-care-sector-jobs-bls-analysis/;* Emma K. Lee, and Zachary Parolin. The Care Burden during COVID–19: A National Database of Child Care Closures in the United States, Socius (January 2021), doi:10.1177/23780231211032028.

[130] Jason Furman, Melissa Schettini Kearney, and Wilson Powell, The Role of Childcare Challenges in the US Jobs Market Recovery During the COVID–19 Pandemic, NBER Working Paper No. 28934 (June 2021), *https://www.nber.org/papers/w28934.*

[131] U.S. Census Bureau, Phase 3.2 Household Pulse Survey: Table 2. Childcare Arrangements in the Last 4 Weeks for Children Under 5 Years Old, by Selected Characteristics, (Washington: 2021), available at *https://www.census.gov/programs-surveys/household-pulse-survey/data.html.*

[132] *Id.*

[133] N. Kalluri, C. Kelly, & A. Garg, Child Care During the COVID–19 Pandemic: A Bad Situation Made Worse. Pediatrics (2021), *https://doi.org/10.1542/peds.2020-041525.*

[134] National Association for the Education of Young Children, Am I Next? Sacrificing to Stay Open, Child Care Providers Face a Bleak Future Without Relief (December 2020), *https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDF.*

[135] G. G. Weisenfeld, Impacts of Covid-19 on Preschool Enrollment and Spending, New Brunswick, NJ: National Institute for Early Education Research (2021), *https://nieer.org/wp-content/uploads/2021/03/NIEER_Policy_Brief_Impacts-of-Covid-19on_Preschool_Enrollment_and_Spending_3_16_21.pdf.*

[136] Heather Long, 'The pay is absolute crap': Child-care workers are quitting rapidly, a red flag for the economy, Washington Post (September 19, 2021), *https://www.washingtonpost.com/business/2021/09/19/childcare-workers-quit/.*

[137] Monash University, The emotional toll of COVID–19 among early childhood educators (August 5, 2020) *https://lens.monash.edu/@education/2020/08/05/1381001/the-emotional-toll-of-covid-19-among-early-childhood-educators.*

[138] Daphna Bassok and Anna Shapiro, Understanding COVID–19-era enrollment drops

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to parents. Parents, especially mothers, may face challenges reentering or remaining in the workforce if early learning services are unavailable.

Treasury Response: Childcare and Early Learning Services: Treasury agrees with commenters' analysis that challenges accessing or affording childcare have been widespread during the pandemic, affecting many jurisdictions and populations across the country. Disruptions to early care and learning services similarly have had broad impact and likely result in negative impacts for young children and their parents. As such, these enumerated eligible uses are generally responsive to the negative economic impacts of the pandemic in all communities, not just in disproportionately impacted communities. Under the final rule, childcare and early learning services are available to impacted households or classes of households, not just those disproportionately impacted. These eligible uses can include new or expanded services, increasing access to services, efforts to bolster, support, or preserve existing providers and services, and similar activities.

Further, Treasury is clarifying that improvements to or new construction of childcare, daycare, and early learning facilities are eligible capital expenditures. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Public Comment: Home Visiting: Treasury has also received questions about whether the provision of home visiting services would be responsive to the health and mental health needs of impacted new mothers, citing the positive mental health impacts shown on the mother as well as improved outcomes for children.

Background: Home Visiting: Pregnant and recently pregnant individuals are at an increased risk for serious illness from COVID–19.[139] Furthermore, pregnant individuals with COVID–19 are more likely to experience preterm birth (delivering the baby earlier than 37 weeks).[140] In addition to heightened health risks from COVID–19, pregnant individuals may have experienced significant changes to their prenatal care during the pandemic [141] or may also have experienced increased mental health challenges, including high levels of depression, anxiety, loneliness, and post-traumatic stress during the pandemic.[142]

Home visiting services provided to families, particularly new mothers and newborns, feature regular home visits from trained nurses, social workers, and/or counselors who provide health care, mental health resources, positive parenting support, support in making personal health decisions, and awareness of other potentially helpful services. These functions have become even more essential at mitigating negative factors associated with the pandemic. Home visits give professionals a chance to flag potential domestic violence, which has risen worldwide over the course of the pandemic.[143] Racial health disparities can also be driven down by home visits. For example, Black women are more likely to avoid hospitals during the pandemic, and home visitors can help either assuage concerns around hospitals or give effective advice for alternative methods of childbirth.[144] Given the disproportionate effect of the pandemic on people of color, home visits are an essential equity tool that tackle major negative effects of the pandemic. These are just a few selections from the evidence that suggests many home visiting models can have a positive effect on maternal physical and mental health.[145]

Treasury Response: Home Visiting: Given the widespread impact of COVID–19 on pregnant and recently pregnant individuals, Treasury is re-categorizing home visiting services as an eligible use for impacted communities, not just disproportionately impacted communities. Under the final rule, these eligible uses are available to impacted households or classes of households.

Public Comment: Child Welfare: While the interim final rule noted that certain types of assistance, particularly around child development and parenting, were eligible for child welfare-involved families, Treasury has received some recipient questions asking whether financial, educational, housing, or other supports and services are eligible uses for foster youth, including those aging out of the system, and child welfare-involved families. Other commenters asked about whether funding for kinship care would be eligible.

Background: Child Welfare: The COVID–19 pandemic placed meaningful strain on the child welfare and foster care system. Court hearings were delayed,[146] essential mental health care was shifted to a virtual environment, and attendance and performance in school among foster children dropped sharply.[147] Additionally, there was a nationwide rise of new children entering the foster care system and many states placed temporary moratoria on children aging out of the foster care system.[148] As these temporary moratoria expire, additional support will be needed to assist children exiting the system.

Additionally, financial and material hardship are causal factors in the increase of new children entering the foster care system, whether through loss of a caregiver, domestic violence,[149] or other associated costs of the pandemic. Therefore, support to decrease these hardships will support families and increase positive outcomes for youth

among early-grade public school students, Brookings Institution (February 22, 2021), *https://www.brookings.edu/blog/brown-center-chalkboard/2021/02/22/understanding-covid-19-era-enrollment-drops-among-early-grade-public-school-students/.*

[139] Centers for Disease Control and Prevention, Pregnant and Recently Pregnant People, *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/pregnant-people.html* (last visited November 9, 2021).

[140] *Id.*

[141] Sarah Javaid, Sarah Barringer, Sarah D Compton, Elizabeth Kaselitz, Maria Muzik, Cheryl A. Moyer, The impact of COVID–19 on prenatal care in the United States: Qualitative analysis from a survey of 2519 pregnant women, Midwifery, Volume 98, 2021, 102991, ISSN 0266–6138, *https://doi.org/10.1016/j.midw.2021.102991.*

[142] A Basu, HH Kim, R Basaldua, KW Choi, L Charron, et al., A cross-national study of factors associated with women's perinatal mental health and wellbeing during the COVID–19 pandemic, PLOS ONE 16(4): e0249780, (2021), *https://doi.org/10.1371/journal.pone.0249780.*

[143] Amanda Taub, A New Covid-19 Crisis: Domestic Abuse Rises Worldwide, New York Times (April 6, 2020), *https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html.*

[144] Xenia Shih Bion, Efforts to Reduce Black Maternal Mortality Complicated by COVID–19, California Health Care Foundation (April 20, 2020), *https://www.chcf.org/blog/efforts-reduce-black-maternal-mortality-complicated-covid-19/.*

[145] U.S. Department of Health and Human Services, Home Visiting Evidence of Effectiveness, *https://homvee.acf.hhs.gov/outcomes/maternal%20health/In%20Brief.*

[146] National Conference of State Legislatures, Criminal Justice System Responses to COVID–19 (November 16, 2020), *https://www.ncsl.org/research/civil-and-criminal-justice/criminal-justice-and-covid-19.aspx.*

[147] John Burton Advocates for Youth, The Cumulative Impact of the Pandemic on Youth Who Have Been in Foster Care or Homeless (May 2020) *https://jbay.org/wp-content/uploads/2021/04/JBAY-COVID-19-Impact.pdf.*

[148] John Kelly, Next Week, Thousands of Foster Youth Will Age Out on the Same Day (September 21, 2021), *https://imprintnews.org/subscriber-content/thousands-of-foster-youth-will-age-out-on-the-same-day/59006.*

[149] Conrad-Hiebner, Aislinn, and Elizabeth Byram, The Temporal Impact of Economic Insecurity on Child Maltreatment: A Systematic Review. Trauma, Violence, & Abuse, vol. 21, no. 1, Jan. 2020, pp. 157–178, doi:10.1177/1524838018756122.

and families that may otherwise become involved in the child welfare system.

Treasury Response: In the final rule, Treasury is clarifying that services to foster youth, including those aging out of the system, and child welfare-involved families may encompass a wide array of financial, educational, child development, or health supports, or other supports necessary, including supports for kinship care.

9. Addressing the impacts of lost instructional time.

Public Comment: The interim final rule included an enumerated eligible use to address educational disparities in disproportionately impacted communities, recognizing that underserved students have been more severely impacted by the pandemic and including responsive services for early learning, enhance funding to high-poverty districts, and providing evidence-based services to address the academic, social, emotional, and mental health needs of students. Some commenters expressed concerns that learning loss or the negative impacts of lost instructional time due to school closures or remote education during the pandemic had affected a significant share of students in grades kindergarten through twelve (K–12), including students who may not fall within a disproportionally impacted group.

Background: The COVID–19 pandemic resulted in the widespread closure of schools across the nation. While many schools and districts reopened to in-person instruction or implemented remote learning, the shift was not immediate or without consequence. Children who received virtual only or combined remote and in-person instruction were more likely to report experiencing negative mental- and physical health outcomes than children who received in-person instruction.[150]

Treasury Response: Under the final rule, addressing the impact of lost instructional time and/or learning loss is an enumerated eligible use for impacted households. When providing services to address lost instructional time, recipients may presume that any K–12 student who lost access to in-person instruction for a significant period of time has been impacted by the pandemic and is thus eligible for responsive services.

Interventions or services that address the impact of lost instructional time may include offering high-quality tutoring and other extended learning opportunities, providing differentiated instruction, implementing activities to meet the comprehensive needs of students, expanding and improving language access for parents and families, providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment, improving student engagement in distance education, and administering and using high-quality assessments to assess students' academic progress, among others. In designing services under this eligible use, recipients may wish to reference guidance from the Department of Education on strategies for addressing lost instructional time.[151]

The final rule also maintains a separate enumerated eligible use for addressing educational disparities in disproportionately impacted communities. This eligible use includes services to address disparities in educational outcomes that predate the pandemic and amplified its impact on underserved students; these include, for example, enhanced funding to high-poverty districts and providing evidence-based services to address the academic, social, emotional, and mental health needs of students.

Finally, as described in the section Public Health, recipients can provide a broad range of behavioral health services, including services for children and youth in schools, to respond to the impacts of the pandemic on mental health and other behavioral health issues. When providing behavioral health services, recipients may presume that the general public was impacted by the pandemic and provide behavioral health services to members of the general public, including children and youth in schools, without any further analysis of impacts of the pandemic on those individuals and whether the service is responsive.

10. Promoting long-term housing security: affordable housing and homelessness. Under the interim final rule, recipients may use SLFRF funds to provide a set of housing services to communities that have been disproportionately impacted by the pandemic. Specifically, the interim final rule provided that programs or services that address housing insecurity, lack of affordable housing, or homelessness, were responsive to the negative economic impacts of the pandemic when provided to disproportionately impacted households and communities. The enumerated uses included supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless and development of affordable housing to increase supply of affordable and high-quality living units. Many recipients have already announced plans to use SLFRF funds for affordable housing interventions in all of these categories. Treasury received many comments asking for additional clarity or flexibility in these uses.

As detailed below, based on multiple public comments and questions and Treasury's subsequent analysis, Treasury has determined that supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless, and the development of affordable housing to increase supply of affordable and high-quality living units are responsive to the needs of impacted populations, not only disproportionately impacted populations. This final rule reflects this clarification and builds on the objectives stated in the interim final rule to improve access to stable, affordable housing, including through interventions that increase the supply of affordable and high-quality living units, improve housing security, and support durable and sustainable homeownership.

Finally, note that ''emergency housing assistance,'' or assistance for responses to the immediate negative economic impacts of the pandemic through services like financial assistance for rental arrears or mortgage payments, is also an eligible use category for assistance to households under the final rule; see the eligible use for ''emergency housing assistance'' above. The provision of housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity remains an eligible use under assistance to disproportionately impacted households; for discussion, see the eligible use for ''housing vouchers and assistance relocating'' below.

Background: Affordable Housing: It is clear that the ongoing pandemic and resulting economic crisis are having a profound, long-term negative effect on the pre-existing affordable housing crisis facing low-income households.[152]

[150] Verlenden JV, Pampati S, Rasberry CN, et al. Association of Children's Mode of School Instruction with Child and Parent Experiences and Well-Being During the COVID–19 Pandemic—COVID Experiences Survey, United States, October 8–November 13, 2020. MMWR Morb Mortal Wkly Rep 2021;70:369–376. DOI: *http://dx.doi.org/10.15585/mmwr.mm7011a1external* icon.

[151] U.S. Department of Education, Strategies for Using American Rescue Plan Funding to Address the Impact of Lost Instructional Time, August 2021. Retrieved from *https://www2.ed.gov/documents/coronavirus/lost-instructional-time.pdf.*

[152] Consumer Financial Protection Bureau, Housing insecurity and the COVID–19 pandemic

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The combination of a large number of higher-income households who have weathered the pandemic without significant income losses, low interest rates, and housing supply constraints exacerbated by the pandemic, have driven a sharp increase in the sale price of homes.[153] Meanwhile, many low-income renters and homeowners are struggling with lost employment and income and are behind on their housing payments.[154]

Public Comment: Affordable Housing Outside of Low-Income Geographies: A major theme in comments was that affordable housing interventions, especially development of affordable housing, should be allowed outside of QCTs, as concentrating the supply of affordable housing in low-income geographies can have the effect of increasing both concentrated poverty and racial and economic segregation, while locking lower-income households in need of housing support out of high-opportunity neighborhoods with access to employment and amenities.

Treasury Response: Affordable Housing Outside Low-Income Geographies: As previously stated, affordable housing is not confined to low-income geographies under the interim final rule. As discussed elsewhere, the interim final rule presumed that QCTs, as well as communities served by Tribal governments, were disproportionately impacted for administrative convenience, but recipients may identify other populations, households, or geographic areas with disparate impacts of COVID–19 and provide affordable housing services to them. For example, under the interim final rule, a city could determine that its low-income residents faced disproportionate impacts of COVID–19 and develop affordable housing targeted to these households. Such a scenario could include, for example, affordable projects in higher-income neighborhoods that would allow residents to live closer to jobs and well-resourced schools.

Additionally, as noted above, Treasury is finalizing the rule with some changes to the treatment of affordable housing development designed to clarify that permanent supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless, and the development of affordable housing to increase supply of affordable and high-quality living units, are responsive to individuals and households that were impacted by the pandemic in addition to those that were disproportionately impacted. This shift is in line with commenters' recommendations and consistent with the facts described above, which demonstrate that lack of supply of affordable housing units contributed to the pandemic's impact on housing insecurity and unsustainable housing cost burdens and that these impacts were experienced broadly across the country.

Public Comment: Eligible Activities: Many commenters asked for clarity on what types of activities (*e.g.,* land acquisition, construction, pre-construction costs, operating costs, etc.) are eligible uses of SLFRF, and what affordability criteria must be applied to affordable housing development. Commenters encouraged Treasury to allow the full array of affordable housing activities, including particular requests for broad flexibility for Tribal communities, and to specify that ''development'' should include construction, preservation, rehabilitation, and operation. Other commenters requested clarification about permissible program administration approaches for affordable housing, such as contracting methods and distribution of funds.

Some commenters asked that Treasury require SLFRF funds to be focused on the lowest-income households, who suffer the most severe rent burdens and risks of housing instability, and whose housing situation has left them particularly vulnerable to COVID–19. For example, one commenter argued that SLFRF funds should only be used to support affordable housing for households making 50 percent of AMI or less and that recipients should be required to set aside significant portions of any developments for renters making 30 percent of AMI or less and persons with physical and sensory disabilities. Other commenters requested a more flexible approach to affordable housing definitions.

Treasury Response: Eligible Activities: The final rule clarifies eligibility of affordable housing development for recipients; these uses were eligible under the interim final rule, but Treasury is providing further guidance to enhance clarity and respond to recipient and commenter questions.

As with all interventions to address the negative economic impacts of the pandemic, affordable housing projects must be responsive and proportional to the harm identified. This test may be met by affordable housing development projects—which may involve large expenditures and capital investments—if the developments increase the supply of long-term affordable housing for low-income households. While there may be less costly (or non-capital) alternatives to affordable housing development, a comprehensive response to the widespread housing challenges underscored by the pandemic will require the production of additional affordable homes, and targeted affordable housing development is a cost-effective and proportional response to this need.

For purposes of this test, Treasury will presume that any projects that would be eligible for funding under either the National Housing Trust Fund (HTF) or the Home Investment Partnerships Program (HOME) are eligible uses of SLFRF funds. Note that these programs use different income limits than the definition of low- and moderate-income adopted by Treasury. Given the severity of the affordable housing shortage, and the ways in which the pandemic has exacerbated the need for affordable, high-quality dwelling units, Treasury has determined that the households served by these federal housing programs have been impacted by the pandemic and its negative economic impacts and that development of affordable housing consistent with these programs is a related and reasonably proportional response to those impacts. Additionally, affordable housing projects provided by a Tribal government are eligible uses of SLFRF if they would be eligible for funding under the Indian Housing Block Grant program, the Indian Community Development Block Grant program, or the Bureau of Indian Affairs Housing Improvement Program. Alignment with these programs, which define ''affordable housing'' in a manner consistent with a proportionate response to the affordable housing challenges faced by low- and moderate-income households as a result of the negative economic impacts of the pandemic, is intended to give recipients comfort and clarity as they design a

(March 2020), *https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf.*

[153] Joint Center For Housing Studies Of Harvard University, The State of the Nation's Housing (June 2021), *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2021.pdf.*

[154] Davin Reed and Eileen Divringi, Household Rental Debt During COVID–19: Update for 2021, Federal Reserve Bank of Philadelphia (2020), available at: *https://www.philadelphiafed.org/community-development/housing-and-neighborhoods/household-rental-debt-during-covid-19-update-for-2021.* Further, some research suggests that liquidity may be a more important predictor of default than other factors, including income or equity. *See* Trading Equity for Liquidity (June 2019), available at *https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-trading-equity-for-liquidity.pdf.*

wide variety of affordable housing interventions, including production, rehabilitation, and preservation of affordable rental housing and, in some cases, affordable homeownership units. These programs allow the financing of a wide range of affordable housing activities and set clear eligibility criteria that many recipients are already familiar with.

Finally, to further support sustainable and durable homeownership, recipients may consider offering down payment assistance, such as through contributions to a homeowner's equity at origination or that establish a post-closing, mortgage reserve account on behalf of the borrower that may be utilized to make a missed or partial mortgage payment at any point during the life of the loan (*e.g.,* if the borrower faces financial stress). Homeownership assistance that would be eligible under the Community Development Block Grant (at 24 CFR 507.201(n)) is also an eligible use of SLFRF funds.

Public Comment: Permanent Supportive Housing: Treasury has received comments encouraging the use of SLFRF funds for permanent supportive housing. This is an eligible use under the interim final rule: Both the development of affordable housing (including operating subsidies) and wraparound services such as behavioral health services, employment services, and other supportive services, are eligible responses to the public health crisis or its negative economic impacts.

Treasury Response: The final rule maintains the eligibility of permanent supportive housing as an enumerated use. Treasury is also clarifying that other affordable housing developments targeted to specialized populations are also eligible, for example recovery housing for individuals in recovery from substance use.

Public Comment: Operating Expenses: Commenters specifically asked that Treasury allow the use of SLFRF funds for operating expenses of affordable housing units, as operating subsidies are typically required to reach extremely low-income households, whose affordable rents may be lower than the ongoing cost of operating their unit.

Treasury Response: Operating expenses for eligible affordable housing were an eligible use of funds under the interim final rule and the final rule maintains this treatment. This may include capitalized operating reserves.

Rehabilitation and repair of public housing will also be considered an eligible use of SLFRF funds.

Public Comment: Affordable Housing Loans and Revolving Loan Funds: Some commenters requested that loans with maturities beyond the period of performance or revolving loan funds that revolve beyond the period of performance be eligible uses of SLFRF funds if used for affordable housing. Some commenters pointed out that for-profit developers of low-income housing through the Low-Income Housing Tax Credit (LIHTC) may be deterred from accepting grants to bridge funding gaps in current LIHTC deals by the treatment of grants to for-profit entities in the calculation of eligible basis for the LIHTC.

Treasury Response: The final rule does not change the treatment of loans from the interim final rule. For more details see section Treatment of Loans in Program Administration Provisions. Similarly, the final rule does not change the treatment of grants to support affordable housing development, including developments supported by the LIHTC: such grants are an eligible use of funds.

Additional enumerated eligible uses for assistance to impacted households. As noted above, the interim final rule posed a question on what other types of services or costs Treasury should consider as eligible uses to respond to the negative economic impacts of COVID–19. In response, commenters proposed a wide variety of additional recommended enumerated eligible uses to assist households, ranging from general categories of services (*e.g.,* legal and social services) to services that respond to needs widely experienced across the country (*e.g.,* access to and affordability of health insurance) to services that are most applicable to the particularized needs of certain populations or geographic areas of the United States (*e.g.,* senior citizens, SNAP recipients, immigrants, formerly-incarcerated individuals, responding to environmental issues in certain geographic regions). Other commenters generally requested a high degree of flexibility to respond to the particular needs of their communities.

Treasury Response: Given the large number and diversity of SLFRF recipients, Treasury's approach to assistance to households in the final rule aims to clarify additional enumerated eligible uses that respond to negative economic impacts of the pandemic experienced widely in many jurisdictions across the country, making it clear and simple for recipients to pursue these enumerated eligible uses under the final rule. In the final rule, Treasury is clarifying several additional uses, which generally respond to pandemic impacts experienced broadly across jurisdictions and populations, are eligible under the interim final rule as assistance to households and continue to be so under the final rule, as outlined below.

11. Paid sick, medical, or family leave.

Public Comment: Some commenters argued that the pandemic increased the need for paid sick or medical leave, as staying home when ill is recommended by the CDC to prevent spread of the virus but lack of access to paid sick leave often prevents workers from staying home. Other commenters recommended paid family leave as an eligible use, arguing that shortages in access to childcare or home health assistance, as well as school closures, may increase the need for family members to serve as caretakers.

Background: The COVID–19 pandemic highlighted the importance of paid leave as well as the number of workers who do not have access to paid sick and/or family leave. When workers have access to paid leave, they are less likely to report to work sick, and therefore less likely to spread illnesses in the workplace: One study demonstrates that the emergency sick leave provision of the Families First Coronavirus Response Act (FFCRA) reduced the spread of COVID–19.[155]

The lack of paid leave exacerbates financial hardships experienced as a result of the public health emergency. A 2018 survey by the Department of Labor found that two-thirds of employees that took unpaid or partial-paid leave experienced financial hardship.[156] Furthermore, because the Family and Medical Leave Act (FMLA) excludes small employers, part-time workers, and workers who have been with their employer for less than a year, 44 percent of workers do not have access to even unpaid leave.[157] Workers of color and workers with lower incomes are less likely to have access to paid leave.[158] [159]

[155] Stefan Pichler, Katherine Wen, and Nicolas R. Ziebarth, COVID–19 Emergency Sick Leave Has Helped Flatten The Curve In The United States: Study examines the impact of emergency sick leave on the spread of COVID–19, Health Affairs 39, no. 12 (2020): 2197–2204, *https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00863.*

[156] Scott Brown et al., Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys, Abt Associates (July 2020), *https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_FinalReport_Aug2020.pdf.*

[157] *Id.*

[158] Ann P. Bartel et al., Racial and ethnic disparities in access to and use of paid family and medical leave: evidence from four nationally representative datasets, U.S. Bureau of Labor Statistics (BLS) (January 2019), *https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-andmedical-leave.htm.*

Continued

For workers that are also caregivers for children, seniors, or other family members, there may be a similar need for—and benefits of—paid family leave. For example, some workers may have struggled during the pandemic to balance caring for children, as schools and daycares closed, and working. For new parents, paid parental leave results in fewer infant hospitalizations, lowering parental stress, increasing parental involvement, and improving the overall health of parent and child.[160] COVID–19 has also increased the levels of ''caregiving intensity'' [161] and ''caregiving burden'' [162] for those providing care to seniors or older family members.[163] [164] When surveyed, more than half of caregivers reported that COVID–19 increased both the amount of caregiving responsibilities they had as well as the negative physical and mental impacts their caregiving responsibilities had on themselves.[165]

Treasury Response: Treasury agrees that these constitute impacts of the pandemic, and accordingly, under the final rule, creating, expanding, or financially supporting paid sick, medical, or family leave programs is an enumerated eligible use of funds to respond to the negative economic impacts of the pandemic.

12. Health insurance.

Public Comment: Several commenters recommended that uses of funds to expand access to health insurance be enumerated eligible uses; commenters believed that the heightened risk of illness or hospitalization due to COVID–19 had increased the negative economic impacts of lacking health insurance.

Background: In 2019, prior to the pandemic, it was estimated that 11 percent of nonelderly adults lacked health insurance.[166] By mid-2020, job loss had resulted in an estimated 3.3 million people losing their employer sponsored insurance, resulting in an additional 2 million uninsured adults.[167] Participation in Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA) marketplace played an important role in minimizing the number of people who completely lost health insurance during the early phases of the pandemic; Medicaid and CHIP enrollment increased by 9 percent from February to September 2020 [168] and 8.3 million people enrolled in insurance through the ACA marketplace.[169]

Although the ACA, CHIP, and Medicaid have significantly reduced the number of uninsured Americans through the pandemic and the economic downturn, adequate coverage and affordability still remains an issue for many. In 2020, 21 percent of working-age adults were inadequately insured, meaning even if they had insurance, they incurred a significant amount of out-of-pocket costs.[170] Additionally, 37 percent of adults reported struggling with medical bills or medical debt and 71 percent of adults who did not purchase insurance cited affordability as the main factor.[171]

Treasury Response: Treasury agrees that loss of health insurance, increased financial risk from lacking health insurance, or excessive out-of-pocket healthcare costs constitute negative economic impacts of the pandemic. Under the final rule, programs or services to expand access to health insurance coverage are an enumerated eligible use as assistance to households, for example, subsidies for health insurance premiums or expansion of a recipient's health insurance plan to cover additional employees who currently lack coverage.

13. Services for the unbanked and underbanked.

Public Comment: One commenter expressed support for the inclusion of services to increase banking access as an allowable expense under SLFRF. The commenter recommended that states be encouraged to offer opportunities for consumers to open safe and affordable accounts capable of receiving direct payments. The commenter emphasized that allowing unbanked and underbanked households to receive funds securely through no-fee, direct deposit will help connect or reconnect consumers to the mainstream financial system.

Background: Banking inequities can make it difficult for unbanked or underbanked households to access housing, jobs, and other important economic opportunities. Being unbanked or underbanked can also make it challenging for households to apply for and receive financial assistance, including services like pandemic emergency housing assistance.

Safe, affordable, and accessible financial services play a critical role in assisting households in the United States in managing income volatility and cash flow shortages.[172] Currently, over 5 percent of families, or 7 million households are ''unbanked,'' meaning they do not have a bank account.[173] Low-income households, non-white households, and households with individuals with disabilities were even more likely to be unbanked. In 2019, 16 percent of Native American households, 14 percent of Black households, and 12 percent of Hispanic households were unbanked, compared to 2.5 percent of white households. Additionally,

[159] U.S. Bureau of Labor Statistics, Employee Benefits in the United States (March 2019), *https://www.bls.gov/ncs/ebs/benefits/2019/ownership/civilian/table31a.pdf.*

[160] Maya Rossin-Slater et al., Local exposure to school shootings and youth antidepressant use, Proceedings of the National Academy of Sciences, vol 117(38), pages 23484–23489 (2020), *https://www.pnas.org/content/117/38/23484;* Ariel Marek Pihl and Gaetano Basso, Did California Paid Family Leave Impact Infant Health?, Journal of Policy Analysis and Management, *https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.2210.*

[161] J.C. Jacobs, A. Laporte, C.H. Van Houtven, P.C. Coyte, Caregiving intensity and retirement status in Canada. Social Science & Medicine, 102, 74–82 (2014), *https://www.sciencedirect.com/science/article/abs/pii/S0277953613006631.*

[162] E. Lightfoot, R.P. Moone, Caregiving in times of uncertainty: Helping adult children of aging parents find support during the COVID–19 outbreak, Journal of Gerontological Social Work, 63(6–7), 542–552 (2020), *https://www.tandfonline.com/doi/abs/10.1080/01634372.2020.1769793.*

[163] Note: ''Caregiving intensity'' is defined as the amount and type of care provided by informal caregivers; ''Caregiving burden'' is defined as the impacts on physical and mental health, and health-related quality of life of informal caregivers.

[164] SA Cohen, ZJ Kunicki, MM Drohan, ML Greaney, Exploring Changes in Caregiver Burden and Caregiving Intensity due to COVID–19, Gerontology and Geriatric Medicine (January 2021), doi:10.1177/2333721421999279.

[165] *Id.*

[166] Jennifer Tolbert et al., Key Facts about the Uninsured Population, Kaiser Family Foundation (November 6, 2020), *https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/.*

[167] Joshua Aarons et. al., As the COVID–19 Recession Extended into the Summer of 2020, More Than 3 Million Adults Lost Employer-Sponsored Health Insurance Coverage and 2 Million Became Uninsured, Urban Institute (September 18, 2020), *https://www.urban.org/research/publication/covid-19-recession-extended-summer-2020-more-3-million-adults-lost-employer-sponsored-health-insurance-coverage-and-2-million-became-uninsured.*

[168] Centers for Medicare and Medicaid Services, Medicaid and CHIP Enrollment Trends Snapshot through September 2020 (Washington: 2021), available at *https://www.medicaid.gov/sites/default/files/2021-01/september-medicaid-chip-enrollment-trend-snapshot.pdf.*

[169] Centers for Medicare and Medicaid Services, 2021 Federal Health Insurance Exchange Weekly Enrollment Snapshot: Final Snapshot (January 12, 2021) available at *https://www.cms.gov/newsroom/fact-sheets/2021-federal-health-insurance-exchange-weekly-enrollment-snapshot-final-snapshot.*

[170] Sara R. Collins, Munira Z. Gunja, and Gabriella N. Aboulafia, U.S. Health Insurance Coverage in 2020: A Looming Crisis in Affordability (New York: Commonwealth Fund, 2020), available at *https://www.commonwealthfund.org/publications/issue-briefs/2020/aug/looming-crisis-health-coverage-2020-biennial.*

[171] *Id.*

[172] Federal Deposit Insurance Corporation, FDIC National Survey of Unbanked and Underbanked Households (2015), *https://www.fdic.gov/householdsurvey/2015/2015execsumm.pdf.*

[173] Federal Deposit Insurance Corporation, How America Banks: Household Use of Banking and Financial Services 2019 FDIC Survey, *https://www.fdic.gov/analysis/household-survey/2019report.pdf.*

underbanked households—those that have a bank account but rely on alternative financial services, such as money orders, payday loans, and check cashing services— account for 16 percent of all households in the United States.[174] As a result of the COVID–19 pandemic, new social distancing protocols have, in some instances, made it more difficult to perform financial transactions with paper instruments, like banknotes, coinage, paper checks, or money orders. Households constrained to these payment methods may face challenges receiving government assistance. Additionally, businesses have transitioned to cashless payments systems to promote contactless payments.[175] As a result, unbanked individuals may face additional challenges conducting financial transactions.

Treasury Response: Recognizing these challenges, Treasury is clarifying that recipients may use SLFRF funds to provide financial services that facilitate the delivery of federal, state, or local benefits (*e.g.,* Child Tax Credit, Earned Income Tax Credit, tax refunds, or emergency housing or food assistance funds). The following includes a non-exhaustive list of uses to provide financial services to unbanked and underbanked households:

- Provide low or no cost financial services, including in conjunction with administration of benefits, such as pre-paid debit cards, *e.g.,* via Economic Impact Payment or General Purpose Reloadable pre-paid cards or for the development of public banking infrastructure that can support benefit delivery.
- Provide transitional services to facilitate long-term access to banking and financial services.
- Provide financial literacy programs and conduct community outreach and deploy engagement resources to increase awareness about low-cost, no-overdraft fee accounts, pilot new strategies and approaches that help overcome barriers to banking access and support the gathering and sharing of information in ways that improve equity, such as community meetings, partnerships with community-based organizations, online surveys, focus groups, human-centered design activities, and other community engagement activities.

Assistance to Unemployed and Underemployed Workers

The interim final rule included assistance to unemployed workers as an enumerated eligible use, including ''services like job training to accelerate rehiring of unemployed workers.'' Treasury provided further guidance, based on recipient questions after the interim final rule, that eligible uses under this section also include ''other efforts to accelerate rehiring and thus reduce unemployment, such as childcare assistance, assistance with transportation to and from a jobsite or interview, and incentives for newly employed workers[,]'' as well as assistance to unemployed workers seeking to start small businesses. Finally, further guidance also provided that ''public jobs programs, subsidized employment, combined education and on-the-job training programs, or job training to accelerate rehiring or address negative economic or public health impacts experienced due to a worker's occupation or level of training'' are all enumerated eligible uses as assistance to unemployed or underemployed workers.

The interim final rule defined eligible beneficiaries of assistance as ''individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.'' This definition is based on definitions used by the Bureau of Labor Statistics to define individuals currently unemployed, as well as persons marginally attached to the labor force and working part-time for economic reasons.[176] The latter two classifications are types of labor underutilization, or ''underemployed'' workers.[177] Finally, the interim final rule specified that assistance to unemployed workers included both workers who lost their job during the pandemic and resulting recession and workers unemployed when the pandemic began who saw further deterioration of their economic prospects due to the pandemic.

Public Comment: Commenters generally supported the inclusion of this enumerated eligible use. One commenter recommended including assistance for underemployed workers who took jobs due to the pandemic that did not fully utilize their skillset or did not provide the hours, wages, or job quality desired. Treasury has also received recipient questions on whether job fairs or grants to businesses to hire underserved workers are eligible uses under this category. Another commenter recommended flexibility in eligible workforce development programs, arguing that rural areas may face particular challenges.

Treasury Response: Treasury is maintaining this eligible use in the final rule, including the enumerated eligible services in the interim final rule and subsequent guidance. Treasury is also confirming that job fairs or grants to businesses to hire underserved workers are eligible uses under this section.

Treasury is also enumerating that job and workforce training centers are eligible capital expenditures, so long as they adhere to the standards and presumptions detailed in the section Capital Expenditures in General Provisions: Other.

The final rule maintains the definition of eligible beneficiaries, which is aligned with the Bureau of Labor Statistics' definitions of unemployed workers and other labor underutilization, using a common, widely known definition that incorporates a broad group of individuals both unemployed or whose skills are otherwise underutilized in the labor market.

In addition, recognizing that the pandemic has generated broad workforce disruption, in the final rule, Treasury is making clear that recipients may provide job training or other enumerated types of assistance to individuals that are currently employed but are seeking to move to a job that provides better opportunities for economic advancement, such as higher wages or more opportunities for career advancement.

Recipient Unemployment Insurance Trust Funds and Related Expenses

Under the interim final rule, a recipient may use funds to make deposits into its account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balance of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021. These costs support the solvency of the unemployment insurance system and, ultimately, unemployment insurance benefits provided to unemployed

[174] Board of the Governors of the Federal Reserve System, Report on the Economic Well-Being of U.S. Households in 2018–May 2019, *https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-banking-and-credit.htm.*

[175] Zaheer Allam, The Forceful Reevaluation of Cash-Based Transactions by COVID–19 and Its Opportunities to Transition to Cashless Systems in Digital Urban Networks. Surveying the Covid-19 Pandemic and its Implications (2020): 107–117. doi:10.1016/B978–0–12–824313–8.00008–5.

[176] Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Concepts and Definitions, *https://www.bls.gov/cps/definitions.htm* (last visited November 9, 2021).

[177] *Id.*

workers during the pandemic.[178] The interim final rule also posed the question of what, if any, conditions should be considered to ensure that funds used under this eligible use category repair economic impacts of the pandemic and strengthen unemployment insurance systems.

Public Comment: Inclusion as an Eligible Use and Conditions: Commenters expressed mixed perspectives on this eligible use category. Some commenters supported its inclusion, arguing that unemployment insurance systems have faced significant costs to support unemployed workers during the pandemic and that this constitutes a negative economic impact that SLFRF funds should be able to address. Other commenters opposed this eligible use category, arguing that funds used under this category may not ultimately support unemployed workers. Some commenters noted that unemployment insurance taxes on businesses automatically increase when trust fund balances are low and suggested that permitting the deposit of funds into unemployment insurance trust funds prevents a tax increase on businesses, some of which may not have faced negative economic impacts from the pandemic, rather than providing assistance to unemployed workers. Other comments suggested that deposits are better thought of as savings for future needs than assistance to unemployed workers in the near term.

Responding to the interim final rule's question, several commenters suggested that, if Treasury maintains this eligible use, the final rule should require detailed reporting on funds used under this category or place conditions on this category to increase the likelihood that funds ultimately support unemployed workers. For example, some commenters suggested that recipients that deposit SLFRF funds into their trust fund should be barred from cutting unemployment insurance benefits for workers during the period of performance or from erecting new barriers to accessing benefits (*e.g.,* through the application process and ongoing requirements to receive benefits). One commenter, noting that unemployment insurance benefits often provide low rates of wage replacement and do not cover some types of unemployed workers, argued that recipients should not be permitted to deposit funds into the trust fund unless the recipient concurrently expands benefits. Finally, one commenter suggested a cap on the amount of funds that can be used for this purpose.

Treasury Response: Inclusion as an Eligible Use and Conditions: In the final rule, Treasury is maintaining the inclusion of this eligible use category. Because unemployment insurance trust funds directly fund benefits to unemployed workers, maintaining the solvency of the trust fund is critical to the continued provision of assistance to unemployed workers. Further, funds deposited into the trust fund must be used as assistance to unemployed workers, an eligible use of SLFRF funds. Finally, while, in the absence of the SLFRF, trust fund deposits would likely be funded through increases on employer payroll taxes, the eligibility of uses of SLFRF funds does not depend on how obligations would otherwise be satisfied if the SLFRF were not available for this use.

While deposits to unemployment insurance trust funds generally serve as assistance to unemployed workers, recipients that make deposits but also cut unemployment insurance benefits to workers substantially decrease the likelihood that the deposited funds will assist unemployed workers. In other words, SLFRF funds deposited into an unemployment insurance trust fund generally serve as assistance to unemployed workers, unless recipients take policy actions that substantially decrease the extent to which SLFRF funds would flow to unemployed workers. As such, through December 31, 2024, recipients that deposit SLFRF funds into an unemployment insurance trust fund or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (*i.e.,* the maximum benefit entitlement).

Finally, until the final rule becomes effective on April 1, 2022, the interim final rule remains binding and effective.[179] These requirements were not in effect under the interim final rule and do not apply to funds used (*i.e.,* obligated or expended) under the interim final rule while it is in effect. In addition, recognizing that some recipients have taken significant steps toward making a trust fund deposit or repaying principal on Title XII advances under the interim final rule, such as the legislative appropriation of funds for this purpose, even if a formal obligation has not occurred, Treasury will exercise enforcement discretion to not pursue violations of this final rule provision (*i.e.,* the requirement not to reduce benefits) for recipients that have appropriated funds for this purpose prior to the date of adoption of the final rule consistent with the laws and procedures in their jurisdiction. Recipients should refer to Treasury's Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule, which provides additional detail on these issues.

Public Comment and Treasury Response: Technical Corrections and Amendments: Following the interim final rule, Treasury received recipient questions on whether paying interest on advances received under Title XII of the Social Security Act (42 U.S.C. 1321) is an eligible use of SLFRF funds; Treasury is clarifying that such use is permissible, consistent with Treasury's treatment of the eligibility of interest on Title XII advances under the Coronavirus Relief Fund.

Treasury is further clarifying that recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. In other words, excluding interest due on Title XII advances, the magnitude of the decrease of the balance in the unemployment insurance trust fund plus the principal outstanding on any Title XII borrowings made from the beginning of the public health emergency to the date of publication of the SLFRF interim final rule sets a cap on the amount of SLFRF funds a recipient may use for trust fund contributions and repayment of principal on Title XII advances. Further, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that

[178] Note that, while the economic harm being addressed accrued before March 3, 2021, the cost incurred to address the harm occurs after March 3, 2021 and provides assistance to unemployed workers, an eligible use of SLFRF funds.

[179] *See, e.g.,* U.S. Department of the Treasury, More Information on the Conclusion of the Public Comment Period and the Interim Final Rule on the Coronavirus State and Local Fiscal Recovery Funds, *https://home.treasury.gov/system/files/136/IFR-Explainer.pdf.*

balance and deposit more SLFRF funds, back up to the pre-pandemic balance.

Enumerated Eligible Uses for Disproportionately Impacted Households

Background

The COVID–19 pandemic has had disproportionally negative impacts on many households and communities that were already experiencing inequality related to race, gender, age, or income before the pandemic. People of color, low-income workers, and women disproportionately lost their jobs during the COVID–19 pandemic and experienced disproportionate rates of negative health outcomes.[180] [181]

These disproportionate negative impacts experienced by systemically underserved communities are not novel to the COVID–19 pandemic and the economic downturn. Research shows that historically underserved communities that are experiencing economic and social disparities typically experience disproportionate impacts of economic downturns and natural disasters.[182] This pattern held true for the effects of COVID–19 and the economic downturn: Historically undeserved groups experienced amplified negative impacts, further widening inequality.[183]

Many communities facing systemic barriers had not yet recovered from the impact of the Great Recession before experiencing the impacts of COVID–19 and the economic downturn. For example, in 2009, at the end of the Great Recession, households without a high school diploma had an average annual income of $32,300 (measured in 2018 dollars). By 2018, nine years into the economic recovery, those same households saw their average income increase by $600. During that same time period, households with a bachelor's degree saw an increase in their average household income of $6,100 (measured in 2018 dollars).[184]

The impact pre-existing inequalities have on a household or community's ability to recover is intersectional. Research shows that pre-existing racial and gender disparities exacerbated the disproportionate economic and health impact COVID–19 and the economic downturn had on workers of color, and specifically, women of color.[185] Another study found that during the first six months of the pandemic counties that were both high-poverty and majority non-white experienced COVID–19 infection rates eight times higher than high-poverty, majority white counties.[186] Many residents in these communities are still coping with the negative health and economic impacts.

Summary of the Interim Final Rule and Final Rule Structure

As described previously, the interim final rule provided a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities, in recognition that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities and that addressing the root causes of those disparities constitutes responding to the public health and negative economic impacts of the pandemic. The interim final rule described eligible uses in disproportionately impacted communities in four categories, spread across public health and negative economic impacts: (1) Addressing disparities in public health outcomes, (2) building stronger communities through investments in housing and neighborhoods, (3) addressing educational disparities, and (4) promoting healthy childhood environments. As described above, Treasury has moved eligible uses related to community violence intervention, assistance accessing or applying to public benefits and services, affordable housing development, healthy childhood environments, and addressing lost instructional time in K–12 schools into the category ''assistance to impacted households,'' recognizing that these pandemic impacts were widely shared across the country.

This section discusses enumerated eligible uses to address health disparities, to build stronger communities through investments in neighborhoods, to address educational disparities, to provide rental assistance vouchers or assistance relocating to areas of greater economic opportunity, and additional eligible uses to respond to negative economic impacts in disproportionately impacted communities. While many of these services impact both health and economic outcomes, Treasury has consolidated them into a single section for simplicity and clarity and to reflect the intertwined nature of these issues.

As a reminder, recipients can presume these uses are eligible when provided in a QCT, to families and individuals living in QCTs, by Tribal or territorial governments, or to low-income households or communities. As provided in section Standards: Designating Other Disproportionately Impacted Classes, recipients can also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. Recipients may also identify additional disproportionate impacts of the pandemic and design an appropriate response to address that harm. For details on eligibility standards and presumed eligible populations, see section General Provisions: Structure and Standards.

Enumerated Eligible Uses for Disproportionately Impacted Households

1. Addressing health disparities.

Public Comment: General: In general, commenters supported eligible uses to address health disparities and support health equity; several commenters highlighted the disparities faced by communities of color and low-income populations, as well as the importance of community engagement in developing effective programs to serve disproportionately impacted communities. Many commenters recommended additional enumerated eligible uses to address health disparities; these are discussed further below in this section.

Treasury Response: In line with commenters' recommendations, the final rule maintains several enumerated eligible uses to address health disparities, specifically:

a. Community health workers. Treasury received few comments on community health workers, though one

[180] U.S. Department of Health and Human Services, COVID–19 and Economic Opportunity: Inequities in the Employment Crisis, April 2021. Retrieved from *https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//199901/covid-economic-equity-brief.pdf.*

[181] Adelle Simmons et al., Health disparities by race and ethnicity during the COVID–19 pandemic: Current evidence and policy approaches. U.S. Department of Health and Human Services *https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//199516/covid-equity-issue-brief.pdf.*

[182] Perry, Brea L., Brian Aronson, and Bernice A. Pescosolido, Pandemic precarity: COVID–19 is exposing and exacerbating inequalities in the American heartland, National Academy of Sciences (Febuary 2021), *https://www.pnas.org/content/118/8/e2020685118.*

[183] *Id.*

[184] Jesse Bennet & Rakesh Kochhar, Two Recessions, Two Recoveries, Pew Research Center (December 13, 2019), *https://www.pewresearch.org/social-trends/2019/12/13/two-recessions-two-recoveries-2/.*

[185] Darrick Hamilton et al., Building an Equitable Recovery: The role of Race, Labor Markets, and Education, The New School's Institute on Race and Political Economy (February 2021).

[186] Adhikari S, Pantaleo NP, Feldman JM, Ogedegbe O, Thorpe L, Troxel AB. Assessment of Community-Level Disparities in Coronavirus Disease 2019 (COVID–19) Infections and Deaths in Large US Metropolitan Areas. JAMA Netw Open. 2020;3(7):e2016938. doi:10.1001/jamanetworkopen.2020.16938.

requested further clarification on their role.[187] Treasury is maintaining this eligible use in the final rule.

b. Remediation of lead paint or other lead hazards. The interim final rule included remediation of lead paint or other lead hazards as an enumerated eligible use to address health disparities.

Public Comment: Treasury received several comments asking for clarification on the eligibility of a particular use that would indirectly address lead pollution. For example, a commenter requested the ability to fund remedial actions, such as filtration and plumbing procedures to help address lead pollution. One commenter requested that private wells be eligible for funding to address contamination with substances such as lead. Other commenters requested that Treasury allow replacement of lead pipes as an eligible use of funds.

Treasury Response: Recipients may make a broad range of water infrastructure investments under section 602(c)(1)(d) and 603(c)(1)(d), which can include lead service line replacement and other activities to identify and remediate lead in water. These uses are discussed in greater detail in section Water and Sewer Infrastructure of this Supplemental Information.

Treasury has further determined that several of the services identified by commenters are appropriate responses to address health disparities in disproportionately impacted households. These services were eligible under the interim final rule and continue to be so under the final rule. These services include remediation to address lead-based public health risk factors, outside of lead in water, including evaluation and remediation of lead paint, dust, or soil hazards; testing for blood lead levels; public outreach and education; and emergency protection measures, like bottled water and water filters, in areas with an action level exceedance for lead in water in accordance with the Environmental Protection Agency's Lead and Copper Rule.[188]

Further, Treasury had determined that certain capital expenditures, including improvements to existing facilities to remediate lead contaminants (*e.g.,* removal of lead paint), are eligible responses, although this does not include construction of new facilities for the purpose of lead remediation. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

c. Medical facilities. Treasury received a few comments from recipients seeking to use SLFRF funds to build new medical facilities, such as hospitals or public health clinics, to serve disproportionately impacted communities. Given the central role of access to high-quality medical care in reducing health disparities and addressing the root causes that led to disproportionate impact COVID–19 health impacts in certain communities, the final rule recognizes that medical equipment and facilities designed to address disparities in public health outcomes are eligible capital expenditures. This includes primary care clinics, hospitals, or integrations of health services into other settings. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

2. Housing vouchers and assistance relocating. In addition to other housing services, the interim final rule permitted a variety of rental assistance approaches to support low-income households in securing stable, long-term housing, including housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents. Examples could include SLFRF-funded analogues to Section 8 Housing Choice vouchers; other kinds of rent subsidies, including shallow subsidies; and programs to help residents move to areas with higher levels of economic mobility.[189] Treasury did not receive public comments on these enumerated eligible uses.

Treasury Response: Treasury maintains the eligibility of vouchers and relocation assistance in the final rule.

3. Building strong, healthy communities through investments in neighborhoods. While the interim final rule included a category of enumerated eligible uses for ''building stronger communities through investments in housing and neighborhoods,'' the examples of services provided generally focused on housing uses. In response to questions following release of the interim final rule, Treasury issued further guidance clarifying that ''investments in parks, public plazas, and other public outdoor recreation spaces may be responsive to the needs of disproportionately impacted communities by promoting healthier living environments.''

Public Comment: General: A significant theme across many public comments was the importance of neighborhood environment to health and economic outcomes and the potential connections between residence in an underserved neighborhood and disproportionate impacts from the pandemic. Many commenters highlighted the connection between neighborhoods and health outcomes, including citing public health research linking neighborhood traits to health outcomes. For example, the CDC states that ''neighborhoods people live in have a major impact on their health and well-being.'' [190] As such, CDC identifies ''neighborhoods and built environment'' as one of five key social determinants of health [191] and includes ''creat[ing] neighborhoods and environments that promote health and safety'' as one of the agency's goals for social determinants of health outcomes.

a. Neighborhood features that promote improved health and safety outcomes.

Public Comment: Commenters argued that neighborhoods impact physical health outcomes in several ways. First, some commenters reasoned that the physical environment and amenities in a community [192] influence a person's level of physical activity, with features like parks, recreation facilities, and safe sidewalks promoting increased physical activity that improves health outcomes. Conversely, commenters argued that a lack of these features in a neighborhood could dampen physical activity and contribute to health conditions like obesity that are risk factors for more severe COVID–19 health outcomes.

Second, some commenters also suggested that access to healthy food in a neighborhood impacts health outcomes. These commenters reasoned

[187] *See, e.g.,* Centers for Disease Control and Prevention, Community Health Worker (CHW) Toolkit, *https://www.cdc.gov/dhdsp/pubs/toolkits/chw-toolkit.htm* (last visited November 9, 2021).

[188] Environmental Protection Agency, 40 CFR 141.80(c)(1), *https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-141/subpart-I/section-141.80.*

[189] *See, e.g.,* Opportunity Insights, Creating Moves To Opportunity (August 2019), *https://opportunityinsights.org/policy/cmto/.*

[190] U.S. Department of Health and Human Services, Neighborhood and Built Environment, *https://health.gov/healthypeople/objectives-and-data/browse-objectives/neighborhood-and-built-environment#cit1* (last visited November 9, 2021).

[191] Social determinants of health are ''the conditions in the places where people live, learn, work, and play that affect a wide range of health risks and outcomes.'' Centers for Disease Control and Prevention, About Social Determinants of Health (SDOH), *https://www.cdc.gov/social determinants/about.html* (last visited November 9, 2021).

[192] In public health, this is referred to as ''built environment,'' or the man-made physical aspects of a community (*e.g.,* homes, buildings, streets, open spaces, and infrastructure).

that lacking adequate access to affordable, healthy food or living in a ''food desert'' may contribute to disparities in diet that influence health outcomes, including contributing to pre-existing conditions that increased risk for severe COVID–19 outcomes. These commenters cited public health research finding ''clear evidence for disparities in food access in the United States by income and race.'' [193]

Some commenters also suggested that neighborhood environment is connected to other public health outcomes, like mental health and public safety. For example, some research suggests that living in neighborhoods with green space and tree cover correlates with improved mental health outcomes.[194] Finally, some commenters argued that activities like installing streetlights, greening or cleanup of public spaces or land, and other efforts to revitalize public spaces would support improved public safety.[195] [196]

These commenters recommended that Treasury include as an enumerated eligible use in disproportionately impacted communities projects to develop neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces.

Background: Investments in neighborhood features, including parks, recreation facilities, sidewalks, and healthy food access, can work to improve physical and mental health outcomes. Allowing people access to nature, including parks, has been connected to decreased levels of mortality and illness and increased well-being.[197] Urban park use during the COVID–19 pandemic may have declined among lower-income individuals.[198] Encouraging physical activity can also play a role in health outcomes, as a sedentary lifestyle is a risk factor for chronic diseases and more severe COVID–19 outcomes.[199] Parks, recreation facilities, and sidewalks can promote healthier living environments by allowing for safe and socially distanced recreation during the COVID–19 pandemic.

Additionally, food insecurity rates, which are higher among lower-income households and households of color, doubled among all households and tripled among households with children during the onset of COVID–19 from February 2020 to May 2020.[200] Improving healthy food access supports public health, particularly among lower-income households and households of color that face disproportionate outcomes.

Treasury Response: Treasury recognizes the connection between neighborhood built environment and physical health outcomes as discussed in the research and analysis provided by commenters, including risk factors that may have contributed to disproportionate COVID–19 health impacts in low-income communities. The final rule also recognizes that the public health impacts of the pandemic are broader than just the COVID–19 disease itself and include substantial impacts on mental health and public safety challenges like rates of violent crime, which are correlated with a neighborhood's built environment and features. As such, neighborhood features that promote improved health and safety outcomes respond to the pre-existing disparities that contributed to COVID–19's disproportionate impacts on low-income communities.

The final rule includes enumerated eligible uses in disproportionately impacted communities for developing neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks,[201] projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other, which describes additional eligibility standards that apply to uses of funds for capital expenditures.

b. Vacant or abandoned properties. As discussed above, the interim final rule included enumerated eligible uses for building stronger communities through investments in housing and neighborhoods in disproportionately impacted communities. The interim final rule also posed a question of whether other potential uses in this category, specifically ''rehabilitation of blighted properties or demolition of abandoned or vacant properties,'' address the public health or economic impacts of the pandemic.

Public Comment: Several commenters argued that programs or services to address vacant or abandoned property would respond to the public health and negative economic impacts of the pandemic in disproportionately impacted communities. Some commenters cited research suggesting that living near such property is correlated with worse physical health and mental health outcomes, noted that such properties pose an environmental hazard, or argued that such properties present a barrier to economic recovery. These commenters suggested that renovation or demolition of vacant or abandoned property could benefit community health and raise property values. Other commenters recommended that Treasury include an enumerated eligible use for the operation of land banks that redevelop or renew vacant properties and land.

Treasury Response: As noted throughout the final rule, the pandemic underscored the importance of safe, affordable housing and healthy

[193] J Beaulac, E Kristjansson, S Cummins, A systematic review of food deserts, 1966–2007, Prev Chronic Dis 2009;6(3):A105, *http://www.cdc.gov/pcd/issues/2009/jul/08_0163.htm.*

[194] *See, e.g.,* Yijun Zhang et al. The Association between Green Space and Adolescents' Mental Well-Being: A Systematic Review. International journal of environmental research and public health vol. 17,18 6640 (Sep. 11 2020), doi:10.3390/ijerph17186640; EC South, BC Hohl, MC Kondo, JM MacDonald, CC Branas, Effect of Greening Vacant Land on Mental Health of Community-Dwelling Adults: A Cluster Randomized Trial, JAMA Netw Open. 2018;1(3):e180298 (2018), available at: doi:10.1001/jamanetworkopen.2018.0298.

[195] *See, e.g.,* Yanqing Xu, Cong Fu, Eugene Kennedy, Shanhe Jiang, Samuel Owusu-Agyemang, The impact of street lights on spatial-temporal patterns of crime in Detroit, Michigan, Cities, Volume 79, Pages 45–52, ISSN 0264–2751 (2018), *https://doi.org/10.1016/j.cities.2018.02.021.*

[196] A. Chalfin, B. Hansen, J. Lerner et al., Reducing Crime Through Environmental Design: Evidence from a Randomized Experiment of Street Lighting in New York City, Journal of Quantitative Criminology (2021), *https://doi.org/10.1007/s10940-020-09490-6.*

[197] *See, e.g.,* American Public Health Association, Improving Health and Wellness through Access to Nature (November 5, 2013), *https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/08/09/18/improving-health-and-wellness-through-access-to-nature.*

[198] LR Larson et al., Urban Park Use During the COVID–19 Pandemic: Are Socially Vulnerable Communities Disproportionately Impacted?, Front. Sustain. Cities 3:710243 (2021), *https://doi.org/10.3389/frsc.2021.710243.*

[199] JP Després, Severe COVID–19 outcomes—the role of physical activity. Nat Rev Endocrinol 17, 451–452 (2021). *https://doi.org/10.1038/s41574-021-00521-1.*

[200] Caroline George and Adie Tomer, Beyond 'food deserts': America needs a new approach to mapping food, Brookings Institution (August 17, 2021), *https://www.brookings.edu/research/beyond-food-deserts-america-needs-a-new-approach-to-mapping-food-insecurity/.*

[201] However, Treasury cautions recipients that general infrastructure development, including street or road construction, remains a generally ineligible use of funds under the final rule. Sidewalks and pedestrian safety should be the predominant component of uses of funds in this category. While projects may include ancillary construction needed to execute the predominant component, a project that predominantly involves street construction or repair to benefit vehicular traffic would be ineligible.

neighborhood environments to public health and economic outcomes. Treasury agrees with commenters that high rates of vacant or abandoned properties in a neighborhood may exacerbate public health disparities, for example through environmental contaminants that contribute to poor health outcomes or by contributing to higher rates of crime. As such, certain services for vacant or abandoned properties are eligible to address the public health and negative economic impacts of the pandemic on disproportionately impacted households or communities. Eligible activities include:

- Rehabilitation, renovation, maintenance, or costs to secure vacant or abandoned properties to reduce their negative impact
- Costs associated with acquiring and securing legal title of vacant or abandoned properties and other costs to position the property for current or future productive use
- Removal and remediation of environmental contaminants or hazards from vacant or abandoned properties, when conducted in compliance with applicable environmental laws or regulations
- Demolition or deconstruction of vacant or abandoned buildings (including residential, commercial, or industrial buildings) paired with greening or other lot improvement as part of a strategy for neighborhood revitalization
- Greening or cleanup of vacant lots, as well as other efforts to make vacant lots safer for the surrounding community
- Conversion of vacant or abandoned properties to affordable housing
- Inspection fees and other administrative costs incurred to ensure compliance with applicable environmental laws and regulations for demolition, greening, or other remediation activities

Vacant or abandoned properties are generally those that have been unoccupied for an extended period of time or have no active owner.[202] Such properties may be in significant disrepair (*e.g.,* major structural defects; lack of weather tight conditions; or lack of useable plumbing, kitchen facilities, electricity, or heating infrastructure (not to include utilities currently out of service or disconnected but able to be reconnected and used)), or may be declared unfit for inhabitants by a government authority.

As noted above, demolition and greening (or other structure or lot remediation) of vacant or abandoned properties, including residential, commercial, or industrial buildings, is an eligible use of funds. Treasury encourages recipients to undertake these activities as part of a strategy for neighborhood revitalization and to consider how the cleared property will be used to benefit the disproportionately impacted community. Activities under this eligible use should benefit current residents and businesses, who experienced the pandemic's impact on the community.

Treasury encourages recipients to be aware of potential impacts of demolition of vacant or abandoned residential properties. Demolition activities that exacerbate the pandemic's impact on housing insecurity or lack of affordable housing are not eligible uses of funds. This risk is generally more acute in jurisdictions with low or reasonable vacancy rates and less acute in jurisdictions with high or hyper-vacancy.[203]

Treasury presumes that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing would exacerbate the impacts of the pandemic on disproportionately impacted communities and that use of SLFRF funds for such activities would therefore be ineligible. This includes activities that convert occupiable housing units for low- and moderate-income individuals into housing units unaffordable to current residents in the community. Recipients may assess whether units are ''occupiable'' and what the housing need is for a given area taking into account vacancy rates (as described above), local housing market conditions (including conditions for different types of housing like multi-family or single-family), and applicable law and housing codes as to what units are occupiable. Recipients should also take all reasonable steps to minimize the displacement of persons due to activities under this eligible use category, especially the displacement of low-income households or longtime residents.

Recipients engaging in these activities and other construction activities with SLFRF funds should be mindful of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601, and the Department of Transportation's implementing regulations, 49 CFR part 24, that apply to projects funded with federal financial assistance, such as SLFRF funds. Recipients should also be aware of federal, state, and local laws and regulations, outside of SLFRF program requirements, that apply to this activity. Recipients must comply with the applicable requirements of the Uniform Guidance regarding procurement, contracting, and conflicts of interest and must follow the applicable laws and regulations in their jurisdictions. Recipients must also comply with all federal, state, and local public health and environmental laws or regulations that apply to activities under this eligible use category,[204] for example, requirements around the

[202] A state or locality may use its existing classifications of what is considered vacant or abandoned property under state law and local ordinances, as well as any corresponding processes for demolition, for these eligible uses. A recipient without a definition of vacant or abandoned property may refer to definitions used in the Department of Housing and Urban Development's Neighborhood Stabilization Program (available at the citations below); however, recipients should be aware that other federal, state, or local requirements may apply such as compliance with the Uniform Relocation Act (*see* U.S. Department of Housing and Urban Development, Real Estate Acquisition and Relocation Overview in HUD Programs, *https://www.hudexchange.info/programs/relocation/overview/#overview-of-the-ura* (last visited November 9, 2021) and other state and local requirements like condemnation and code enforcement. U.S. Department of Housing and Urban Development, What is the definition of vacant properties as referenced in NSP Eligible Use E—Redevelop Demolished or Vacant Properties? (October 2012), *https://www.hudexchange.info/faqs/programs/neighborhood-stabilization-program-nsp/redevelopment/what-is-the-definition-of-vacant-properties-as-referenced-in-nsp-eligible/.* U.S. Department of Housing and Urban Development, What are the definitions of abandoned and foreclosed? (October 2012), *https://www.hudexchange.info/faqs/programs/neighborhood-stabilization-program-nsp/program-requirements/eligible-activitiesuses/what-are-the-definitions-of-abandoned-and-foreclosed/.*

[203] For analysis of vacancy rates considered low or high, see, *e.g.,* page 12 of Alan Mallach, The Empty House Next Door, Lincoln Institute (May 2018), *https://www.lincolninst.edu/publications/policy-focus-reports/empty-house-next-door#:~:text=%E2%80%9CAlan%20Mallach%20is%20the%20sage,through%20data%20and%20model%20* practices. Recipients may determine the appropriate geographic unit for which to analyze vacancy rates (*e.g.,* county, census tract) based on their circumstances. As needed, recipients may refer to the Current Population Survey/Housing Vacancy Survey data series on Housing Vacancies and Homeownership as one data source to assess vacancy rates. See *https://www.census.gov/housing/hvs/index.html.* Other data sources include the American Community Survey five-year estimates, for smaller geographic areas, or tabulations by the Department of Housing and Urban Development based on United States Postal Service Vacancy Data. See, respectively, *https://data.census.gov/cedsci/table?q=DP04&tid=ACSDP5Y2019.DP04&hidePreview=true* or *https://www.huduser.gov/portal/datasets/usps.html.*

[204] *See* U.S. Environmental Protection Agency, Large-Scale Residential Demolition, *https://www.epa.gov/large-scale-residential-demolition* (last visited November 9, 2021) for a primer on requirements that may apply.

handling and disposal of asbestos-containing materials, lead paint, and other harmful materials may apply, as well as environmental standards for any backfill materials used at demolition sites. Treasury encourages recipients to consult and apply best practices from the Environmental Protection Agency as well.

Recipients must evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward related to safely and properly conducting activities under this eligible use. This may include checking for any past violations recorded by state or local environmental, workplace safety, licensing, and procurement agencies, as well as regular reviews for suspensions, debarments, or stop work orders. Recipients must establish rigorous oversight and internal controls processes to monitor compliance with any applicable requirements, including compliance by subrecipients.

4. Addressing educational disparities. The interim final rule included an enumerated eligible use for addressing educational disparities in disproportionately impacted communities and outlined some enumerated eligible services under this use. These enumerated uses included early learning services, assistance to high-poverty school districts to advance equitable funding across districts and geographies, and educational and evidence-based services to address the academic, social, emotional, and mental health needs of students. Addressing the many dimensions of resource equity—including equitable and adequate school funding; access to a well-rounded education; well-prepared, effective, and diverse educators and staff; and integrated support services—can also begin to mitigate the impact of COVID–19 on schools and students and can close long-standing gaps in educational opportunity. As discussed above, in the final rule, early learning services and addressing the impacts of lost instructional time for K–12 students are enumerated eligible uses for impacted communities, not just disproportionately impacted communities.

Public Comment: Treasury received some comments in this category. Generally, commenters expressed agreement with the elements of the interim final rule regarding use of funds for addressing educational disparities. Some commenters had questions about whether a few specific uses of funds qualified under this category. For example, commenters inquired about whether the funds could be used for behavioral health in a school setting or cultural language classes.

Treasury Response: Treasury is maintaining these enumerated eligible uses in the final rule, which are now organized under the heading of ''services to address educational disparities.'' Treasury reiterates that these uses include addressing educational disparities exacerbated by COVID–19, including but not limited to: increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, summer education and enrichment programs, and supports for students' social, emotional, and mental health needs. This also includes responses aimed at addressing the many dimensions of resource equity—including equitable and adequate school funding; access to a well-rounded education; well-prepared, effective, and diverse educators and staff; and integrated support services—in order to close long-standing gaps in educational opportunity.

Further, Treasury is clarifying that improvements or new construction of schools and other educational facilities or equipment are eligible capital expenditures for disproportionately impacted communities. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Treasury notes that services to promote healthy childhood environments, including childcare, early learning services, and home visiting programs that serve infants and toddlers, is a separate category of enumerated eligible uses for households impacted by the pandemic (see eligible uses for ''promoting healthy childhood environments''). Similarly, education services to address the impact of lost instructional time during the pandemic are a separate eligible use category for households impacted by the pandemic; when providing these services, recipients may presume that any K–12 student who lost access to in-person instruction for a significant period of time has been impacted by the pandemic and is thus eligible for responsive services (see eligible uses for ''addressing the impact of lost instructional time'').

Proposed Additional Enumerated Eligible Uses Not Incorporated

The interim final rule posed a question on what other types of services or costs Treasury should consider as eligible uses to respond to the disproportionate public health or negative economic impacts of COVID–19 on low-income populations and communities.

In response, commenters proposed a wide variety of additional recommended enumerated eligible uses to assist disproportionately impacted households, ranging from general categories of services (*e.g.,* long-term investments to remediate long-term disparities) to highly specific examples of services (*e.g.,* a specific type of healthcare equipment). As discussed above, Treasury is including several additional categories of enumerated eligible uses in the final rule in response to public comments.

Given the large number and diversity of SLFRF recipients, Treasury's approach to assistance to households in disproportionately impacted communities in the final rule aims to provide enumerated eligible uses that respond to disproportionate impacts of the pandemic experienced widely in many jurisdictions across the country and are intended to simplify and clarify these enumerated eligible uses. At the same time, Treasury recognizes that the impacts of the pandemic vary over time, by jurisdiction, and by population; as such, the final rule provides flexibility for recipients to identify additional disproportionate impacts to additional households or classes of households and pursue programs and services that respond to those disproportionate impacts.

In the final rule, Treasury has not chosen to include as enumerated uses all uses proposed by commenters; given the significant range, and in some cases highly specific nature, of the proposed uses Treasury was not able to assess that the proposed uses would respond to disproportionate impacts experienced in many jurisdictions across the country, supporting an enumerated eligible use available to all recipients presumptively. However, the final rule continues to provide a framework to allow recipients to identify and respond to additional disproportionate impacts (for details, see section General Provisions: Structure and Standards). Some types of proposed additional enumerated eligible uses for assistance to households in disproportionately impacted communities were recommended by several commenters:

- Capital expenditures. Many commenters recommended that capital expenditures on many different types of public and private facilities be enumerated eligible uses. For clarity, Treasury has addressed all comments on the eligibility of capital expenditures on property, facilities, or equipment in one

section (see section Capital Expenditures in General Provisions: Other).

• Equity funds. Several commenters recommended that Treasury permit SLFRF funds to be deposited into an equity fund to support long-term racial and economic equity investments. The eligibility of such use would depend on the specific structure and uses of funds. Under the statute, SLFRF funds can only support costs incurred until December 31, 2024; see section Timeline for Use of SLFRF Funds in Program Administration Provisions. Further, recipients may calculate the cost incurred with respect to investments in revolving loan funds based on the methodology described in section Treatment of Loans in Program Administration Provisions. Projects funded by a revolving loan fund using SLFRF funds would also need to be eligible uses of SLFRF funds.

• Environmental quality and climate resilience. Several commenters recommended eligible uses to enhance environmental quality, remediate pollution, promote recycling or composting, or increase energy efficiency or electrical grid resilience. Whether these projects respond to the disproportionate impacts of the pandemic on certain communities would depend on the specific issue they address and its nexus to the public health and economic impacts of the pandemic.

b. Assistance to Small Businesses

Background

The pandemic has severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment [205] and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.[206] Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.[207] Sectors with a large share of small business employment have been among those with the most drastic drops in employment.[208] The negative outlook for small businesses has continued: As of November 2021, approximately 66 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.[209]

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.[210] In general, small businesses can face greater hurdles in accessing credit,[211] and many small businesses were already financially fragile at the outset of the pandemic.[212]

While businesses everywhere faced significant challenges during the pandemic, minority-owned and very small businesses have faced additional obstacles. Between February and April 2020, the number of actively self-employed Black business owners decreased by 41 percent.[213] During that same time period, Asian and Latino business owners decreased by 26 and 32 percent, respectively, compared to a 17 percent decrease in white business owners.[214] Female business owners also saw significant impacts, with businesses owned by women falling by 25 percent.[215]

Many of the disparities in how minority business owners experienced the pandemic are rooted in systemic issues present even before the pandemic. For example, before the economic downturn, only 12 percent of Black-owned businesses and 19 percent of Hispanic-owned businesses had annual earnings of over $1 million compared to 31 percent of white-owned businesses.[216] Minority-owned businesses were also overrepresented in industries hit hardest by the economic downturn (*e.g.,* services, transportation and warehousing, healthcare and social assistance, administrative and support and waste management, and accommodation and food services).[217] Approximately 22 percent of all minority-owned business fell into the hardest hit industries compared to 13 percent of nonminority-owned businesses.[218]

Although disparities in annual revenue are not a direct indication of a business's ability to weather an economic downturn, they do highlight other disparities that make it more challenging for these businesses to survive the effects of the pandemic. Black-owned startups, for example, face larger challenges in raising capital, including securing business loans.[219]

Summary of the Interim Final Rule and Final Rule Structure

Summary of Interim Final Rule: As discussed above, small businesses faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. Under Sections 602(c)(1)(A) and 603(c)(1)(A), recipients may ''respond to the public health emergency or its negative economic impacts,'' by, among other things, providing ''assistance to . . . small businesses.'' Accordingly, the interim final rule allowed recipients to provide assistance to small businesses to address the negative economic impacts faced by those businesses. A

[205] Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), *https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm.*

[206] U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), *https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/.*

[207] Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), *https://www.whitehouse.gov/briefing-room/speechesremarks/2021/02/22/remarks-by-president-bidenon-helping-small-businesses/.*

[208] Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID–19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), *available at https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.*

[209] U.S. Census Bureau, Small Business Pulse Survey, *https://portal.census.gov/pulse/data/* (last visited December 7, 2021).

[210] Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID–19 Pandemic (Nov. 2020), *https://www.nber.org/papers/w28151.*

[211] *See, e.g.,* Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), *available at https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm.*

[212] Alexander W. Bartik et al., The Impact of COVID–19 on small business outcomes and expectations, PNAS 117(30): 17656–66 (July 28, 2020), *available at https://www.pnas.org/content/117/30/17656.*

[213] Robert Fairlie, The impact of COVID–19 on small business owners: Evidence from the first 3 months after widespread social-distancing restrictions, Journal of economics & management strategy (August 27, 2020), *https://doi.org/10.1111/jems.12400.*

[214] U.S. Small Business Administration, The Effects of the COVID–19 Pandemic on Small Businesses (March 2021), *https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.*

[215] Robert Fairlie, *supra* note 213.

[216] Federal Reserve Bank of Atlanta. 2019. Small Business Credit Survey 2019 Report on Minority-Owned Firms. December. *fedsmallbusiness.org/survey/2019/report-on-minority-owned-firms.*

[217] Ding, Lei, and Alvaro Sanchez. 2020. What Small Businesses Will Be Impacted by COVID–19? Federal Reserve Bank of Philadelphia. *philadelphiafed.org/covid-19/covid-19-equity-in-recovery/what-small-businesses-will-be-impacted.*

[218] Lucas Misera, An Uphill Battle: COVID–19's Outsized Toll on Minority-Owned Firms, Federal Reserve Bank of Cleveland (October 8, 2020), *https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx.*

[219] Robert Fairlie, A. Robb, D. Robinson, Black and White: Access to Capital among Minority-Owned Startups, NBER Working Paper 28154 (November 2020), *https://www.nber.org/papers/w28154.*

''small business'' is defined as a business concern or other organization that:

(1) Has no more than 500 employees or, if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Specifically, the interim final rule provided that recipients may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID–19 public health emergency, including:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure;
- Loans, grants, or in-kind assistance to implement COVID–19 prevention or mitigation tactics; and
- Technical assistance, counseling, or other services to assist with business planning needs.

The interim final rule further provided that recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (*e.g.,* comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving underserved communities. The interim final rule also indicated that recipients should consider local economic conditions and business data when establishing such criteria. Finally, the interim final rule posed a question on whether there are other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID–19 on low-income populations and communities.

Final Rule Structure: Consistent with the interim final rule approach, the final rule provides a non-exhaustive list of enumerated eligible uses for assistance to small businesses that are impacted or disproportionately impacted by the pandemic. Further, within Assistance to Small Business, a recipient may also identify a negative economic impact experienced by small businesses and design and implement a response to that negative economic impact, beyond the uses specifically enumerated in the final rule, according to the standard described in the section Standards: Identifying a Negative Economic Impact. A recipient may also identify small businesses that have been disproportionately impacted by the public health emergency and design and implement a program that responds to the source of that disproportionate impact.

Consistent with other eligible use categories to respond to the public health and economic impacts of the pandemic, recipients may identify and serve small businesses that experienced a negative economic impact or disproportionate impact due to the pandemic, as described in the section Standards for Identifying Other Eligible Populations. For example, to identify impacted small businesses, a recipient may consider whether the small businesses faced challenges in covering payroll, mortgage or rent, or other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. In order to ease administrative burden, the final rule presumes that small businesses operating in QCTs, small businesses operated by Tribal governments or on Tribal Lands, and small businesses operating in the U.S. territories were disproportionately impacted by the pandemic.

Reorganizations and Cross-References: As detailed above, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity. For discussion of assistance to small businesses and impacted industries to implement COVID–19 mitigation and prevention strategies, see section COVID–19 Mitigation and Prevention in Public Health.

Small Businesses Eligible for Assistance

Public Comment: Treasury received many comments about the general benefits or drawbacks of use of SLFRF funds to provide assistance to small businesses. Some commenters suggested that SLFRF funds should be available to assist all small businesses, rather than only businesses that experienced direct negative economic impacts due to the public health emergency. Other commenters argued that aid to small businesses should be narrowed in the final rule, asserting that SLFRF funds should instead focus on assistance to households or building public sector capacity.

Treasury also received comments requesting clarification of the types of small businesses eligible for assistance. For example, some commenters requested clarification about whether microbusinesses were included in the definition of small business. Comments also suggested that self-employed individuals and Tribal enterprises be classified as small businesses, respectively. Commenters argued that these types of small businesses are more common among low-income and minority businessowners and serve as important institutions in underserved communities.

Finally, some commenters suggested that Treasury permit broader enumerated eligible uses to assist small businesses in disproportionately impacted communities and generally strengthen economic growth in these communities. These commenters recommended that Treasury presume small businesses operating in QCTs are disproportionately impacted and eligible for broader enumerated uses.

Treasury Response: As discussed in the section Designating a Negative Economic Impact, in the final rule, recipients must identify an economic harm caused or exacerbated by the pandemic on a small business or class of small businesses to provide services that respond.

As discussed above, programs or services in this category must respond to a harm experienced by a small business or class of small businesses as a result of the public health emergency. To identify impacted small businesses and necessary response measures, recipients may consider impacts such as lost revenue or increased costs, challenges covering payroll, rent or mortgage, or other operating costs, the capacity of a small business to weather financial hardships, and general financial insecurity resulting from the public health emergency.

Recognizing the difficulties faced by small businesses in certain communities, the final rule presumes that small businesses operating in QCTs, small businesses operated by Tribal governments or on Tribal Lands, and small businesses operating in the U.S. territories were disproportionately impacted by the pandemic. This presumption parallels the final rule's approach to assistance to households, reflecting the more severe pandemic impacts in underserved communities and creating a parallel structure across different categories of eligible uses to make the structure simpler for recipients to understand and navigate.

Treasury notes that recipients may also designate a class of small businesses that experienced a negative economic impact or disproportionate negative economic impact (*e.g.,* microbusinesses, small businesses in certain economic sectors), design an intervention to fit the impact, and

document that the individual entity is a member of the class. Additional information about this framework is included in the section General Provisions: Structure and Standards.

Further, Treasury is maintaining the interim final rule definition of ''small business,'' which used the Small Business Administration's (SBA) definition of fewer than 500 employees, or per the standard for that industry, as defined by SBA. This definition includes businesses with very few employees, self-employed individuals, and Tribally owned businesses.[220] Finally, Treasury notes that recipients may award SLFRF funds to many different types of organizations, including small businesses, to function as a subrecipient in carrying out eligible uses of funds on behalf of a recipient government. In this case, a small business need not have experienced a negative economic impact in order to serve as a subrecipient. See section Distinguishing Subrecipients versus Beneficiaries for more detailed discussion of interactions with subrecipients, in contrast to beneficiaries of assistance.

Enumerated Eligible Uses for Assistance to Small Businesses

Public Comment: Treasury received comments requesting clarification of the types of assistance available to small businesses. For example, one commenter suggested that outdoor dining be an eligible use for SLFRF funds as assistance to small businesses. Other commenters asked for clarification about how SLFRF funds could be used to support new businesses and start-ups.

Several commenters requested clarification of whether and how recipients may provide services to business districts or downtown areas, particularly those that exist in whole or in part within a QCT, and requested reduced documentation of the specific negative economic impact for the businesses operating within those areas. These commenters argued in favor of allowing redevelopment or other support, including capital investments, in business districts that were negatively impacted by COVID–19. Several commenters also argued that funds should be available to support and grow microbusinesses, or businesses with five or fewer employees, which are more likely to be owned by women and people of color.

Treasury Response: In the final rule, Treasury is maintaining and clarifying the enumerated eligible uses of funds for assistance to small businesses that are impacted or disproportionately impacted by the pandemic.

Impacted small businesses. Specifically, Treasury is maintaining enumerated eligible uses from the interim final rule for assistance to impacted small businesses. These include but are not limited to:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID–19 prevention or mitigation tactics (see section Public Health for details on these eligible uses); and
- Technical assistance, counseling, or other services to assist with business planning needs.

Treasury acknowledges a range of potential circumstances in which assisting small businesses could be responsive to the negative economic impacts of COVID–19, including for small businesses startups and microbusinesses and individuals seeking to start small or microbusinesses. For example:

- As noted above, a recipient could assist small business startups or microbusinesses with additional costs associated with COVID–19 mitigation tactics; see section Public Health for details on these eligible uses.
- A recipient could identify and respond to a negative economic impact of COVID–19 on new small business startups or microbusinesses; for example, if small business startups or microbusinesses in a locality faced greater difficulty accessing credit than prior to the pandemic or faced increased costs to starting the business due to the pandemic or if particular small businesses or microbusinesses had lost expected startup capital due to the pandemic.
- The interim final rule also discussed, and the final rule maintains, eligible uses that provide support for individuals who have experienced a negative economic impact from the COVID–19 public health emergency, including uses that provide job training for unemployed individuals. These initiatives also may support small business start-ups, microbusinesses, and individuals seeking to start small or microbusinesses.

Disproportionately impacted small businesses. Additionally, Treasury agrees with commenters that disproportionately impacted small businesses may benefit from additional assistance to address the sources of that disparate impact.

As such, the final rule provides a broader set of enumerated eligible uses for disproportionately impacted small businesses and/or small businesses in disproportionately impacted business districts. Recipients may use SLFRF funds to assist these businesses with certain capital investments, such as rehabilitation of commercial properties, storefront improvements, and façade improvements. Recipients may also provide disproportionately impacted microbusinesses additional support to operate the business, including financial, childcare, and transportation supports.

Recipients could also provide technical assistance, business incubators, and grants for start-ups or expansion costs for disproportionately impacted small businesses. Note that some of these types of assistance are similar to those eligible to respond to small businesses that experienced a negative economic impact (''impacted'' small businesses). However, because the final rule presumes that some small businesses were disproportionately impacted, these enumerated eligible uses can be provided to those businesses without any specific assessment of whether they individually experienced negative economic impacts or disproportionate impacts due to the pandemic.

Cross-References: Recipients providing assistance to small businesses for capital expenditures (*i.e.,* expenditures on property, facilities, or equipment) should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards that apply to capital expenditures. Recipients should also note that services to address vacant or abandoned commercial or industrial properties are addressed in section Vacant or Abandoned Properties in Assistance to Households.

Loans to Small Businesses

Public Comment: Treasury received many comments requesting clarification on using SLFRF funds to establish funds that provide loans to small businesses. For example, commenters sought clarification of how eligible use

[220] In regard to counting employees, businesses owned and controlled by a Tribal government are not considered affiliates of the Tribal government and are not considered affiliates of other businesses owned by the Tribal government because of their common ownership by the Tribal government or common management, as described in 13 CFR 121.103(b)(2). This definition is consistent with the Small Business Administration (SBA) HUBZone definition of a ''small business concern'' relating to Tribal governments as well as how Tribal enterprises are defined for the State Small Business Credit Initiative (SSBCI).

requirements and applicable dates for SLFRF funds would apply to third party organizations (like economic development organizations) who receive SLFRF funds in order to establish a loan fund. In addition, commenters requested clarification on what requirements apply to loan programs with available funds remaining after December 31, 2024.

Treasury Response: SLFRF funds may be used to make loans, including to small businesses, provided that the loan is an eligible use, and the cost of the loan is tracked and reported in accordance with Treasury's Compliance and Reporting Guidance. Funds that are unobligated after December 31, 2024 must be returned to Treasury. See section Treatment of Loans for more information about using SLFRF funds for loan programs.

c. Assistance to Nonprofits

Background: Nonprofits have faced significant challenges because of the pandemic, including increased demand for services and changing operational needs.[221] Prior to the pandemic, the median U.S. nonprofit reported that it had six months of cash on hand.[222] This varied by sector, however, with some sectors like disaster relief organizations reporting a median of 17 months cash on hand, and others, like mental health and crisis intervention organizations reporting only three months.[223] Evidence suggests that the pandemic has damaged the financial health of nonprofits, with small nonprofits, which tend to rely more heavily on donations than large nonprofits, reporting relatively larger declines in donations — 42 percent versus 29 percent, respectively.[224] Among nonprofits that collect fees for services, the median revenue amount collected from such fees fell by 30 percent from 2019 to 2020, with arts organization experiencing a 50 percent decline.[225] Nonprofits also experienced significant job losses. While employment in the nonprofit sector has recovered from its low point in 2020, as of November 2021, the sector remained 485,000 jobs below its pre-pandemic level.[226] In addition, some nonprofits may have experienced declines in volunteer staffing during the pandemic.[227]

At the same time, nonprofits provide a host of services for their communities, including helping Americans weather the multitude of challenges presented by the pandemic. The ARPA and the interim final rule recognized this dichotomy—nonprofits as entities that have themselves been negatively impacted by the pandemic and as entities that provide services that respond to the public health and negative economic impacts of the pandemic on households and others —by creating two roles for nonprofits.

First, under Sections 602(c)(1)(A) and 603(c)(1)(A), recipients may ''respond to the public health emergency or its negative economic impacts,'' by, among other activities, providing ''assistance to . . . nonprofits.'' The interim final rule defined assistance to nonprofits to include ''loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency,'' and ''nonprofit'' to mean a tax-exempt organization under Section 501(c)(3) of the U.S. Internal Revenue Code.[228]

Second, as discussed above, ARPA and the interim final rule provided that nonprofit organizations may also receive funds as subrecipients of a recipient government (*i.e.,* a government that received SLFRF funds); subrecipients carry out an eligible use of SLFRF funds on behalf of a recipient government (*e.g.,* a recipient government that would like to provide food assistance to impacted households may grant funds to a nonprofit organization to carry out that eligible use). Recipients generally have wide latitude to award funds to many types of organizations, including nonprofit or for-profit organizations, as subrecipients to carry out eligible uses of funds on their behalf. For further information on distinguishing between beneficiaries and subrecipients, as well as the impacts of the distinction on reporting and other requirements, see section Transfers of Funds and section Distinguishing Subrecipients versus Beneficiaries under the Public Health and Negative Economic Impacts eligible use category.[229]

Reorganization and Cross-References: Under the interim final rule, assistance to disproportionately impacted communities was a separate, stand-alone category. The final rule reorganizes the disproportionate impact analysis within the sections Assistance to Households, Assistance to Small Business, and Assistance to Nonprofits to better articulate how recipients can serve disproportionately impacted beneficiaries in each of those categories.

As detailed above in the Public Health subsection, in response to public comments describing uncertainty on which eligible use category should be used to assess different potential uses of funds, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity. For discussion of assistance to nonprofits to implement COVID–19 mitigation and prevention strategies, see section COVID–19 Mitigation and Prevention in Public Health.

Recipients providing assistance via nonprofits involving capital expenditures (*i.e.,* expenditures on property, facilities, or equipment) should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards for these expenditures. Recipients providing assistances in the form of loans should review the section Treatment of Loans.

Public Comment: Eligible Assistance to Impacted and Disproportionately Impacted Nonprofits: A few commenters asked Treasury to be more explicit in the final rule that recipients may use funds to provide relief directly to nonprofit organizations and to explain how nonprofits might qualify themselves for assistance and what expenses SLFRF funds may be used to cover.[230] Commenters requested that Treasury note that the pandemic is

[221] *See, e.g.,* Federal Reserve Bank of San Francisco, Impacts of COVID–19 on Nonprofits in the Western United States (May 2020), *https://www.frbsf.org/community-development/files/impact-of-covid.*

[222] Philanthropy and COVID–19: Measuring one year of giving, Candid and the Center for Disaster Philanthropy. (2021), *https://www.issuelab.org/resources/38039/38039.pdf.*

[223] *Id.*

[224] Elizabeth T. Boris et al., Nonprofit Trends and Impacts 2021, Urban Institute (October 7, 2021), *https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.*

[225] *Id.*

[226] Chelsea Newhouse, COVID–19 JOBS UPDATE, NOVEMBER 2021: Nonprofits add just 5,000 jobs in November, Center for Civil Society Studies at Johns Hopkins University (December 10, 2021), *http://ccss.jhu.edu/november-2021-jobs/.*

[227] Elizabeth T. Boris et al. *supra* note 224 at p. 38.

[228] § 35.3 Definitions.

[229] The ARPA also states under ''Transfer Authority'' that a Recipient may transfer funds to a private nonprofit organization such as those defined in paragraph (17) of section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(17). *See* 602 & 603(c)(3) of the Social Security Act. *See* section Transfers of Funds for additional information on other types of entities, including other forms of nonprofits, that may receive transfers.

[230] While not stated specifically in the interim final rule, the Department does not require or have a preference as to the payment structure for recipients that transfer funds to subrecipients (*e.g.,* advance payments, reimbursement basis, etc.). Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients or beneficiaries.

leading to a changing financial landscape for nonprofits.

Treasury Response: Eligible Assistance to Impacted and Disproportionately Impacted Nonprofits: The interim final rule provided for, and the final rule maintains, the ability for recipients to provide direct assistance to nonprofits that experienced public health or negative economic impacts of the pandemic. Specifically, recipients may provide direct assistance to nonprofits if the nonprofit has experienced a public health or negative economic impact as a result of the pandemic. For example, if a nonprofit organization experienced impacts like decreased revenues or increased costs (*e.g.,* through reduced contributions or uncompensated increases in service need), and a recipient provides funds to address that impact, then it is providing direct assistance to the nonprofit as a beneficiary under Subsection (c)(1) of Sections 602 and 603. Direct assistance may take the form of loans, grants, in-kind assistance, technical assistance, or other services that respond to the negative economic impacts of the COVID–19 public health emergency.

A recipient may identify a negative economic impact experienced by a nonprofit, or class of nonprofits, and design and implement a response to that negative economic impact, see section Standards: Designating a Negative Economic Impact. The final rule provides a non-exhaustive list of enumerated eligible uses for assistance to nonprofits that are impacted or disproportionately impacted by the pandemic.

A recipient may also identify a class of nonprofits that have been disproportionately impacted by the public health emergency and design and implement a program that responds to the source of that disproportionate impact. For example, a recipient may determine that nonprofits offering after-school programs within its jurisdiction were disproportionately impacted by the pandemic due to the previous in-person, indoors nature of the work and the nonprofits' reliance on fees received for services (*e.g.,* attendance fees). The recipient might then design an intervention to assist those nonprofits in adapting their programming (*e.g.,* to outdoor or online venues), their revenue structure (*e.g.,* adapting the fee for service structure or developing expertise in digital donation campaigns), or both. Additional information about this framework is included in General Provisions: Structure and Standards. In order to ease administrative burden, the final rule presumes that nonprofits operating in QCTs, operated by Tribal governments or on Tribal Lands, or operating in the U.S. territories were disproportionately impacted by the pandemic.

To summarize, a recipient may determine that certain nonprofits were impacted by the pandemic or were disproportionately impacted by the pandemic and provide responsive services.

Public Comment: Beneficiaries and Subrecipients: As noted elsewhere in this final rule, Treasury received multiple comments expressing uncertainty on how to categorize a particular activity in the eligible use categories. For instance, some commenters requested that recipients be able to use SLFRF funds for certain expenses incurred by nonprofits (*e.g.,* unemployment charges) as a response to a public health or negative economic impact to that nonprofit; others asked if nonprofits providing certain services (*e.g.,* social services) made them eligible for direct assistance. Commenters also requested that Treasury acknowledge that engagement directly with nonprofit organizations in low-income communities and communities of color may allow the recipient to better assess economic harms in these areas.

Treasury Response: Beneficiaries and Subrecipients: Treasury recognizes that many nonprofits play important roles in their communities, and some may have experienced public health or negative economic impacts during the pandemic. As such, under the interim final rule and the final rule, nonprofits may be impacted by the pandemic and receive assistance as a beneficiary, as described above, and/or be a subrecipient providing services on behalf of a recipient.[231]

Specifically, the interim final rule also allowed for, and the final rule maintains, the ability for the recipient to transfer, *e.g.,* via grant or contract, funds to nonprofit entities to carry out an eligible use on behalf of the recipient. Treasury notes that recipients may award SLFRF funds to many different types of organizations to carry out eligible uses of funds and serve beneficiaries on behalf of a recipient government (*e.g.,* assisting in a vaccination campaign, operating a job training program, developing affordable housing). When a recipient provides funds to an organization to carry out eligible uses of funds and serve beneficiaries, the organization becomes a subrecipient. In this case, a nonprofit need not have experienced a negative economic impact in order to serve as a subrecipient.

In the context of SLFRF, nonprofits of all types may be subrecipients. Treasury is not restricting the types of nonprofits that can operate as subrecipients, rather allowing recipients to decide what form best meets the needs of their community. Therefore, a ''nonprofit'' that is acting as subrecipient could include, but is not limited to, a nonprofit as that term is defined in paragraph (17) of section 401 of the McKinney-Vento Homeless Assistance.[232] See section Distinguishing Subrecipients versus Beneficiaries for further information. Additional guidance on determining subrecipient status may be found in the Uniform Guidance.[233]

Recipients may transfer funds to subrecipients in several ways, including advance payments and on a reimbursement basis. Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients or beneficiaries.

As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c) that is applicable to all activities funded with the SLFRF award. Pursuant to this requirement, decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Recipients may avoid conflicts of interest in providing assistance to nonprofits or making subrecipient awards by, *inter alia,* making aid available to nonprofits on generally applicable terms or utilizing a competitive grant process, respectively. A recipient may not use control over SLFRF funds for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

Public Comment: Definition of Nonprofit: Treasury also received several requests to expand the definition of nonprofits so that other tax-exempt entities (*e.g.,* 501(c)(7)s, 501(c)(9)s, 501(c)(19)s, nonprofits with ''historical

[231] Note, this response is meant to clarify the difference between nonprofits as beneficiaries and nonprofits as subrecipients. It is not meant to limit the types of relationships that a recipient may enter into with a nonprofit as permitted under the Uniform Guidance.

[232] *See* sections 602(c)(3) and 603(c)(3) of the Social Security Act. *See also* Section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(17), which defines a ''private nonprofit organization.''

significance'') could be eligible for direct assistance as beneficiaries.

Treasury Response: Definition of Nonprofit: The final rule expands the definition of nonprofits to mean 501(c)(3) organizations and 501(c)(19) organizations.[234] The 501(c)(3) classification includes a wide range of organizations with varying charitable or public service-oriented goals (*e.g.,* housing, food assistance, job training). As discussed above, these nonprofit organizations often experienced hardship due to increased needs for services combined with decreased donations and other sources of funding. In response to comments, Treasury has expanded the definition of nonprofit to include 501(c)(19) organizations, which includes veterans' organizations, to provide recipients more flexibility and in alignment with the definition of nonprofit adopted by the CARES Act, wherein 501(c)(3)s and 501(c)(19)s were eligible for assistance.[235]

Public Comment: Reporting Requirements: One commenter asked Treasury to clarify if nonprofits that receive direct assistance as beneficiaries are required to comply with guidelines and reporting requirements.

Treasury Response: Reporting Requirements: Nonprofits that receive direct assistance as beneficiaries are not subrecipients under SLFRF and are therefore not required to comply with SLFRF reporting requirements. However, the recipient must comply with SLFRF reporting requirements, which would require reporting obligations and expenditures for assistance to nonprofits. The recipient may also choose to establish other forms of reporting or accountability as a part of the recipient's direct assistance program.

A nonprofit entity that receives a transfer from a recipient is a subrecipient. Per the Uniform Guidance, subrecipients must adhere to the same requirements as recipients. Therefore, a nonprofit subrecipient may only receive funds to carry out an eligible use of SLFRF funds and must comply with any reporting and compliance requirements. Note that recipients are ultimately responsible for reporting information to Treasury and must collect any necessary information from their subrecipients to complete required reporting.

d. Aid to Impacted Industries

The interim final rule allowed for ''aid to tourism, travel, and hospitality, and other impacted industries'' that responds to the negative economic impacts of the COVID–19 public health emergency. In designating other impacted industries, Treasury specified that recipients should consider the ''extent of the economic impact as compared to tourism, travel, and hospitality'' and ''whether impacts were due to the COVID–19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.'' [236] Treasury identified declines in employment and revenue as possible metrics to compare the economic impact on a particular industry relative to the tourism, travel, and hospitality industries.

Treasury further provided that aid should be limited to businesses, attractions, business districts, and Tribal development districts [237] that were operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Examples of eligible aid include assistance to implement COVID–19 mitigation and infection prevention measures, aid to support safe reopening of businesses in these industries, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic. The interim final rule and Treasury's subsequent Compliance and Reporting Guidance also required governments to publicly report assistance provided to private-sector businesses under this eligible use and maintain records of their assessments to facilitate transparency and accountability.

Reorganization and Cross-References: As detailed above, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity. In the interim final rule, aid to impacted industries to implement COVID–19 mitigation and prevention strategies was categorized under Aid to Impacted Industries; the final rule addresses these items under the section COVID–19 Mitigation and Prevention in Public Health. Recipients should also be aware of the difference between beneficiaries of assistance and subrecipients when working with impacted industries; for further information, see section Distinguishing Subrecipients versus Beneficiaries.

Designating an Impacted Industry

Public Comment: Many commenters requested greater clarity on how to designate ''other impacted industries'' within their jurisdiction. Commenters requested greater specificity as to the metrics used to measure impact, with some suggesting metrics such as the change in the size of an industry's workforce due to the pandemic, as well as consideration of whether and why employees are choosing to return to work at slower rates in certain industries. One commenter asked if this meant nearly every industry was ''disproportionately impacted.'' Some commenters encouraged Treasury to focus on industries most negatively impacted by the pandemic, including disallowing across-the-board business subsidies to businesses that were not negatively impacted by the pandemic and saw revenue or profit growth. Other commenters asked for flexibility for recipients to determine impacted industries based on their local knowledge of the economic landscape.

Treasury Response: The final rule maintains the interim final rule's approach of allowing recipients to designate impacted industries outside the travel, tourism, and hospitality industries, and, in response to comments, provides greater clarity as to how recipients may designate such impacted industries.

Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that the tourism, travel, and hospitality industries are severely negatively impacted by the pandemic. Under the final rule, recipients may provide eligible aid (described in further detail herein) to the tourism, travel, and hospitality industries. Treasury considers Tribal development districts, which are commercial centers for Tribal hospitality, gaming, tourism, and entertainment and can include Tribal enterprises, as part of the tourism, travel, and hospitality industries that have been severely hit by the pandemic. Therefore, Treasury reaffirms that Tribal development districts are considered impacted industries and recipients may provide eligible aid to them.

To identify other industries comparably impacted to the tourism, travel, and hospitality industries, recipients should undertake a two-step process: Identifying an industry and determining whether that industry is comparably impacted.

[234] § 35.3 Definitions.

[235] Treasury considered expanding the definition of nonprofit to include 501(c)(6) organizations, as Congress later did in the Coronavirus Response and Consolidated Appropriations Act of 2021, but ultimately decided to retain the original CARES Act definition. To the extent impacted by the pandemic, 501(c)(6) organizations may be eligible to receive funds to support eligible uses that align with their overall purpose (*e.g.,* tourism promotion in aid of an impacted industry).

[236] Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26795.

[237] For a definition of ''Tribal development districts,'' please see FAQ 2.9 at the following: Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

First, recipients should identify an industry to be assessed. In identifying this industry, the final rule provides recipients the flexibility to define its substantive or geographic scope.[238] Recipients may identify a broad sector that encompasses a number of sub-industries, or they may identify a specific sub-industry to be assessed. For example, a recipient may identify ''personal care services'' as an industry, or they may identify a more specific category within the ''personal care services'' industry (*e.g.,* barber shops) as an industry. In defining the industry, Treasury encourages recipients to define narrow and discrete industries eligible for aid. Recipients are not required to follow, but may consider following, industry classifications under the North American Industry Classification System (NAICS). Treasury notes that the larger and more diverse the sector, the more difficult it may be to demonstrate that the larger and less specific sector is negatively impacted in the same way given the scale and diversity of businesses within it.

State or territory recipients may also define a constituent industry with greater geographic precision than state or territory-wide. For example, a state may identify a particular industry in a certain region of the state that was negatively impacted by the pandemic, even if the same industry in the rest of the state did not see a meaningful negative economic impact from the pandemic. State recipients oversee large and diverse industries, sometimes with differences in economic activity between geographic regions. Allowing greater geographic precision allows recipients to target aid to those that need it most, ensuring that state averages do not conceal hard-hit areas in their state.

Second, to determine whether the industry is ''impacted,'' recipients should compare the negative economic impacts of the public health emergency on the identified industry to the impacts observed on the travel, tourism, and hospitality industries.

1. *Simplified test.* An industry is presumed to be impacted if the industry experienced employment loss of at least 8 percent.

Specifically, a recipient should compare the percent change in the number of employees of the recipient's identified industry and the national Leisure & Hospitality sector in the three months before the pandemic's most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule release (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021).[239] The national Leisure & Hospitality sector largely represents the national travel, tourism, and hospitality industries enumerated in the statute. According to the Bureau of Labor Statistics, employment has fallen by approximately 8 percent for the national Leisure & Hospitality sector when comparing the most recent three-month period available as of the date of adoption of the final rule to the three-month period immediately before the public health emergency. Therefore, if the identified industry has suffered an employment loss of at least 8 percent, the final rule presumes the industry to be an ''impacted industry.''

For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (*e.g.,* a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.

2. *If simplified test is not met.* If an industry does not satisfy the test above or data are unavailable, the recipient may still designate the industry as impacted by demonstrating the following:

a. The recipient can show that the totality of relevant major economic indicators demonstrate that the industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries at the time of the publication of the final rule, and that the impacts were generally due to the COVID–19 public health emergency. Example economic indicators include gross output, GDP, net profits, employment levels, and projected time to restore employment back to pre-pandemic levels. Recipients may rely on available economic data, government research publications, research from academic sources, and other quantitative sources for this determination.

If quantitative data is unavailable, the recipient can rely on qualitative data to show that the industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries, and the impacts were generally due to the COVID–19 public health emergency. Recipients may rely on sources like community interviews, surveys, and research from relevant state and local government agencies.

As the public health emergency and economic recovery evolves, recipients should assess how industry impacts shift over time. Impacted industries may recover in a short period of time and no longer face a negative economic impact; in those circumstances, the recipient should ensure that the extent and length of aid is reasonably proportional to the negative economic impact that is experienced, as detailed further below and in section General Provisions: Structure and Standards. Recipients may add to their list of impacted industries by showing that the negative economic impacts to the industry at the time of the designation are comparable to the negative economic impacts to the national tourism, travel, and hospitality sectors as of the date of the final rule adoption, as detailed herein.

Eligible Aid

Public Comment: Commenters asked for further clarification as to the definition of eligible aid to an impacted industry, with many requesting that a broad range of aid be eligible. Examples of aid that recipients asked to be considered eligible include aid to businesses to cover COVID–19 mitigation costs and planned renovations or improvements to tourism, travel, and hospitality facilities, as well as marketing and in-kind incentives to attract visitors. Commenters also asked about the eligibility of aid to broadly cover losses incurred by facilities such as convention centers and hotels due to the pandemic's economic impact. Commenters also asked for further clarification about the requirements related to private-sector reporting. Further, some commenters asked for clarification about eligible aid to impacted industries owned and operated by Tribal governments, including for Tribal construction projects that have been delayed due to the pandemic's economic impacts, and for deference to Tribal determinations of negative economic impacts.

[238] Once an industry is designated as impacted, aid should be generally broadly available to businesses in the industry that qualify. Recipients should document how they defined the scope of their industry and how they determined that the industry was impacted. For states and territories, this includes documenting their justification for defining a constituent industry with greater geographic precision than state or territory-wide.

[239] National Leisure & Hospitality supersector employment data can be found on the U.S. Bureau of Labor Statistics website: U.S. Bureau of Labor Statistics, Leisure and Hospitality, *https://www.bls.gov/iag/tgs/iag70.htm* (last visited December 7, 2021).

Treasury Response: In response to commenters' requests for clarification on eligible aid, the final rule requires that aid to impacted industries, including to Tribal development districts, be designed to address the harm experienced by the impacted industry.

First, recipients should identify a negative economic impact, *i.e.,* an economic harm, that is experienced by businesses in the impacted industry. Second, recipients should select a response that is designed to address the identified economic harm resulting from or exacerbated by the public health emergency. Responses must also be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Recipients should consider the further discussion of this standard provided in the sections Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact.

These responses may take the form of direct spending by recipients to promote an industry or support for businesses within an ''impacted'' industry that experienced a negative economic impact (*e.g.,* through a grant program). Examples of eligible responses include:

- Aid to mitigate financial hardship due to declines in revenue or profits by supporting payroll costs and compensation of returning employees for lost pay and benefits during the COVID–19 pandemic, as well as support of operations and maintenance of existing equipment and facilities, such as rent, leases, and utilities;
- Aid for technical assistance, counseling, and other services to assist with business planning needs; and
- Aid to implement COVID–19 mitigation and infection prevention measures, such as vaccination or testing programs, is broadly eligible for many types of entities, including travel, tourism, hospitality, and other impacted industries. Recipients providing aid to impacted industries for COVID–19 public health measures should review the section Assistance to Businesses to Implement COVID–19 Strategies in Public Health, which describes types of eligible uses of funds in this category.

To address the identified harms, responses (*e.g.,* aid through a grant program) should be generally broadly available to all businesses within the impacted industry to avoid the risk of self-dealing, preferential treatment, and conflicts of interest.[240] Treasury encourages recipients to design aid programs such that funds are first used for operational expenses that are generally recognized as ordinary and necessary for the recipient's operation, such as payroll, before being used on other types of costs. As noted in the section General Standards: Structure and Standards, uses of funds that do not respond to the negative economic impacts of the pandemic, such as excessive compensation to employees, is ineligible.

The final rule maintains the interim final rule's requirement that aid may only be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, to facilitate transparency and accountability, the final rule maintains the interim final rule's requirement that recipients publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the public health emergency. Recipients also should maintain records to support their assessment of how businesses receiving assistance were affected by the negative economic impacts of the public health emergency and how the aid provided responds to these impacts.

Recipients providing aid to impacted industries for capital expenditures (*i.e.,* expenditures on property, facilities, or equipment), including Tribal governments providing aid to Tribal development districts, should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards that are applicable to these expenditures, depending on the type of aid. Recipients providing assistance in the form of loans should review the section Treatment of Loans in Program Administration Provisions.

4. General Provisions: Other

As noted above, the final rule consolidates into a General Provisions section several types of uses of funds; in the interim final rule, the eligibility of these uses of funds was discussed within specific categories of eligible uses for public health and negative economic impacts. Treasury anticipates that this re-organization will enhance recipient clarity in assessing eligible uses of funds. These General Provisions apply across all uses of funds under public health and negative economic impacts.

Specifically, this section considers eligible uses for:

- *Public Sector Capacity and Workforce,* which includes several separate and non-mutually exclusive categories articulated in the interim final rule: public health and safety staff; rehiring state, local, and Tribal government staff; expenses for administering COVID–19 response programs; expenses to improve the efficacy of public health or economic relief programs; and administrative expenses caused or exacerbated by the pandemic. Treasury recognizes that these are closely related and frequently overlapping categories. The final rule treats them as a single purpose, supporting public sector capacity, and provides coordinated guidance on the standards and presumptions that apply to them.
- *Capital Expenditures,* which was addressed only under Public Health in the interim final rule. The final rule moves this expense to General Provisions and provides more clarity on the eligibility of capital expenditures across all aspects of the public health and negative economic impacts eligible use category.
- *Distinguishing Subrecipients versus Beneficiaries,* which describes the differences between these two categories. Recipient governments responding to the public health and negative economic impacts of the pandemic may provide assistance to beneficiaries or execute an eligible use of funds through a subrecipient; some types of entities (*e.g.,* nonprofits) could fit into either category depending on the specific purpose of the use of funds.
- *Uses Outside the Scope of this Category,* which addresses uses of funds that are ineligible or generally ineligible under this eligible use category in the interim final rule. These uses of funds remain ineligible under the final rule, but Treasury has re-categorized where they are addressed, as described below.

[240] As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c) that is applicable to all activities funded with the SLFRF award. Pursuant to this policy, decisions concerning SLFRF must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Recipients may avoid conflicts of interest in awarding aid to impacted industries by, inter alia, making aid available to businesses in the industry on generally applicable terms or utilizing a competitive grant process. A recipient may not use control over SLFRF for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

This section also addresses enumerated eligible uses proposed by commenters that Treasury has not incorporated into the final rule.

Recipients should also note that the Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called the ''Uniform Guidance'') generally applies to SLFRF.

a. Public Sector Capacity and Workforce

Public Safety, Public Health, and Human Services Staff

Summary of Interim Final Rule: Under the interim final rule, funds may be used for payroll and covered benefits [241] for *public safety, public health, health care, human services, and similar employees* [242] of a recipient government, for the portion of the employee's time that is spent responding to COVID–19. For administrative convenience, the recipient may consider *public health and safety* employees to be entirely devoted to responding to COVID–19, and therefore their full payroll and covered benefits eligible to be covered, if the employee, or his or her operating unit or division, is ''primarily dedicated'' to responding to COVID–19, meaning that more than half of the employee, unit, or division's time is dedicated to responding to COVID–19. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is responding to COVID–19. Recipients must periodically reassess their determination and maintain records to support their assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence; recipients need not track staff hours. The interim final rule also posed a question on how long recipients should be able to use funds for staff responding to COVID–19 and what other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID–19 response in an easily administrable manner.

Treasury also provided further guidance on the types of employees covered by this category of eligible use, specifically: ''Public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees [243] would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (*e.g.,* laboratory technicians, medical examiner, or morgue staff) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel. Human services staff include employees providing or administering social services; public benefits; child welfare services; and child, elder, or family care, as well as others.''

Public Comment: Measuring Time Spent on COVID–19 Response: Treasury received public comments on several components of this eligible use category. Many commenters argued that it poses an administrative burden to identify the extent to which staff are responding to COVID–19 and to maintain records to support that assessment. Largely citing administrative burden in assessing eligibility, several commenters recommended revisions to the administrative convenience that the full payroll and covered benefits for public health and safety staff ''primarily dedicated'' to responding to COVID–19 may be paid with SLFRF funds. Some commenters recommended presuming that all public health and safety staff are primarily dedicated to COVID–19 response, while others proposed that public health and safety workers who primarily serve QCTs or low- and moderate-income areas be presumed to be primarily dedicated to COVID–19 response, given the disproportionate impacts of the pandemic in those communities. Similarly, Tribal communities recommended that their public health staff be presumed eligible due to the disproportionate impact of the pandemic on their communities. Some commenters proposed that they be able to use the administrative convenience for staff outside of public health and safety that are responding to COVID–19 (*i.e.,* to be able to pay the full payroll and covered benefits for any staff ''primarily dedicated'' to COVID–19 response).

Treasury Response: In the final rule, Treasury is maintaining the approach in the interim final rule, including elaborations issued in further guidance, but providing additional clarification on its application, including methods to apply the approach to minimize administrative burden. Treasury notes that recipients may assess the extent to which staff are dedicated to responding to COVID–19 through a variety of means, including establishing presumptions or assessing public health and safety staff at the division or operating unit level. For example, a recipient could consider the amount of time spent by employees in its public health department's epidemiology division in responding to COVID–19 and, if a majority of its employees are dedicated to responding to COVID–19, determine that the entire division is primarily dedicated to responding to COVID–19. Treasury also clarifies that recipients may use reasonable estimates to establish administrable presumptions; for example, a recipient could estimate, based on discussions with staff, the general share of time that employees in a specific role or type of position spend on COVID–19 related tasks and apply that share of time to all employees in that position.

Recipients are generally required to be able to support uses of SLFRF funds as eligible, including, in this instance, maintenance of records to support an assessment that public health and safety staff are primarily dedicated to responding to COVID–19. As noted above, recipients may use reasonable estimates to implement this provision. Recipients should maintain records on how they developed these estimates and need not track staff hours. Treasury notes that records retained can include payroll records (*e.g.,* the number and type of staff in various positions), attestations from supervisors or staff (*e.g.,* self-attestation of share of time spent on COVID–19), or regular work product or correspondence (*e.g.,* calendars, email correspondence, documents, and other electronic

[241] In general, if an employee's wages and salaries are an eligible use of SLFRF funds, recipients may treat the employee's covered benefits as an eligible use of SLFRF funds. For purposes of SLFRF funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes). As described further in the section Deposits into Pension Funds in Restrictions on Use, that limitation on use does not apply to pension contributions that are part of regular payroll contributions for employees whose wages and salaries are an eligible use of SLFRF funds.

[242] Note that the interim final rule adapted prior guidance issued for CRF that described these four categories of employees; however, when listing the specific occupations or types of employees in each of these categories, the guidance collapses health care and public health into one category titled ''public health.'' Therefore, the presumption described around public health employees also covers health care employees.

[243] Note that this category encompasses both public health and health care employees; both are treated as public health employees for the purposes of this eligible use category.

records). Treasury anticipates that these types of records are generally retained in many government settings; recipients should also consult the Award Terms and Conditions for SLFRF funds for requirements on length of record retention. For example, a recipient could establish a reasonable presumption about the share of time that an employee, division, or operating unit is responding to COVID–19 and simply retain those employees' electronic records as a record to support their assessment.

Public Comment: Public Health and Safety Staff Primarily Dedicated to COVID–19 Response: Some commenters recommended expanding the administrative convenience for public health and safety staff primarily dedicated to COVID–19 response to further types of staff, to all public health and safety staff, or to public health and safety staff serving underserved areas.

Treasury Response: The interim final rule recognized that COVID–19 response continues to require substantial staff resources and provides an administrative convenience to make it relatively simpler to identify the eligibility of the types of workers—public health and safety workers—generally most involved in COVID–19 response. At the same time, many public health and safety workers perform roles unrelated to COVID–19; coverage of all roles would be overbroad compared to the workers responding to COVID–19 in actuality. For this reason, the final rule maintains the interim final rule's approach to permitting SLFRF funds to be used for public health and safety staff primarily dedicated to responding to COVID–19. Finally, to the extent that a greater proportion of public health and safety staff time is needed to respond to COVID–19 in disproportionately impacted communities, the ''primarily dedicated'' approach recognizes this increased need.

Public Comment: Eligible Types of COVID–19 Response: Some public commenters also sought further clarification on how to identify eligible types of ''COVID–19 response.'' For example, commenters requested clarification on delineating COVID–19 response from general public health response and defining COVID–19 response for public safety employees.

Treasury Response: Treasury is clarifying that ''responding to'' COVID–19 entails work needed to respond to the public health or negative economic impacts of the pandemic, apart from the typical pre-pandemic job duties or workload of an employee in a comparable role, if one existed. For example, responding to COVID–19 for a public safety worker may entail working in an emergency operations center to coordinate pandemic-related supply distribution, responding to an increased volume of 911 calls, or implementing COVID–19 prevention and mitigation protocols in a carceral setting.

Public Comment: Eligible Employees: Some commenters requested clarification on the types of eligible employees or expansion of eligible employees to include additional types of staff, including in behavioral health; administrative, management, or financial management positions; social services; morgue staff; and nonprofit staff supporting projects to undertake eligible uses of funds under SLFRF.

Treasury Response: Treasury provided further guidance on eligible types of employees following the interim final rule, which expressly included social services and morgue staff, and incorporates that guidance into the final rule. In addition, Treasury is clarifying that public health ''employees involved in providing medical and other health services to patients and supervisory personnel'' includes behavioral health services as well as physical health services.

Treasury also is clarifying that this provision only addresses employees of the recipient government responding to COVID–19. For discussion of eligible expenses to administer SLFRF, including eligible costs for subrecipients performing eligible activities on behalf of a recipient government, see section Administrative Expenses in Program Administration Provisions.

Finally, Treasury is clarifying that indirect costs for administrative, management, and financial management personnel to support public health and safety staff responding to COVID–19 are not permissible under this provision, given the relatively greater challenge of differentiating the marginal increase in staff time and workload due to pandemic response for indirect versus direct costs.

Public Comment: Time Period: Finally, some commenters made recommendations on the time period during which this eligible use should be available. Some commenters recommended eligibility begin before March 3, 2021, the period when Treasury's interim final rule permitted recipients to begin to incur costs using SLFRF funds; for discussion of this topic, see section Timeline for Use of SLFRF Funds in Program Administration Provisions. As noted above, Treasury also posed a question in the interim final rule asking for how long Treasury should maintain the administrative convenience that SLFRF funds may be used for the full payroll and covered benefits of public health and safety staff primarily dedicated to COVID–19 response. Several commenters recommended that Treasury maintain this approach throughout the program or through December 31, 2024. Other commenters requested clarification on whether eligibility for this use of funds was tied to the length of the state of emergency or whether a jurisdiction has an active state of emergency.

Treasury Response: In the final rule, Treasury is clarifying that recipients will be permitted to fund the full payroll and covered benefits of public health and safety staff primarily dedicated to COVID–19 response throughout the period of performance for the SLFRF program, though recipients should periodically reassess their determination of primarily dedicated staff, including as the public health emergency and response evolves.

Government Employment and Rehiring Public Sector Staff

The interim final rule permitted use of funds for costs associated with rehiring state, local, and Tribal government staff in order to bolster the government's ability to effectively administer services. Specifically, recipients may pay for payroll, covered benefits, and other costs associated with the recipient increasing the number of its employees up to the pre-pandemic baseline, or the number of employees that the recipient government employed on January 27, 2020.

Public Comment: Many commenters requested greater flexibility and additional clarification on the provision's requirements, including the pre-pandemic baseline and re-hiring process. Some commenters requested that the final rule allow for hiring above the pre-pandemic baseline given historic underinvestment in the public sector workforce. Commenters suggested a number of adjustments to the pre-pandemic baseline, including adjusting based on population or revenue growth, while some recommended allowing recipients to set their own hiring levels. Others requested clarification on the definition of the baseline and the re-hiring process, including whether the pre-pandemic baseline referred to budgeted or filled positions and whether new hires had to fill the same roles as the previous hires. Commenters also asked whether recipients need to show if the reduction in number of employees was due to the pandemic in order to qualify for funding and requested that workers dedicated to

COVID–19 response be exempted from the calculation of number of employees.

Many commenters also requested an expanded set of eligible uses beyond restoring their workforce up to the pre-pandemic baseline. Commenters requested that funding be able to be used to avoid layoffs, provide back pay, retain employees through pay increases and other retention programs, or reimburse salaries and benefits already paid. Some commenters also requested clarification as to whether recipients can fund re-hired positions through the period of performance and on the definition of payroll and benefits. Other commenters requested preferential hiring for workers laid off, a strong commitment to equity, and a requirement that funds would not be used to pay for contract or temporary replacement workers during a labor dispute.

Treasury Response: The final rule allows for an expanded set of eligible uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring.

Restoring pre-pandemic employment. In response to comments and recognizing underinvestment in public sector employment, the final rule expands the ability to use SLFRF funds to restore pre-pandemic employment. Treasury is also clarifying how, and the extent to which, recipients may use SLFRF funds to rehire public employees.

The final rule provides two options to restore pre-pandemic employment, depending on recipient's needs. Under the first and simpler option, recipients may use SLFRF funds to rehire staff for pre-pandemic positions that were unfilled or were eliminated due the pandemic without undergoing further analysis. Under the second option, the final rule provides recipients an option to hire above the pre-pandemic baseline, by adjusting the pre-pandemic baseline for historical growth in public sector employment over time, as well as flexibility on roles for hire. Recipients may choose between these options but cannot use both.

To pursue the first option, recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021, without undergoing further analysis. For these employees, recipients may use SLFRF funds for payroll and covered benefit costs that are obligated by December 31, 2024 and expended by December 31, 2026, consistent with the Uniform Guidance's Cost Principles at 2 CFR part 200 Subpart E. This option provides administrative simplicity for recipients that would simply like to restore pre-pandemic positions and would not like to hire above the pre-pandemic baseline.

To pursue the second option, recipients should undergo the analysis provided below. In short, this option allows recipients to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted full-time equivalent employees (FTEs) up to 7.5 percent above its pre-pandemic employment baseline, which adjusts for the continued underinvestment in state and local governments since the Great Recession. State and local government employment as a share of population in 2019 remained considerably below its share prior to the Great Recession in 2007, which presented major risks to recipients mounting a response to the COVID–19 public health emergency. The *adjustment factor* of 7.5 percent results from estimating how much larger 2019 state and local government employment would have needed to be for the share of state and local government employment to population in 2019 to have been back at its 2007 level and is intended to correct for this gap.

Recipients should complete the steps described below. Recipients may choose whether to conduct this analysis on a government-wide basis or for an individual department, agency, or authority.

- *Step One:* Identify the recipient's budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline.*
- *Step Two:* Multiply the *pre-pandemic baseline* by 1.075 (that is, 1 + *adjustment factor*). This is called the *adjusted pre-pandemic baseline.*
- *Step Three:* Identify the recipient's budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude FTEs dedicated to responding to the COVID–19 public health emergency.[244] This is called the *actual number of FTEs.*
- *Step Four:* Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be hired and covered by SLFRF funds.

Recipients may use SLFRF funds to cover payroll and covered benefit costs obligated by December 31, 2024, and expended by December 31, 2026, up to the number of FTEs calculated in Step Four, consistent with the Uniform Guidance's Cost Principles at 2 CFR part 200 Subpart E. Recipients may only use SLFRF funds for additional FTEs hired over the March 3, 2021 level of budgeted FTEs (*i.e.,* the *actual number of FTEs*); note again that recipients may choose whether to conduct the analysis of FTEs that can be covered by SLFRF funds on a government-wide basis or for an individual department, agency, or authority.

These FTEs must have begun their employment on or after March 3, 2021, which is the beginning of the period of performance. For administrative convenience, recipients do not need to demonstrate that the reduction in number of FTEs was due to the COVID–19 pandemic, as Treasury assumes the vast majority of employment reductions during this time were due to pandemic fiscal pressures on state and local budgets. Recipients do not need to hire for the same roles that existed pre-pandemic.

For illustration, consider a hypothetical recipient with 1,000 budgeted FTEs on January 27, 2020 (950 filled FTE positions and 50 unfilled FTE positions). The recipient's *pre-pandemic baseline* is 1000 FTEs; its *adjusted pre-pandemic baseline* is 1,000 * 1.075 = 1075 FTEs. Now, assume that on March 3, 2021, the recipient had 800 budgeted FTEs in total (795 filled FTE positions and 5 unfilled FTE positions), with 50 FTEs primarily dedicated to responding to the COVID–19 public health emergency. The recipient would have the option of using either 800 FTEs or 750 FTEs as its *actual number of FTEs* for the calculation; assuming it chooses the lower number, it would be able to fund up to 325 FTEs with SLFRF funds (that is, 1,075 − 750 = 325 FTEs).

[244] Recipients may determine that a portion of an FTE's time is dedicated to responding to the COVID–19 public health emergency. Further, for administrative convenience, the recipient may consider public health and safety FTEs to be entirely devoted to mitigating or responding to the COVID–19 public health emergency if the FTE, or his or her operating unit of division, is primarily dedicated to responding to the COVID–19 public health emergency. Recipients may also consider other presumptions for assessing the extent to which an FTE, division, or operating unit is engaged in activities that respond to the COVID–19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID–19 response.

Specifically, the recipient would be able to use SLFRF to fund payroll and covered benefits for up to 325 FTEs that begin their employment on or after March 3, 2021, for costs obligated by December 31, 2024, and expended by December 31, 2026, consistent with the Uniform Guidance's Cost Principles, as long as SLFRF funds are used for additional FTEs hired over the recipient's 750 FTE level (which is its March 3, 2021 budgeted FTE level).

In hiring new employees, the final rule encourages recipients to ensure a diverse workforce. The final rule also prohibits recipients from using funds to temporarily fill positions during a labor dispute, as this would not constitute responding to the public health or negative economic impacts of the pandemic. Further, recipients must ensure that its hiring practices do not violate conflict-of-interest policies.[245] Total compensation for a hired employee that is substantially in excess of typical compensation for employees of their experience and tenure within the recipient's government, without a corresponding business case, may indicate a potential conflict-of-interest in fact or appearance.

Providing additional funding for employees who experienced pay cuts and furloughs. In recognition of the economic hardship caused by pay cuts and furloughs, additional funds may be provided to employees who experienced pay cuts or were furloughed since the onset of the pandemic on January 27, 2020. Recipients must be able to substantiate that the pay cut or furlough was substantially due to the public health emergency or its negative economic impacts (*e.g.,* fiscal pressures on state and local budgets) and should document their assessment. As a reminder, this additional funding must be reasonably proportional to the negative economic impact of the pay cut or furlough on the employee, which would include taking into account unemployment insurance (UI) benefits that a furloughed employee may have received during the furloughed period. Treasury presumes that additional funds beyond the difference in pay had the employee not received a pay cut or been furloughed would not be reasonably proportional.

Recipients may also provide premium pay to certain employees, as detailed further in section Premium Pay.

Avoiding layoffs. Funds may be used to maintain current compensation levels, with adjustments for inflation, in order to prevent layoffs that would otherwise be necessary. Recipients must be able to substantiate that layoffs were likely in the absence of SLFRF funds and would be substantially due to the public health emergency or its negative economic impacts (*e.g.,* fiscal pressures on state and local budgets) and should document their assessment.

Retaining workers. Funds may be used to provide worker retention incentives, which are designed to persuade employees to remain with the employer as compared to other employment options. Recipients must be able to substantiate that the employees were likely to leave employment in the absence of the retention incentive and should document their assessment. For example, a recipient may determine that a retention bonus is necessary based on the presence of an alternative employment offer for an employee.

All worker retention incentives must be narrowly tailored to need and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Further, because retention incentives are intended to provide additional incentive to remain with the employer, they must be entirely additive to an employee's regular rate of wages and other remuneration and may not be used to reduce or substitute for an employee's normal earnings. Treasury will presume that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as the other requirements are met.

Ancillary administrative costs. Funds may be used to pay for ancillary administrative costs associated with administering SLFRF-funded hiring and retention programs detailed above, including costs to publish job postings, review applications, and onboard and train new hires. For additional information on administrative expenses, see section Administrative Expenses in Program Administration Provisions.

Effective Service Delivery: Administrative Expenses

The interim final rule provided that funds could be used for: ''Expenses to improve efficacy of public health or economic relief programs: Administrative costs associated with the recipient's COVID–19 public health emergency assistance programs, including services responding to the COVID–19 public health emergency or its negative economic impacts, that are not federally funded.'' In the final rule, Treasury is clarifying that there are several categories of eligible administrative expenses.

First, recipients may use funds for administrative costs to improve the efficacy of public health or economic relief programs through tools like program evaluation, data analysis, and targeted consumer outreach (see section Effective Service Delivery: Program Evaluation, Data, and Outreach).

Second, recipients may use funds for administrative costs associated with programs to respond to the public health emergency and its negative economic impacts, including programs that are not funded by SLFRF or not federally funded. In other words, Treasury recognizes that responding to the public health and economic impacts of the pandemic requires many programs and activities, some of which are not funded by SLFRF. Executing these programs effectively is a component of responding to the public health and negative economic impacts of the pandemic.

Finally, recipients may use funds for direct and indirect administrative costs for administering the SLFRF program and projects funded by the SLFRF program. See section Administrative Expenses in Program Administration Provisions for details on this eligible use category.

Effective Service Delivery: Program Evaluation, Data, and Outreach

The Supplementary Information of the interim final rule provided that state, local and Tribal governments may use SLFRF funds to improve the design and execution of programs responding to the COVID–19 pandemic and to improve the efficacy of programs addressing negative economic impacts. The interim final rule included high-level guidance about how SLFRF funds could be used in this eligible use category, including the use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Since the publication of the interim final rule, Treasury has also released

[245] As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c)112 that is applicable to all activities funded with the SLFRF award. Pursuant to this policy, decisions concerning SLFRF must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. A recipient may not use control over SLFRF for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

supplementary information on data analysis, evidence building, and program evaluation in the Compliance and Reporting Guidance.

Public Comment: Treasury received positive comments about the opportunity to invest in data and technology upgrades with SLFRF funds. For example, one commenter noted that investing in technology for better connectivity, coupled with software and hardware upgrades, will allow the workforce to be more productive. Treasury also received comments seeking clarification on using funds for investments in data and technology, including whether upgrading government websites to improve community outreach and investing in technologies that support social distancing were eligible uses.

Treasury Response: Governments with high capacity to use data and evidence to administer programs are more likely to be responsive to the needs of their community, more transparent about their community impact, and more resilient to emergencies such as the pandemic and its economic impacts.[246] Treasury recognizes that collecting high-quality data and developing community-driven, evidence-based programs requires resources to hire and build the capacity of staff, adopt new processes and systems, and use new technology and tools in order to effectively develop, execute, and evaluate programs. As such, Treasury is clarifying that recipients may use SLFRF funds toward the following non-exhaustive list of uses to address the data, evidence, and program administration needs of recipients. Additional information may be provided in the Compliance and Reporting Guidance.

- *Program evaluation and evidence resources* to support building and using evidence to improve outcomes, including development of Learning Agendas [247] to support strategic evidence building, selection of evidence-based interventions, and program evaluations including impact evaluations (randomized control trials and quasi-experimental designs) as well as rapid-cycle evaluations, process or implementation evaluations, outcome evaluations, and cost-benefit analyses. Recipients are encouraged to undertake rigorous program evaluations when practicable, assess the impact of their programs by beneficiary demographics (including race, ethnicity, gender, income, and other relevant factors), and engage with community stakeholders (including intended beneficiaries) when developing Learning Agendas and designing evaluations to ensure that programmatic, cultural, linguistic, and historical nuances are accurately and respectfully addressed.

  Recipients are also encouraged to use relevant evidence Clearinghouses,[248] among other sources, to assess the level of evidence for their interventions and identify evidence-based models that could be applied in their jurisdiction (meaning models with strong or moderate evidence; see Compliance and Reporting Guidance for details on these terms).
- *Data analysis resources* to gather, assess, and use data for effective policy-making and real-time tracking of program performance to support effective implementation of SLFRF-funded programs and programs that respond to the public health emergency and its negative economic impacts, or which households, small businesses, or impacted industries are accessing during the pandemic that are funded by other sources. These resources include but are not limited to data gathering, data cleaning, data analysis, data infrastructure, data management, data sharing, data transparency, performance management, outcomes-based budgeting, outcomes-based procurement, and other data needs. Treasury encourages the disaggregation of data to identify disparate program impacts and the use of cross-jurisdictional data sharing to better measure and implement government programs.
- *Technology infrastructure* resources to improve access to and the user-experience of government information technology systems, including upgrades to hardware and software as well as improvements to public-facing websites or to data management systems, to increase public access and improve public delivery of government programs and services (including in the judicial, legislative, or executive branches).
- *Community outreach and engagement* resources to support the gathering and sharing of information in ways that improve equity and effective implementation of SLFRF-funded programs and programs that respond to the public health emergency and its negative economic impacts, or which households, small businesses, or impacted industries are accessing during the pandemic that are funded by other sources. These methods include but are not limited to community meetings, online surveys, focus groups, human-centered design activities, behavioral science techniques, and other community engagement tools.
- *Capacity building* resources to support using data and evidence in designing, executing, and evaluating programs, including hiring public sector staff, contractors, academics, consultants, and others with expertise in evaluation, data, technology, and community engagement as well as technical assistance support for public sector staff, staff of subrecipients, and community partners to support effective implementation of SLFRF-funded programs and programs that respond to the public health emergency and its negative economic impacts, or which households, small businesses, or impacted industries are accessing during the pandemic that are funded by other sources.

Administrative Needs Caused or Exacerbated by the Pandemic

As described in guidance and the interim final rule, SLFRF funds may be used to address administrative needs of recipient governments that were caused or exacerbated by the pandemic. Guidance following the interim final rule included several examples of this, for example, uses of funds to address backlogs resulting from pandemic-related shutdowns (*e.g.,* backlogs in court systems).[249] This also includes

[246] Results for America, Invest in What Works State Standard of Excellence (August 2020), *https://2020state.results4america.org/2020_State-Standard-of-Excellence.pdf.*

[247] Learning Agendas are systematic plans to identify, prioritize, answer important questions about programs and policies using analytic techniques that are appropriate to the type of question asked. For more information on learning agendas, please see OMB Memorandum M–19–23, available at: *https://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf* and OMB Memorandum M–21–27, available at: *https://www.whitehouse.gov/wp-content/uploads/2021/06/M-21-27.pdf.*

[248] Evidence Clearinghouses are databases of research in particular program areas. Frequently these Clearinghouses identify evidence-based programs, the strength of the evidence for those programs, and provide contextual or supporting information in easy to understand formats. Many federal departments have developed rigorous and helpful Clearinghouses that cover a wide range of uses enumerated in this final rule as well as other programs that may be responsive to public health or negative economic impacts of the pandemic. For more information on Clearinghouses, please see the Compliance and Reporting Guidance: U.S. Department of the Treasury, Recipient Compliance and Reporting Responsibilities, as of November 5, 2021; *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities.*

[249] *See FAQ 2.19.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.* In the case of courts specifically, this includes ''implementing COVID–19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case

using funds for increased repair or maintenance needs to respond to significantly greater use of public facilities during the pandemic (*e.g.,* increased use of parks resulting in damage or increased need for maintenance). Some commenters expressed support for the ability to use funds for these purposes. Treasury is maintaining these enumerated eligible uses in the final rule and clarifying that capital expenditures such as technology infrastructure to adapt government operations to the pandemic (*e.g.,* video-conferencing software, improvements to case management systems or data sharing resources), reduce government backlogs, or meet increased maintenance needs are eligible.

b. Capital Expenditures

The interim final rule expressly permitted use of funds for a limited number of capital expenditures that mostly pertained to COVID–19 prevention and mitigation. These included capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics; adaptations to public buildings to implement COVID–19 mitigation tactics; ventilation improvements in congregate settings, health care settings, or other key locations; assistance to small businesses and nonprofits and aid to impacted industries to implement COVID–19 prevention or mitigation tactics, such as physical plant changes to enable social distancing. For disproportionately impacted populations and communities, the interim final rule also expressly permitted development of affordable housing to increase the supply of affordable and high-quality living units.

Public Comment: Many commenters supported the interim final rule's allowance of capital expenditures in facilities to meet pandemic operational needs but requested that the final rule explicitly allow for a broader range of capital expenditures. Commenters expressed an interest in investing in equipment, real property, and facilities that they argued will yield lasting benefits beyond the SLFRF period of performance. Some commenters stated that the approach in the interim final rule limited the vast majority of capital expenditures to governments that experienced revenue loss under Sections 602(c)(1)(C) and 603(c)(1)(C) and that this approach may prevent some governments from fully meeting the needs of their residents. A few commenters argued that Treasury should limit use of funds on capital expenditures not related to addressing a direct pandemic harm, such as general economic development or workforce development, and some expressed support for generally limiting capital expenditures to those that address the needs of low-income communities and communities of color.

Many commenters requested that capital expenditures related to direct COVID–19 public health response be included as enumerated eligible uses. The requested types of expenditures include improvements and construction of hospitals and health clinics (including behavioral health clinics), as well as other health-related infrastructure improvements, such as improvements to medical equipment or public health information technology. These commenters stated that investments in health and public health systems are vital to ensuring critical infrastructure necessary to respond to continued impacts of COVID–19 or to address disparities in health, due to lack of access to health care, that contributed to disproportionate impacts of COVID–19 on some communities. Further, some commenters requested that construction or improvements of emergency management and public safety facilities be deemed eligible, citing that some of these sites serve as remote vaccination sites or are otherwise crucial to the pandemic public health response.

Commenters also requested use of funds for capital expenditures that support community needs apart from health care, such as new construction or improvements to schools, affordable housing (beyond presumed disproportionately impacted communities), childcare facilities, and community centers; some suggested that all types of projects permissible under the Community Development Block Grant Program should be eligible both for policy and administrability reasons. Further, some commenters also asked for clarification as to whether parks and recreational facilities are eligible if built in certain disproportionately impacted areas, as well as public transportation infrastructure.

Finally, some commenters also requested use of funds for capital expenditures in government administration buildings, such as public courthouses, as well as technology infrastructure that would allow for remote delivery of public benefits. Others also asked about whether funds could be used to renovate vacant business district buildings or commercial spaces to spur economic recovery.

Treasury Response: Capital expenditures, in certain cases, can be appropriate responses to the public health and economic impacts of the pandemic, in addition to programs and services. Like other eligible uses of SLFRF funds in this category, capital expenditures should be a related and reasonably proportional response to a public health or negative economic impact of the pandemic. The final rule clarifies and expands how SLFRF funds may be used for certain capital expenditures, including criteria and documentation requirements specified in this section, as applicable.

Treasury provides presumptions and guidelines for capital expenditures that are enumerated earlier in sections Public Health, Negative Economic Impacts, and General Provisions: Other under the Public Health and Negative Economic Impact eligible use category (''enumerated projects''), along with capital expenditures beyond those enumerated by Treasury. In addition to satisfying the two-part framework in Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact for identifying and designing a response to a pandemic harm, Treasury will require projects with total expected capital expenditure costs of $1 million or greater to undergo additional analysis to justify their capital expenditure. Increased reporting requirements will be required for projects that are larger in size, as well as projects that are not enumerated as eligible by Treasury, with certain exceptions for Tribal governments discussed below. Smaller projects with total expected capital expenditures below $1 million will not be required to undergo additional analysis to justify their capital expenditure, as such projects will be presumed to be reasonably proportional, provided that they are responding to a harm caused or exacerbated by the public health emergency. These standards and documentation requirements are designed to minimize administrative burden while also ensuring that projects are reasonably proportional and supporting Treasury's risk-based approach to overall program management and monitoring.

This section provides (1) an overview of general standards governing capital expenditures; (2) presumptions on capital expenditures, which help guide recipients in determining whether the expenditure meets the standards and the associated documentation requirements; and (3) additional standards and requirements that may apply.

resolution, and other expenses to expedite case resolution are eligible uses.''

Overview of General Standards

In considering whether a capital expenditure would be eligible under the public health and negative economic impacts eligible use category, recipients must satisfy the requirements for all uses under the public health and negative economic impacts eligible use category, including identifying an impact or harm and designing a response that addresses or responds to the identified impact or harm. Responses must be reasonably designed to benefit the individual or class that experienced the impact or harm and must be related and reasonably proportional to the extent and type of impact or harm. Recipients should consult further details on this standard provided in the sections Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact under General Provisions: Structure and Standards.

In addition to the framework described above, for projects with total expected capital expenditures of $1 million or greater, recipients must complete and meet the substantive requirements of a Written Justification for their capital expenditure, except for Tribal governments as discussed below. This Written Justification helps clarify the application of this interpretive framework to capital expenditures, while recognizing that the needs of communities differ. In particular, this justification reflects the fact that the time required for a large construction project may make capital expenditures less responsive to pandemic-related needs relative to other types of responses. In addition, as discussed in section Timeline for Use of SLFRF Funds of this Supplemental Information, SLFRF funds must be obligated by December 31, 2024 and expended by December 31, 2026. Capital expenditures may involve long lead-times, and the Written Justification may support recipients in analyzing proposed capital expenditures to confirm that they conform to the obligation and expenditure timing requirements. Further, such large projects may be less likely to be reasonably proportional to the harm identified. For example, construction of a new, larger public facility for the purpose of increasing the ability to socially distance generally would not be considered a reasonably proportional response compared to other less time- and resource-intensive options that may be available and would be equally or more effective. Other solutions, such as improvements in ventilation, could be made more quickly and are typically more cost effective than construction of a new, larger facility. The needs of communities differ, and recipients are responsible for identifying uses of SLFRF funds that best respond to these needs. The Written Justification recognizes this while also establishing consistent documentation and reporting to support monitoring and compliance with the ARPA and final rule. Finally, the Written Justification also reflects the fact that infrastructure projects are generally not within scope of this eligible use category. See section Uses Outside the Scope of this Category in General Provisions: Other.

As noted above, Tribal governments are not required to complete the Written Justification for projects with total capital expenditures of $1 million or greater. Tribal governments generally have limited administrative capacity due to their small size and corresponding limited ability to supplement staffing for short-term programs. In addition, Tribal governments are already subject to unique considerations that require additional administrative processes and administrative burden for Tribal government decision making, including capital expenditures. Tribal governments generally are subject to a jurisdictionally complex sets of rules and regulations in the case of improvements to land for which the title is held in trust by the United States for a Tribe (Tribal Trust Lands).[250] This includes the requirement in certain circumstances to seek the input or approval of one or more federal agencies such the Department of the Interior, which holds fee title of Tribal Trust Lands.

As a result of their limited administrative capacity and unique and complex rules and regulations applicable to Tribal governments operating on Tribal Trust Lands, Tribal governments would experience significant and redundant administrative burden by also being required to complete a Written Justification for applicable capital expenditures. While Tribal governments are not required to complete the Written Justification for applicable capital expenditures, the associated substantive requirements continue to apply, including the requirement that a capital expenditure must be reasonably designed to benefit the individual or class that experienced the identified impact or harm and must be related and reasonably proportional to the extent and type of impact or harm. Note that, as a general matter, Treasury may also request further information on SLFRF expenditures and projects, including capital expenditures, as part of the regular SLFRF reporting and compliance process, including to assess their eligibility under the final rule.

The Written Justification should (1) describe the harm or need to be addressed; (2) explain why a capital expenditure is appropriate to address the harm or need; and (3) compare the proposed capital expenditure against alternative capital expenditures that could be made. The information required for the Written Justification reflects the framework applicable to all uses under the public health and negative economic impacts eligible use category, providing justification for the reasonable design, relatedness, and reasonable proportionality of the capital expenditure in response to the harm or impact identified.

1. *Description of harm or need to be addressed:* Recipients should provide a description of the specific harm or need to be addressed, and why the harm was exacerbated or caused by the public health emergency. When appropriate, recipients may provide quantitative information on the extent and type of the harm, such as the number of individuals or entities affected.

2. *Explanation of why a capital expenditure is appropriate:* Recipients should provide an independent assessment demonstrating why a capital expenditure is appropriate to address the specified harm or need. This should include an explanation of why existing capital equipment, property, or facilities would be inadequate to addressing the harm or need and why policy changes or additional funding to pertinent programs or services would be insufficient without the corresponding capital expenditures. Recipients are not required to demonstrate that the harm or need would be irremediable but for the additional capital expenditure; rather, they may show that other interventions would be inefficient, costly, or otherwise not reasonably designed to remedy the harm without additional capital expenditure.

3. *Comparison of the proposed capital expenditure against alternative capital expenditures:* Recipients should provide an objective comparison of the proposed capital expenditure against at least two alternative capital expenditures and demonstrate why their proposed capital expenditure is superior to alternative capital expenditures that could be made. Specifically, recipients should assess the proposed capital expenditure against at least two alternative types or sizes of capital expenditures that are potentially effective and reasonably

[250] See 25 U.S.C. 5108.

feasible. Where relevant, recipients should compare the proposal against the alternative of improving existing capital assets already owned or leasing other capital assets. Recipients should use quantitative data when available, although they are encouraged to supplement with qualitative information and narrative description. Recipients that complete analyses with minimal or no quantitative data should provide an explanation for doing so.

In determining whether their proposed capital expenditure is superior to alternative capital expenditures, recipients should consider the following factors against each selected alternative.

a. *A comparison of the effectiveness of the capital expenditures in addressing the harm identified.* Recipients should generally consider the effectiveness of the capital expenditures in addressing the harm over the useful life of the capital asset and may consider metrics such as the number of impacted or disproportionately impacted individuals or entities served, when such individuals or entities are estimated to be served, the relative time horizons of the project, and consideration of any uncertainties or risks involved with the capital expenditure.

b. *A comparison of the expected total cost of the capital expenditures.* Recipients should consider the expected total cost of the capital expenditure required to construct, purchase, install, or improve the capital assets intended to address the public health or negative economic impact of the public health emergency. Recipients should include pre-development costs in their calculation and may choose to include information on ongoing operational costs, although this information is not required.

Recipients should balance the effectiveness and costs of the proposed capital expenditure against alternatives and demonstrate that their proposed capital expenditure is superior. Further, recipients should choose the most cost-effective option unless it substantively reduces the effectiveness of the capital investment in addressing the harm identified.

As an example, a recipient considering building a new diagnostic testing laboratory to enhance COVID–19 testing capacity may consider whether existing laboratories sufficiently meet demand for COVID–19 testing, considering the demand for test results (along with their turnaround time) as well as the impact of current testing availability on the spread of COVID–19. Recipients may also consider other public health impacts of the level of diagnostic testing capacity, for example if insufficient capacity has decreased testing for other health conditions. The recipient may consider alternatives such as expanding existing laboratories or building a laboratory of a different size. In comparing the effectiveness of the capital expenditures, examples of factors that the recipient may consider include when the facilities will become operational and for how long; the daily throughput of COVID–19 tests; and the effect on minimizing delays in test results on the populations that such tests will serve. In comparing costs, the recipient may compare the total expected cost of the new laboratory (including costs of acquisition of real property, construction of the laboratory, and purchase of any necessary equipment needed to operationalize the lab), against the expected costs of expanding existing laboratories (whether by replacing current equipment with higher throughout devices or physically expanding space to accommodate additional capacity) or building a new laboratory of a different size, including by leasing property. As a reminder, recipients should only consider alternatives that are potentially effective and reasonably feasible.

Because, in all cases, uses of SLFRF funds to respond to public health and negative economic impacts of the pandemic must be related and reasonably proportional to a harm caused or exacerbated by the pandemic, some capital expenditures may not eligible. For example, constructing a new correctional facility would generally not be a proportional response to an increase in the rate of certain crimes or overall crime as most correctional facilities have historically accommodated fluctuations in occupancy.[251] In addition, construction of new congregate facilities, which would generally be expected to involve expenditures greater than $1 million, would generally not be a proportional response to mitigate or prevent COVID–19, because such construction is generally expected to be more costly than alternative approaches or capital expenditures that may be equally or more effective in decreasing spread of the disease.[252] These alternatives include personal protective equipment, ventilation improvements, utilizing excess capacity in other facilities or wings, or temporary facility capacity expansions.

Large capital expenditures intended for general economic development or to aid the travel, tourism, and hospitality industries—such as convention centers and stadiums—are, on balance, generally not reasonably proportional to addressing the negative economic impacts of the pandemic, as the efficacy of a large capital expenditure intended for general economic development in remedying pandemic harms may be very limited compared to its cost.[253]

Presumptions on Capital Expenditures

For administrative convenience, the final rule provides presumptions on whether a Written Justification is required—and required to be submitted to Treasury through reporting—based on the type and size of the capital expenditure, as detailed in the table below.

As discussed above, Tribal governments are not required to complete the Written Justification for applicable capital expenditures, but the associated substantive requirements continue to apply, including the requirement that a capital expenditure must be reasonably designed to benefit the individual or class that experienced the identified impact or harm and must be related and reasonably proportional to the extent and type of impact or harm.

[251] *See, e.g.,* ''Economic Perspectives on Incarceration and the Criminal Justice System,'' Council of Economic Advisers (April 2016), pg. 36–43.

[252] For instance, the CDC has published detailed recommendations for nursing homes, long-term care facilities, and correctional and detention facilities, on infection prevention and control. Many of these recommendations are relatively low cost, such as proper use of PPE. In addition, increasing vaccination rates among nursing home staff is among the most important ways to decrease the spread of the disease. Centers for Disease Control and Prevention, Interim Infection Prevention and Control Recommendations to Prevent SARS–CoV–2 Spread in Nursing Homes (September 10, 2021), *https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html#anchor_1631030153017.*

[253] For instance, researchers have found no consistent positive relationship between building sports facilities and local economic development. As Siegfried and Zimbalist (2000, 103) write in a review of the literature, ''independent work on the economic impact of stadiums and arenas has uniformly found that there is no statistically significant positive correlation between sports facility construction and economic development.'' John Siegfried and Andrew Zimbalist, The Economics of Sports Facilities and Their Communities, Journal of Economic Perspectives 14, no. 3 (Summer 2000): 95–114, *https://www.aeaweb.org/articles?id=10.1257/jep.14.3.95.*

If a project has total expected capital expenditures of	and the use is enumerated by Treasury as eligible, then [254]	and the use is beyond those enumerated by Treasury as eligible, then [255]
Less than $1 million	No Written Justification required	No Written Justification required.
Greater than or equal to $1 million, but less than $10 million.	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury.	Written Justification required and recipients must submit as part of regular reporting to Treasury.
$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury.	

In selecting these thresholds, Treasury recognized that capital expenditures vary widely in size and therefore would benefit from tiered treatment to implement eligibility standards while minimizing administrative burden, especially for smaller projects. For example, Treasury selected $1 million as a threshold for whether a recipient needs to complete a Written Justification as well as a threshold under which capital expenditures would be presumed reasonably proportional. Treasury estimates that $1 million would encapsulate the costs of a significant portion of equipment or small renovations. These types of smaller projects are often a necessary and reasonably proportional part of a response to the public health emergency; therefore, the $1 million threshold provides a simplified pathway to complete smaller projects more likely to meet the eligibility standard. At the same time, Treasury selected $10 million as the threshold for more intensive reporting requirements, estimating that projects larger than $10 million would likely constitute significant improvements or construction of mid- or large-sized facilities. As discussed above, given their scale and longer time to completion, these types of larger projects may be less likely to be reasonably proportional responses. The $10 million threshold also generally aligns with thresholds in other parts of the SLFRF program, such as for enhanced reporting on labor practices.

Expenditures from closely related activities directed toward a common purpose are considered part of the scope of one project. These expenditures can include capital expenditures, as well as expenditures on related programs, services, or other interventions. A project includes expenditures that are interdependent (*e.g.,* acquisition of land, construction of the school on the land, and purchase of school equipment), or are of the same or similar type and would be utilized for a common purpose (*e.g.,* acquisition of a fleet of ambulances that would be used for COVID–19 emergency response). Recipients must not segment a larger project into smaller projects in order to evade review. A recipient undertaking a set of identical or similar projects (*e.g.,* development of a number of new affordable housing complexes across the recipient jurisdiction) may complete one Written Justification comprehensively addressing the entire set of projects.

Projects Enumerated as Eligible by Treasury

Under the public health and negative economic impacts eligible use category, the final rule provides a non-exclusive list of eligible uses of funding for projects that respond to the public health emergency or its negative economic impacts. Treasury has determined that these enumerated projects are related to the public health emergency and its negative economic impacts; however, recipients (other than Tribal governments) undertaking these projects with total expected capital expenditures of $1 million or greater must still complete and meet the substantive requirements of a Written Justification as part of their demonstration that the project is a related and reasonably proportional response to the harm identified.

- *Projects with total expected capital expenditures of under $1 million:* Treasury provides a safe harbor for projects with total expected capital expenditures of less than $1 million and will not require recipients to complete, submit, or meet the substantive requirements of a Written Justification for the capital expenditure. In essence, recipients may pursue an enumerated project with total expected capital expenditures of under $1 million without having to undergo additional assessments to meet SLFRF requirements.
- *Projects with total expected capital expenditures of at least $1 million but under $10 million:* Recipients should complete a Written Justification for the capital expenditure and make an independent assessment of whether their proposed capital expenditure meets the substantive requirements of the Written Justification. Recipients will not be required to submit the Written Justification as part of regular reporting to Treasury but should keep documentation for their records.
- *Projects with total expected capital expenditures of at least $10 million:* Similar to the above, recipients should complete a Written Justification of the capital expenditure and make an independent assessment of whether their proposed capital expenditure meets the substantive requirements of the Written Justification. Further, recipients will be asked to submit the Written Justification as part of regular reporting to Treasury. Similar to other parts of the SLFRF program, such as on reporting on labor practices, Treasury recognizes that projects with expected total capital expenditures of at least $10 million may be less likely to meet eligibility requirements and therefore requires recipients to provide an enhanced level of information to Treasury.

Projects Beyond Those Enumerated as Eligible by Treasury

As with all uses, recipients that undertake capital expenditures beyond those enumerated as eligible by Treasury must meet the two-part framework under Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact under General Provisions: Structure and Standards,

[254] Whether or not a Written Justification is required, recipients should still determine that the response is related and reasonably proportional to the public health emergency and its negative economic impacts. Treasury recognizes that enumerated eligible uses are ''related'' to the public health emergency and its negative economic impacts and presumed to be reasonably proportional, except recipients pursuing projects with expected total capital expenditures equal to or greater than $1 million should still independently determine that the expenditures are a reasonably proportional response. Enumerated projects with total expected capital expenditures under $1 million receive a safe harbor and deemed to meet the related and reasonably proportional standard.

[255] Whether or not a Written Justification is required, recipients should still determine that the response is related and reasonably proportional to the public health emergency and its negative economic impacts. Treasury presumes that projects with total expected capital expenditures under $1 million are reasonably proportional in size to responding to the public health emergency and its negative economic impacts; however, recipients should determine that the response otherwise meets the requirements of the standard, including that the response is related to the public health emergency and its negative economic impacts.

including the requirement that responses are related and reasonably proportional to the harm or impact identified. As part of that assessment, these recipients may also be asked to complete a Written Justification. Recipients (other than Tribal governments) are subject to the following presumptions for the Written Justification of the capital expenditure, based on the total expected capital expenditures of the project:

- *Projects with total expected capital expenditures of under $1 million:* Treasury provides a safe harbor for unenumerated projects with total expected capital expenditures of under $1 million and will not require recipients to complete, submit, or meet the substantive requirements of a Written Justification of the capital expenditure. Recipients should still make a determination as to whether the capital expenditure is part of a response that is related and reasonably proportional to the public health emergency or its negative economic impacts.
- *Projects with total expected capital expenditures of $1 million or over:* Recipients should complete a Written Justification of the capital expenditure and make an independent assessment that their proposed capital expenditure meets the substantive requirements of the Written Justification. Further, recipients will be asked to submit the Written Justification as part of regular reporting to Treasury.

Treasury employs a risk-based approach to overall program management and monitoring, which may result in heightened scrutiny on larger projects. Accordingly, recipients pursuing projects with larger capital expenditures should complete more detailed analyses for their Written Justification, commensurate with the scale of the project.

Additional Provisions, Standards, and Definitions

Strong Labor Standards in Construction

Treasury encourages recipients to carry out projects in ways that produce high-quality work, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to use strong labor standards, including project labor agreements (PLAs) and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also recommends that recipients prioritize in their procurement decisions employers who can demonstrate that their workforce meets high safety and training standards (*e.g.,* professional certification, licensure, and/or robust in-house training), that hire local workers and/or workers from historically underserved communities, and who directly employ their workforce or have policies and practices in place to ensure contractors and subcontractors meet high labor standards. Treasury further encourages recipients to prioritize employers (including contractors and subcontractors) without recent violations of federal and state labor and employment laws.

Treasury believes that such practices will promote effective and efficient delivery of high-quality projects and support the economic recovery through strong employment opportunities for workers. Such practices will reduce likelihood of potential project challenges like work stoppages or safety accidents, while ensuring a reliable supply of skilled labor and minimizing disruptions, such as those associated with labor disputes or workplace injuries. That will, in turn, promote on-time and on-budget delivery.

Furthermore, among other requirements contained in 2 CFR 200, Appendix II, all contracts made by a recipient or subrecipient in excess of $100,000 with respect to a capital expenditure that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5).

Treasury will seek information from recipients on their workforce plans and practices related to capital expenditures undertaken under the public health and negative economic impacts eligible use category with SLFRF funds. This reporting will support transparency and competition by enhancing available information on the services being provided.

Environmental, Uniform Guidance, and Other Generally Applicable Requirements

Treasury cautions that, as is the case with all projects using SLFRF funds, all projects must comply with applicable federal, state, and local law. In the case of capital expenditures in particular, this includes environmental and permitting laws and regulations. Likewise, as with all capital expenditure projects using the SLFRF funds, projects must be completed in a manner that is technically sound, meaning that it must meet design and construction methods and use materials that are approved, codified, recognized, fall under standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry.

Further, as with all other uses of funds under the SLFRF program, the Uniform Guidance at 2 CFR part 200 applies to capital expenditures unless stated otherwise. Importantly, this includes 2 CFR part 200 Subpart D on post-federal award requirements, including property standards pertaining to insurance coverage, real property, and equipment; procurement standards; sub-recipient monitoring and management; and record retention and access.

Definitions

Treasury adopts several definitions from the Uniform Guidance at 2 CFR 200.1 under this section, including for capital expenditures, capital assets, equipment, and supplies.

Per the Uniform Guidance, the term ''capital expenditures'' means ''expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.'' The term ''capital assets'' means ''tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with [Generally Accepted Accounting Principles].''

Capital assets include lands, facilities, equipment, and intellectual property. Equipment means ''tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000.'' Supplies, which means all tangible personal property other than those included as ''equipment,'' are not considered capital expenditures.

Recipients may also use SLFRF funds for pre-project development costs that are tied to or reasonably expected to lead to an eligible capital expenditure. For example, pre-project costs associated with planning and engineering for an eligible project are considered an eligible use of funds.

c. Distinguishing Subrecipients Versus Beneficiaries

Under the interim final rule, state, local, and Tribal governments that receive a federal award directly from a federal awarding agency, such as Treasury, are designated as ''recipients,''

and state, local, and Tribal governments are authorized to transfer funds to other entities, including private entities like nonprofits. The interim final rule stated that, ''[a] transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding.''

For funds transferred to a subrecipient, the interim final rule noted that ''[r]ecipients continue to be responsible for monitoring and overseeing the subrecipient's use of SLFRF funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the SLFRF funds for the duration of the award.''

Public Comment: Treasury received many comments requesting clarification about which entities qualify as subrecipients and are, in turn, subject to subrecipient monitoring and reporting requirements. For example, commenters sought clarification about whether a nonprofit that received a grant to provide services under a program to carry out an enumerated eligible use would qualify as a subrecipient and be subject to subrecipient monitoring and reporting requirements. Similarly, commenters also wondered if a nonprofit that received a grant in recognition of experiencing a negative economic impact of the public health emergency would also be a subrecipient and subject to subrecipient reporting requirements.

Treasury Response: Treasury is clarifying the distinction between a subrecipient and beneficiary in the final rule. The Uniform Guidance definitions for subaward and subrecipient inform Treasury's distinction between subrecipients and beneficiaries.

First, per 2 CFR 200.1 of Uniform Guidance ''[s]ubaward means an award provided by a pass-through entity [256] to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.''

Further, 2 CFR 200.1 of the Uniform Guidance defines a subrecipient, in that ''[s]ubrecipient means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.'' Treasury is aligning the definition of subrecipient in the final rule with the definition of subrecipient in the Uniform Guidance.

Treasury is maintaining the monitoring and subrecipient reporting requirements outlined in the final rule. Per 2 CFR 200.101 (b)(2) of the Uniform Guidance, the terms and conditions of federal awards flow down to subawards to subrecipients. Therefore, non-federal entities, as defined in the Uniform Guidance, must comply with the applicable requirements in the Uniform Guidance regardless of whether the non-federal entity is a recipient or subrecipient of a federal award. This includes requirements such as the treatment of eligible uses of funds, procurement, and reporting requirements.

The Uniform Guidance definitions for both subaward and subrecipient specify that payments to individuals or entities that are direct beneficiaries of a federal award are not considered subrecipients. The final rule adopts this definition of a beneficiary and outlines that households, communities, small businesses, nonprofits, and impacted industries are all potential beneficiaries of projects carried out with SLFRF funds. Beneficiaries are not subject to the requirements placed on subrecipients in the Uniform Guidance, including audit pursuant to the Single Audit Act and 2 CFR part 200, subpart F or subrecipient reporting requirements.

The distinction between a subrecipient and a beneficiary, therefore, is contingent upon the rationale for why a recipient is providing funds to the individual or entity. If the recipient is providing funds to the individual or entity for the purpose of carrying out a SLFRF program or project on behalf of the recipient, the individual or entity is acting as a subrecipient. Acting as a subrecipient, the individual or entity is subject to subrecipient monitoring and reporting requirements. Conversely, if the recipient is providing funds to the individual or entity for the purpose of directly benefitting the individual or entity as a result of experiencing a public health impact or negative economic impact of the pandemic, the individual or entity is acting as a beneficiary. Acting as a beneficiary, the individual or entity is not subject to subrecipient monitoring and reporting requirements.

d. Uses Outside the Scope of This Category

Summary of the Interim Final Rule and Final Rule Structure

In the interim final rule, Treasury noted that certain uses of funds are not permissible under the eligible use category of responding to the public health and negative economic impacts of the pandemic. In the final rule, these uses remain impermissible, but Treasury has re-categorized where they are addressed to increase clarity.

Specifically, the interim final rule provided that the following uses of funds are not eligible under this eligible use category: Contributions to rainy day funds, financial reserves, or similar funds; payment of interest or principal on outstanding debt instruments; fees or issuance costs associated with the issuance of new debt; and satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID–19 public health emergency. These uses of funds remain ineligible under the final rule; Treasury has re-categorized these issues to the section Restrictions on Use, which describes restrictions that apply to all eligible use categories, to clarify that these uses are not eligible under any eligible use category of SLFRF. Treasury responds to public comments on this issue in the section Restrictions on Use.

As noted above, the interim final rule also posed several questions on what other types of services or costs Treasury should consider as eligible uses to respond to the public health and negative economic impacts of COVID–19, including in disproportionately impacted communities. In this section, Treasury addresses proposed uses of funds suggested by commenters that Treasury has not included as enumerated eligible uses of funds in this eligible use category.

General Eligible Uses

Public Comment: Commenters proposed a wide variety of additional recommended enumerated eligible uses

[256] In this context, a pass-through entity means a recipient of SLFRF funds.

in all sections of the public health and negative economic impacts eligible use category, including in impacted and disproportionately impacted communities. The proposed additional uses included general categories of services (*e.g.,* legal and social services, long-term investments to remediate long-term disparities, response to natural disasters). Other suggested uses of funds respond to needs widely experienced across the country (*e.g.,* access to and affordability of health insurance). Finally, other suggested uses of funds were highly specific (*e.g.,* healthcare equipment for a specific health condition, fire hydrants, weather alert systems) or most applicable to the particularized needs to certain populations or geographic areas of the United States (*e.g.,* senior citizens, immigrants, formerly incarcerated individuals, responding to environmental issues in certain geographic regions). Other commenters generally requested a high degree of flexibility to respond to the particular needs of their communities.

Treasury Response: Given the large number and diversity of SLFRF recipients, Treasury has aimed to include as enumerated eligible uses programs, services, and capital expenditures that respond to public health and negative economic impacts of the pandemic experienced widely in many jurisdictions across the country, making it clear and simple for recipients to pursue these enumerated eligible uses under the final rule. This provides enumerated eligible uses that many recipients may want to pursue, while including uses that are responsive to the pandemic's impacts across the diverse range of SLFRF recipients. In the final rule, Treasury has clarified several additional uses that generally respond to pandemic impacts experienced broadly across jurisdictions and populations.

Treasury has not chosen to include as enumerated uses all uses proposed by commenters; given the significant range, and in some cases highly specific nature, of the proposed uses Treasury was not able to assess that the proposed uses would respond to negative economic impacts experienced generally across the country, supporting an enumerated eligible use available to all recipients presumptively.

However, Treasury emphasizes that the enumerated eligible uses are non-exhaustive and that other uses, beyond those enumerated, are eligible. Treasury recognizes that the impacts of the pandemic vary over time, by jurisdiction, and by population; as such, the final rule provides flexibility for recipients to identify other public health or negative economic impacts to additional households, small businesses, or nonprofits, including classes of these entities, and pursue programs and services that respond to those impacts. Treasury also notes that some populations are presumed to be impacted or disproportionately impacted by the pandemic, and thus eligible for responsive services; these presumed eligible populations may encompass many individuals in the specific populations for whom commenters recommended services. For details on these issues, see section General Provisions: Structure and Standards.

Infrastructure, Community Development, and General Economic Development

Some potential additions to enumerated eligible uses were also recommended by several commenters each but are not included as enumerated eligible uses in the final rule.

Public Comment: Infrastructure: In the interim final rule, Treasury noted that a ''general infrastructure project, for example, typically would not be included [in this eligible use category] unless the project responded to a specific pandemic public health need.''

Numerous commenters requested that Treasury permit investments in infrastructure as a response to the public health and negative economic impacts of the pandemic. While these comments most commonly recommended that constructing and maintaining roads and surface transportation infrastructure be eligible, the proposed uses for infrastructure ranged widely and included parking lots, bridges, traffic management infrastructure, solid waste disposal facilities, and utility infrastructure (outside of water, sewer, and broadband).

Many commenters argued that infrastructure development and maintenance is a pressing need in their communities and that their communities had less need for water, sewer, and broadband infrastructure or other eligible uses to respond to the public health and negative economic impacts of the pandemic. Other commenters argued that these uses would stimulate the economy, attract businesses, or allow for tourist movement; these commenters argued that, by generally supporting a stronger economy or facilitating conditions that are more conducive to business activity and tourism, these uses respond to the negative economic impacts of the pandemic.

Treasury Response: In the final rule, Treasury is maintaining the approach under the interim final rule that general infrastructure projects, including roads, streets, and surface transportation infrastructure, would generally not be eligible, unless the project responded to a specific pandemic public health need or a specific negative economic impact.

The ARPA expressly includes infrastructure if it is ''necessary'' and in water, sewer, or broadband, suggesting that the statute contemplates only those types of infrastructure. Further, responding to the public health and negative economic impacts of the pandemic requires identifying whether, and the extent to which, there has been a harm that resulted from the COVID–19 public health emergency and whether, and the extent to which, the use would respond or address this harm. Uses of funds intended to generally grow the economy and therefore enhance opportunities for workers and businesses would not be an eligible use, because such assistance is not reasonably designed to impact individuals or classes that have been identified as having experienced a negative economic impact. In other words, there is not a reasonable connection between the assistance provided and an impact on the beneficiaries. Such an activity would be attenuated from and thus not reasonably designed to benefit the households that experienced the negative economic impact.

Note, however, that Treasury has clarified that capital expenditures that are related and reasonably proportional to responding to the public health and economic impacts of the pandemic are eligible uses of funds, in addition to programs and services; for details on eligibility criteria for capital expenditures, see section Capital Expenditures in General Provisions: Other.

Public Comment: Community Development Block Grant: Several commenters recommended that Treasury enumerate as eligible uses those eligible under the Department of Housing and Urban Development's Community Development Block Grant (CDBG) or the Housing and Community Development Act of 1974, which established the CDBG program. Commenters requested that these uses be eligible either to respond to the negative economic impacts of the pandemic, or in the alternate the disproportionate negative economic impacts of the pandemic in certain communities. Under the CDBG program, recipient governments may undertake a wide range of community and economic

development services and projects. Commenters reasoned that many state and local governments are familiar with this program, and that aligning to its eligible uses may help recipients easily understand and pursue eligible projects. Commenters also noted that Treasury had chosen to align with existing federal programs in other eligible use categories, namely water infrastructure, in the interim final rule.

Treasury Response: In the final rule, Treasury is not including all categories of projects permissible under CDBG as enumerated eligible uses to respond to the public health and negative economic impacts of the pandemic. Because CDBG permits such a broad range of activities, including services to individual households, communities, small businesses, general economic development activities, and capital expenditures, Treasury determined that it was more appropriate to assess the underlying types of projects eligible within CDBG and whether each type of project responds to the negative economic impacts of the pandemic. In other words, Treasury considered whether various types of community and economic development projects respond to the impacts of the pandemic in different communities and circumstances. In the final rule, Treasury addresses the eligibility of these various types of projects in each relevant eligible use category within public health and negative economic impacts under SLFRF, including assistance for impacted households, disproportionately impacted households, disproportionately impacted small businesses, and capital expenditures.

Public Comment: General Economic Development: Treasury provided guidance following the interim final rule that general economic development or workforce development would generally not be eligible as it does not respond to a negative economic impact of the COVID–19 public health emergency.

Some commenters recommended that Treasury expand enumerated eligible uses to include general economic development activities, beyond those that respond to negative economic impacts of the pandemic, such as creating an economic development strategy for the jurisdiction's overall economic growth, creating a general workforce development strategy, or providing funds to businesses that did not experience negative economic impacts to carry out economic development activities or to incentivize the addition or retention of jobs. Commenters supportive of assistance to businesses for general economic development activities argued that subsidies to businesses increase job growth and that, in some cases, assistance to companies that excelled during the public health emergency would help create more job opportunities for workers or expand the jurisdiction's tax base and produce funds to support government services. In contrast, other commenters argued that academic research consistently finds that economic development subsidies have a negligible, or even negative, economic effect, citing research findings to this effect.[257]

Treasury Response: In the final rule, Treasury maintains the interim final rule's approach that general economic development or workforce development, meaning activities that do not respond to negative economic impacts of the pandemic and rather seek to more generally enhance the jurisdiction's business climate, would generally not be eligible under this eligible use category. As noted above, to identify an eligible use of funds under this category, a recipient must identify a beneficiary or class of beneficiaries that experienced a harm or impact due to the pandemic, and eligible uses of funds must be reasonably designed to respond to the harm, benefit the beneficiaries that experienced it, and be related and reasonably proportional to that harm or impact.

As noted above, recipients should analyze eligible uses based on the beneficiary of the assistance, and recipients may not provide assistance to small businesses or impacted industries that did not experience a negative economic impact. Provision of assistance to a business that did not experience a negative economic impact, under the theory that such assistance would generally grow the economy and therefore enhance opportunities for workers, would not be an eligible use, because such assistance is not reasonably designed to impact individuals or classes that have been identified as having experienced a negative economic impact. In other words, there is not a reasonable connection between the assistance provided and an impact on the beneficiaries. Such an activity would be attenuated from and thus not reasonably designed to benefit the households that experienced the negative economic impact. Research cited by some commenters finding that business subsidies have limited or negative economic impact also suggests that such a response may not be reasonably designed to benefit households and other entities impacted by the pandemic. Similarly, planning activities for an economic development or workforce strategy regarding general future economic growth do not provide a program, service, or capital expenditure that responds to negative economic impacts of the pandemic.

However, Treasury notes that the final rule includes as enumerated eligible uses many types of assistance that respond to negative economic impacts of the pandemic and may produce economic development benefits. For example, see sections Assistance to Unemployed Workers, Assistance to Small Businesses, and Capital Expenditures.

B. Premium Pay

Background and Summary of the Interim Final Rule

Sections 602(c)(1)(B) and 603(c)(1)(B) of the Social Security Act, as added by the ARPA, provide that SLFRF funds may be used ''to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the . . . government that are performing such essential work, or by providing grants to eligible employers

[257] See, *e.g.,* Matthew D. Mitchell et al., The Economics of a Targeted Economic Development Subsidy (Arlington, VA: Mercatus Center at George Mason University, 2019), 5, available at *https://www.mercatus.org/publications/government-spending/economics-targeted-economic-development-subsidy*; Timothy J. Bartik, Who Benefits from Economic Development Incentives? How Incentive Effects on Local Incomes and the Income Distribution Vary with Different Assumptions about Incentive Policy and the Local Economy (Upjohn Institute Technical Report No. 13–034, W.E. Upjohn Institute for Employment Research, March 1, 2018), available at: *https://research.upjohn.org/up_technicalreports/34/*; Cailin Slattery and Owen Zidar, Evaluating State and Local Business Tax Incentives, Journal of Economic Perspectives 34, no. 2 (2020): 90–118, available at: *https://www.aeaweb.org/articles?id=10.1257/jep.34.2.90*; Kenneth Thomas, The State of State and Local Subsidies to Business (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, October 2019), available at: *https://www.mercatus.org/system/files/thomas_-_policy_brief_-_the_state_of_state_and_local_subsidies_to_business_-_v1.pdf*; Dennis Coates, Growth Effects of Sports Franchises, Stadiums, and Arenas: 15 Years Later (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, September 2015), available at: *https://www.mercatus.org/system/files/Coates-Sports-Franchises.pdf*; Dennis Coates and Brad R. Humphreys, Do Economists Reach a Conclusion on Subsidies for Sports Franchises, Stadiums, and Mega-Events?, Econ Journal Watch 5, no. 3 (2008): 294–315, available at: *https://econjwatch.org/articles/do-economists-reach-a-conclusion-on-subsidies-for-sports-franchises-stadiums-and-mega-events*; Matthew D. Mitchell, Daniel Sutter, and Scott Eastman, The Political Economy of Targeted Economic Development Incentives, Review of Regional Studies 48, no. 1 (2018): 1–9, available at: *https://www.mercatus.org/publications/corporate-welfare/political-economy-targeted-economic-development-incentives.*

that have eligible workers who perform essential work.''

Premium pay is designed to compensate workers that, by virtue of their employment, were forced to take on additional burdens and make great personal sacrifices as a result of the COVID–19 pandemic. Premium pay can be thought of as hazard pay by another name.[258]

During the public health emergency, employers' policies on COVID–19-related premium pay or hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.[259] Many of these workers earn lower wages on average and live in socioeconomically underserved communities as compared to the general population.[260] A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.[261] The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks. As Americans return to work and governments relax certain rules, essential workers will continue to bear the brunt of the risk of maintaining the ongoing operation of vital facilities and services. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities. Premium pay is designed to address the disparity between the critical services provided by and the risks taken by essential workers and the relatively low compensation they tend to receive.

The interim final rule established a three-part framework for recipients seeking to use SLFRF funds for premium pay. First, to receive premium pay one must be an eligible worker. Second, an eligible worker must also perform essential work. Finally, premium pay must respond to workers performing essential work during the COVID–19 public health emergency. Most of the comments received by Treasury pertaining to premium pay related to these three requirements. Comments also addressed the definition of premium pay generally and posed questions regarding premium pay program structuring. This section responds to the comments by addressing the three requirements in turn, then the overall definition of premium pay and, finally, program structure.

Eligible Workers

The ARPA defines ''eligible workers'' as ''those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each . . . [government] may designate as critical to protect the health and wellbeing of [its] residents.'' The interim final rule supplemented this definition by identifying a list of ''essential critical infrastructure sectors'' whose workers are eligible workers, based on the list of sectors in the HEROES Act, a bill introduced in the House of Representatives in 2020 that would have provided premium pay to essential workers.[262] In addition to the critical infrastructure sectors defined in the interim final rule, the chief executive (or equivalent) of a recipient government may designate additional non-public [263] sectors as critical so long as doing so is necessary to protecting the health and wellbeing of the residents of such jurisdiction.

Public Comment: Treasury received multiple comments on the definition of ''eligible worker'' included in the interim final rule. Many commenters agreed with the definition of eligible worker adopted by Treasury. Other commenters sought clarification about or changes to the definition of eligible worker, including the definition of eligible sectors, the inclusion of government workers in the definition of eligible workers, and the process for designating additional non-public sectors as eligible.

Some commenters asked Treasury to change how it identifies eligible sectors, including suggestions to add to or subtract from the list of eligible sectors. For example, some commenters asked Treasury to consider using Bureau of Labor Statistics (BLS)-Standard Occupational Classifications to identify specific sectors or occupations, in contrast to the approach taken in the interim final rule, which included a mixture of economic sectors, industries, and occupations. Many commenters asked Treasury to explicitly clarify that a particular industry or occupation is covered by the definition of ''essential critical infrastructure sector.'' Some of these commenters represented public employees, *e.g.,* employees of facilities and public works; public utilities; courthouse employees; police, fire, and emergency medical services; and waste and wastewater services. Others were a mixture of public and private sector employees, *e.g.,* coroners and medical examiners; transportation infrastructure (specifically electric vehicle infrastructure and supply equipment); electric utilities, natural gas, and steam supply; and grocery employees. Other commenters requested that Treasury prohibit certain occupations currently included in the eligible workers definition (*e.g.,* police and corrections officers) from receiving premium pay for performance of regular duties.

Commenters also asked Treasury to clarify which government workers are included in the definition of eligible workers. The interim final rule included as an essential critical infrastructure sector, ''any work performed by an employee of a State, local, or Tribal government.'' Some commenters requested that Treasury adopt a definition of eligible worker that includes all employees of the recipient government; however, all public employees of state, local, and Tribal governments are already included in the interim final rule definition of ''eligible worker.'' Commenters asked whether this includes governments that did not receive SLFRF funds (*i.e.,* ''non recipient governments''). Many commenters from Tribal governments requested that the definition of eligible worker, which includes ''any work performed by an employee of a . . . Tribal government,'' also include an employee of a ''Tribal enterprise'' to remove uncertainty regarding which employees are included.

Finally, commenters made suggestions for the process by which the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical. Commenters asked that Treasury adopt a requirement that Treasury must approve or deny any additional non-public sector identified by the chief executive of a recipient government prior to implementation of the recipient's program.

Some commenters asked Treasury to clarify whether their chief executive (or equivalent) could designate particular, and in some cases *all,* employees of the recipient government as eligible for premium pay.

Treasury Response: In the final rule, Treasury will preserve the definition of ''eligible worker'' as it was defined in the interim final rule with minor modifications to clarify that all public

[258] *See* U.S. Department of Labor, *Hazard Pay, https://www.dol.gov/general/topic/wages/hazardpay* (last visited October 18, 2021).

[259] Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), *https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/.*

[260] McCormack, *supra* note 65.

[261] *Id.*

[262] *See* H.R. 6800, 116th Cong. (2020).

[263] Note that the sectors defined in the interim final rule already include all state, local, and Tribal government employees.

employees of recipient governments are already included in the interim final rule definition of ''eligible worker.'' A more specific eligibility system (*e.g.,* linking eligibility to specific occupational or industry codes) would have provided more certainty but would have been much more rigid. In contrast, the current definition is flexible enough to give recipients the ability to tailor their premium pay programs to meet their needs while ensuring that programs focus on sectors where workers were forced to shoulder substantial risk as a result of the COVID–19 pandemic. Furthermore, the critical infrastructure sectors defined in the interim final rule already include many of the occupations that commenters requested be added. For example, Treasury received many comments from public workers asking to be included in the definition of ''eligible worker'' even though these workers already fall within the scope of ''any work performed by an employee of a State, local, or Tribal government.'' Treasury has clarified in the final rule that the chief executive's discretion to designate additional sectors as critical relates only to ''non-public'' sectors, since all public employees of recipient governments are already included in the definition of ''eligible worker.'' While all such public employees are ''eligible workers'' and the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical, in order to receive premium pay, these workers must still meet the other premium pay requirements (*e.g.,* performing essential work).

Treasury recognizes that the list of ''essential critical infrastructure sectors'' includes both occupations and sectors. Recipients, if uncertain which occupations are included in a critical infrastructure sector, may consult government occupational classifications if helpful but are not required to do so.[264] Furthermore, a recipient government does not need to submit to Treasury for approval its designation of a sector as essential critical infrastructure; rather, Treasury will defer to the reasonable interpretation of the recipient government and the discretion of the recipient's chief executive in making such designations. If a recipient is unsure if a non-public sector is covered by the definition in the final rule,[265] the chief executive (or equivalent) of a recipient government may also identify the non-public sector as critical so long as the chief executive deems the non-public sector necessary to protecting the health and wellbeing of residents. Treasury has, where possible, clarified the definition of ''essential critical infrastructure sectors.'' For instance, Treasury has clarified in the final rule that work performed by an employee of a Tribal government includes an employee of a Tribal enterprise and discussed in this Supplementary Information how a recipient may qualify other non-public sectors as essential critical infrastructure.

Essential Work

The interim final rule defined ''essential work'' as work that (1) is not performed while teleworking from a residence and (2) involves either (i) regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work or (ii) regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work. Treasury adopted this definition of essential work to ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work during a pandemic.

Public Comment: Some commenters found the definition unclear and asked Treasury to clarify what constitutes ''essential work.'' Others disagreed with the essential work test altogether, arguing that it forces recipients to distinguish between essential and non-essential employees, which may be difficult to do. Accordingly, these commenters asked Treasury to allow recipients to determine which workers qualify as essential. Treasury also received several requests that specific occupations be explicitly deemed essential, including all public employees, veterinarians, election administrators, detention staff and sheriff's deputies, and employees of utilities, such as electric power, natural gas, steam supply, water supply, and sewage removal.

Several commenters requested that Treasury not distinguish between remote and in-person work or amend the standard so that employees providing essential services would still be eligible even if they worked remotely. Finally, a few commenters requested clarification as to the definition of ''regular'' in-person interactions and whether Treasury could clarify which job functions merit more (or less) premium pay.

Treasury Response: Treasury is maintaining the definition of ''essential work'' in the final rule without modification. The test adopted in the interim final rule was designed to compensate workers facing disproportionate risk due to the pandemic. COVID–19 is transmitted through person-to-person interactions, and therefore, workers with regular in-person interactions are the primary group facing increased health risks. Although COVID–19 is not transmitted primarily by people handling items, such work may present increased risk in certain cases, and the final rule maintains the interim final rule's inclusion of such work in order to give recipient governments the flexibility to include workers performing such work as they determine appropriate. Changing the test as some commenters suggested, *e.g.,* by eliminating the in-person work requirement or allowing recipients to designate which employees are essential, even if not working in person, would no longer focus the program on workers taking on additional health risks and instead allow premium pay to be awarded to individuals who experienced relatively little risk of exposure to COVID–19. To maintain flexibility, Treasury is not defining the term ''regular'' with regard to in-person interactions, allowing recipients to develop programs based on the specific workforce to be served and local circumstances. Generally speaking, however, recipients are encouraged to consider an eligible worker's risk of exposure in designing premium pay programs.

Respond To

As required by the ARPA, the interim final rule required that premium pay programs ''respond to'' eligible workers performing essential work during the COVID–19 public health emergency. Premium pay responds to eligible workers performing essential work if it prioritizes low- and moderate-income persons, given the significant share of essential workers that are low- and moderate-income and may be least able to bear added costs associated with illness. The level of the award limit—up to $13 per hour not to exceed $25,000 in aggregate—in the ARPA supports this reasoning.

Accordingly, the interim final rule required written justification for how premium pay to certain higher-income workers responds to eligible workers performing essential work: If a recipient

[264] *See, e.g.,* sources such as Bureau of Labor Statistics, Occupational Outlook Handbook, which provide information on which professions or occupations are typically included in interpretations of a sector, *https://www.bls.gov/ooh/*.

[265] Public sector workers are ''eligible workers'' under the interim final rule and final rule.

(or grantee) uses SLFRF funds to provide premium pay to an employee and the pay or grant would increase a worker's total pay above 150 percent of their residing state or county's average annual wage for all occupations, as defined by the BLS Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, then the recipient must provide, whether for themselves or on behalf of a grantee, written justification to Treasury detailing how the award responds to eligible workers performing essential work.

Public Comment: Treasury received numerous comments on the wage threshold and the written justification requirement. Several commenters supported the threshold as a way to encourage recipients to target premium pay to lower-income, eligible workers. Some commenters even asked Treasury to make the wage threshold a firm restriction, above which an eligible worker could not receive premium pay. Others agreed with the threshold but also requested flexibility to use existing worker classifications as an administratively simple way to identify workers for whom premium pay would be responsive. For instance, a few commenters asked Treasury to allow recipients or grantees to presume that premium pay ''responds to'' eligible workers performing essential work when it is provided to employees who are not exempt from the Fair Labor Standards Act (FLSA) overtime provisions—a test that employers are routinely required to apply.[266]

In contrast, several commenters disagreed with the threshold and the requirement for written justification. A few commenters thought the threshold was too low to capture employees in certain critical infrastructure sectors (*e.g.,* public safety, waste collection) and that it did not sufficiently account for the variance in economic need across different geographic areas and family structures. Some smaller communities argued that the threshold was difficult to calculate and apply.

Other commenters proposed revisions for how the threshold is calculated. For instance, a few commenters asked Treasury to consider using alternative earnings measures such as median income. Similarly, another commenter asked Treasury to consider the incomes of workers with different levels of seniority in developing any income thresholds for permitting or reporting on premium pay.

Finally, there was also some uncertainty as to the threshold and the requirement for written justification. Some commenters interpreted the threshold as a hard cap on who was eligible for premium pay, which is not the case. Relatedly, some commenters also requested further guidance on what recipients should include in the written justification submitted to the Secretary.

Treasury Response: The final rule makes some modifications to the determination of when premium pay ''responds to'' eligible workers performing essential work during the public health emergency. Under the interim final rule, premium pay was responsive if either the workers' pay was below a wage threshold or, if the pay was above a wage threshold, the recipient submitted written justification to Treasury explaining how the premium pay was responsive. The final rule retains these two means of establishing premium pay in response to workers performing essential work and adds an additional means of demonstrating that premium pay is responsive. Under the final rule, a recipient may also show that premium pay is responsive by demonstrating that the eligible worker receiving premium pay is not exempt from the FLSA overtime provisions.[267] This change will expand the number of workers eligible to receive premium pay [268] and does not require recipients to provide written justification to Treasury regarding the workers who are not exempt from the FLSA overtime provisions, making the program easier to administer for recipients. Incorporating this change further simplifies application of the final rule for recipients because Treasury understands that most employers, public and private, are familiar with and are routinely required to apply the FLSA.

With this addition, the final rule provides that premium pay is responsive to eligible workers performing essential work during the public health emergency if each eligible worker who receives premium pay falls into one of three categories: (1) The worker's pay is below the wage threshold, (2) the worker is not exempt from the FLSA overtime provisions, or (3) the recipient has submitted a written justification to Treasury.

The final rule makes it clear that written justification to Treasury is not necessary with respect to eligible workers whose pay is less than the wage threshold. Nor is written justification necessary with respect to eligible workers who are not exempt from the FLSA overtime provisions. The written justification is only necessary if the worker's pay (with or without the premium) exceeds the threshold, *and* the worker is exempt from the FLSA overtime provisions. The final rule also clarifies that a worker's pay exceeds the threshold if either the premium pay increases the worker's total pay above the wage threshold or the worker's total pay was already above the threshold, before receiving premium pay.

Treasury has also updated the final rule to clarify that written justification means a brief, written narrative justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID–19, and why the recipient determined that the premium pay was responsive despite the workers' higher income.

Recipients should refer to SLFRF program reporting guidance, user guides, and other documentation for further guidance on the form and content of the written justification. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.

Definition of Premium Pay

The statute defines premium pay as ''an amount of up to $13 per hour . . . , in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID–19 public health emergency. Such amount may not exceed $25,000 with respect to any single eligible worker.'' The interim

[266] *See generally* 29 U.S.C. 207(a); U.S. Department of Labor, Overtime Pay Requirements of the FLSA (Fact Sheet No. 23), *https://www.dol.gov/agencies/whd/fact-sheets/23-flsa-overtime-pay.*

[267] Department of Labor, Overtime Pay, *https://www.dol.gov/agencies/whd/overtime; see also* 29 U.S.C. 207.

[268] Among workers that report working overtime, roughly 41–44 percent of workers earn above $50,000 per year, which is slightly less than the national average annual wage for all employees according to the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, available at *https://www.bls.gov/oes/.* See also U.S. Census Bureau, Basic Monthly CPS, January 2019 through December 2019, available at *https://www.census.gov/data/datasets/time-series/demo/cps/cps-basic.html.* Notes: Annual earnings reflect weekly wages multiplied by 52. Usual weekly earnings are computed by BLS to include earnings from work such as tips, overtime, regular wages, etc., but not non-labor sources of income such as government transfers and capital gains. Pre-overtime earnings are computed by taking the difference of usual weekly earnings and earnings from overtime last week and multiplying by 52. Note, some sources multiply weekly earnings by 50 instead of 52 to account for unpaid time off and holidays, so these figures may be slightly larger than those reported elsewhere. Either assumption may overestimate earnings if workers do not work year-round.

final rule incorporated this definition and emphasized that premium pay should be in addition to compensation typically received.

Public Comment: Several submitted comments related to the definition of ''premium pay.'' Several commenters asked Treasury to clarify certain aspects of the interim final rule and statutory definition of premium pay. For instance, a few commenters asked whether the $25,000 limit applies to the annual amount of premium pay received or the aggregate amount of premium pay received over the period of performance. A few commenters requested flexibility as to how premium pay may be awarded, including flexibility to make monthly or quarterly payments or lump sum payments. Finally, commenters requested additional clarification as to how premium pay should be calculated. For instance, a commenter asked how to calculate the amount of and account for overtime pay and other incentive pay.[269]

Treasury Response: Treasury has clarified some of these issues in the final rule. For example, Treasury has clarified in the final rule that the $25,000 per employee limit is for the entire period of performance, not an annual cap. Further, recipients have discretion with respect to the way in which premium pay is awarded to eligible workers (*e.g.,* monthly, quarterly, lump sum), provided that the total premium pay awarded to any eligible worker does not exceed $13 per hour or $25,000 over the period of performance. Finally, a recipient may award premium pay to an eligible worker in addition to the overtime pay already earned by the eligible worker but in no instance may the portion of the compensation funded with SLFRF funds exceed $13 per hour, even if strict time-and-a-half calculation requires more.[270] To the extent that an employer is required under the FLSA to make payments to an eligible worker in excess of $13 per hour or $25,000 in the aggregate over the period of performance, the employer must use a source of funding other than the SLFRF funds to satisfy those obligations.

Program Structure

Public Comment: Several commenters also requested elaboration on eligible types of employees and permissible structures for awarding premium pay. A few commenters asked if premium pay could be awarded to volunteers or those in irregular and non-hourly or salaried employment positions. Similarly, various commenters asked if part-time workers were eligible for premium pay.

Some commenters asked Treasury to provide more detail on when premium pay may be paid retroactively or if a government could reimburse its general fund for hazard pay already paid before the start of the period of performance.

Treasury Response: Treasury has also made clear in the final rule that a recipient may award premium pay to non-hourly or salaried workers as well as part-time workers. Premium pay may not, however, be awarded to volunteers. If a recipient is interested in compensating volunteers with SLFRF funds, then it must do so consistent with the requirements set forth in other eligible use categories; for example, see section Public Sector Capacity and Workforce in Public Health and Negative Economic Impacts.

Under the final rule, recipients may award premium pay retroactively; however, SLFRF funds may not be used to reimburse a recipient or eligible employer grantee for premium pay or hazard pay already received by the employee. To make retroactive premium payments funded with SLFRF funds, a recipient or eligible employer grantee must make a new cash outlay for the premium payments and the payments must be in addition to any wages or remuneration the eligible worker already received, subject to the other requirements and limitations set forth in the ARPA and this final rule.

Finally, as part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c) that is applicable to all activities funded with the SLFRF award. This award term requires recipients and subrecipients to report to Treasury or the pass-through agency, as appropriate, any potential conflict of interest related to the award funds per 2 CFR 200.112. Pursuant to this policy, decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Consistent with this policy, elected officials are prohibited from using their official position and control over SLFRF funds for their own private gain. This policy also prohibits, among other things, elected officials from steering funds to projects in which they have a financial interest or using funds to pay themselves premium pay.

C. Revenue Loss

Background

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act provide that SLFRF funds may be used ''for the provision of government services to the extent of the reduction in revenue of such . . . government due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the . . . government prior to the emergency.'' This provision allows recipients experiencing budget shortfalls to use payments from the SLFRF funds to avoid cuts to government services and, thus, enables state, local, and Tribal governments to continue to provide valuable services and ensures that fiscal austerity measures do not hamper the broader economic recovery.

State and local government budgets experienced stress in fiscal year 2020 as delayed tax filings and pandemic-related business closures caused revenues to decline sharply.[271] Twenty-two state governments took actions to close budget gaps in fiscal year 2020[272] and nearly 80 percent of cities reported being less able to meet the fiscal needs of their communities relative to fiscal year 2019.[273] Surveys of Tribal governments and Tribal enterprises conducted in 2020 found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in health care, housing, social services, and economic development activities as a result of reduced revenues.[274]

The economic recovery, aided by the broad distribution of COVID–19 vaccines and the deployment of federal stimulus, has led to a strong rebound in total state and local government revenue and is contributing to a brighter fiscal

[269] *See* 29 U.S.C. 207(a) (''[A]t a rate not less than one and one-half times the regular rate at which he is employed.'').

[270] All recipients are required to comply with otherwise applicable laws, including any wage and hour requirements in the Fair Labor Standards Act. *See generally,* Department of Labor, *Wages and the Fair Labor Standards Act, https://www.dol.gov/agencies/whd/flsa.*

[271] In the second quarter of 2020, quarterly state and local tax revenues as reported by the U.S. Census Bureau fell 19 percent compared to the second quarter of 2019; U.S. Census Bureau, Quarterly Summary of State and Local Tax Revenue, *https://www.census.gov/programs-surveys/qtax.html.*

[272] National Association of State Budget Officers, Fiscal Survey of the States (Fall 2020), *available at https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Fiscal%20Survey/NASBO_Fall_2020_Fiscal_Survey_of_States_S.pdf.*

[273] National League of Cities, City Fiscal Conditions (2020), available at *https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf.*

[274] Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID–19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2020), *https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances.*

outlook for most jurisdictions as compared to the earlier months of the public health emergency. For the fiscal year ending June 30, 2021, total state and local government tax revenues increased 21 percent relative to the same period in 2020, reflecting the combined impact of the modified tax filing deadline in 2020 and an improving economy.[275] However, despite a stable budget situation overall, many governments face uncertainty as the COVID–19 pandemic continues to impact commuting patterns, hospitality and tourism, and other drivers of jurisdictions' economies. Thirty-five percent of cities still report being less able to meet financial needs than in fiscal year 2020,[276] and over half of surveyed Tribal governments and Tribal enterprises reported losing at least 40 percent of their revenue since the start of the pandemic.[277] Budget challenges persist as governments work to mitigate and contain COVID–19 and help citizens weather the economic downturn.

State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007–2009 recession, state and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.[278] Inflation-adjusted state and local government revenue did not return to the previous peak until 2013,[279] while employment in the sector returned to the previous peak in August 2019, nearly a decade later.[280] Just months after recouping losses from the previous downturn, the COVID–19 pandemic caused state and local government employment to contract again, but this time more sharply: By May 2020, state and local government payrolls fell 7.7 percent compared to February 2020. Despite improvement, non-federal public sector job growth continues to lag behind the rest of the U.S. labor market recovery.[281]

Summary of Interim Final Rule

As stated above, the Social Security Act provides that SLFRF funds may be used ''for the provision of government services to the extent of the reduction in revenue of such . . . government due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the . . . government prior to the emergency.'' The interim final rule provided a formula for calculating revenue loss through a four-step process:

- *Step 1:* Identify revenues collected in the most recent full fiscal year prior to the public health emergency (*i.e.,* last full fiscal year before January 27, 2020), called the *base year revenue*.
- *Step 2:* Estimate *counterfactual revenue,* which is the amount of revenue the recipient would have expected in the absence of the downturn caused by the pandemic. The counterfactual revenue is equal to *base year revenue* * [(1 + *growth adjustment*) ^ (*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of the average annual growth rate across all State and Local Government ''General Revenue from Own Sources'' in the most recent three years prior to the emergency, 5.2 percent, or the recipient's average annual revenue growth in the three full fiscal years prior to the COVID–19 public health emergency.[282] This approach to the growth rate provides recipients with the option to use a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID–19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.
- *Step 3:* Identify *actual revenue,*[283] which equals revenues collected over the twelve months immediately preceding the calculation date.
- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue*. If *actual revenue* exceeds *counterfactual revenue,* the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100 (Step 1) that ends on June 30, 2019. In Step 2, the hypothetical recipient finds that the average annual growth across all state and local government ''General Revenue from Own Sources'' in the most recent three years of available data, 5.2 percent, is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
n (months elapsed)	18	30	42	54
Counterfactual revenue:	107.9	113.5	119.4	125.6

[275] Analysis of Quarterly Summary of State and Local Tax Revenue, U.S. Census Bureau, supra note 271.

[276] National League of Cities, City Fiscal Conditions (2021), *available at https://www.nlc.org/wp-content/uploads/2021/10/2021-City-Fiscal-Conditions-Report-2021.pdf*.

[277] Center for Indian Country Development and Federal Reserve Bank of Minneapolis, One Year Into COVID–19, Pandemic's Negative Effects Persist in Indian Country (May 2021), *available at https://www.minneapolisfed.org/article/2021/one-year-into-covid-19-pandemics-negative-effects-persist-in-indian-country*.

[278] *See, e.g.,* Nora Fitzpatrick et al., Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html*; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at *https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf*; Gordon, supra note 16.

[279] State and local government general revenue from own sources, adjusted for inflation using the Bureau of Economic Analysis' implicit price deflator for GDP. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts, *https://www.census.gov/programs-surveys/gov-finances.html*.

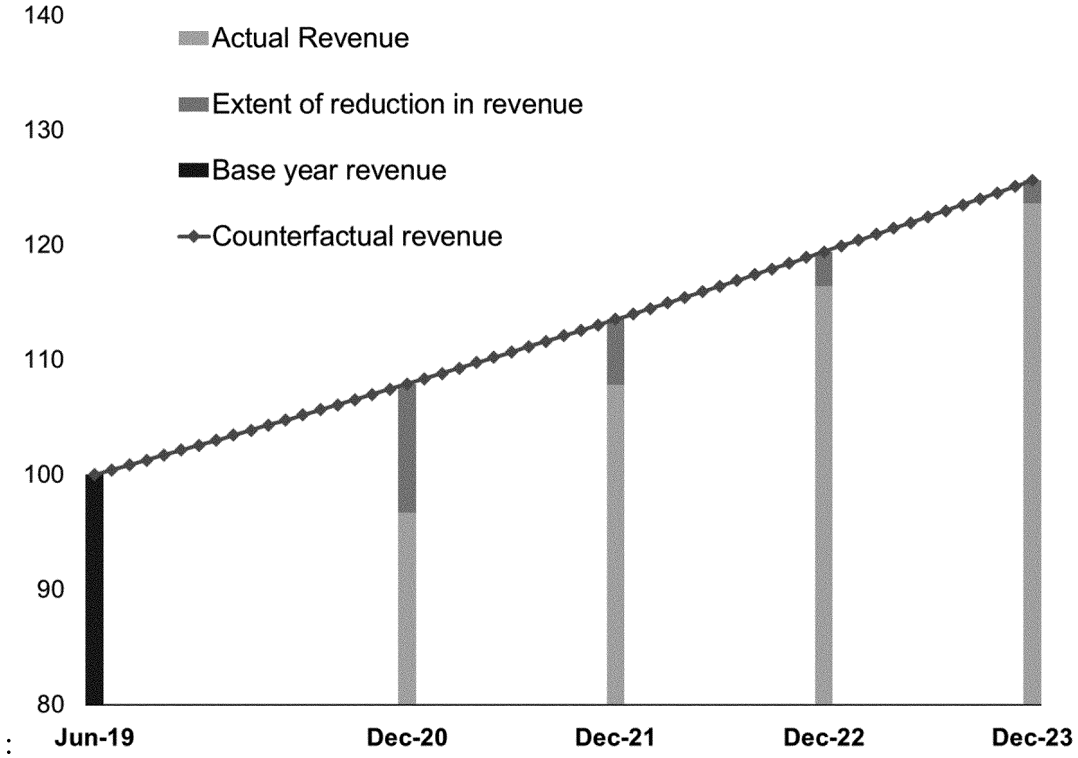
[280] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001*.

[281] Pew Research, State and Local Government Job Growth Lags as Economy Recovers (September 2021), *available at https://www.pewtrusts.org/en/research-and-analysis/articles/2021/09/14/state-and-local-government-job-growth-lags-as-economy-recovers*.

[282] At the time the interim final rule was published, the average annual growth across all state and local government ''General Revenue from Own Sources'' in the most recent three years of available data (2015–2018) was 4.1%, which was presented as one option for the growth adjustment. Since the interim final rule was published, 2019 data has been made available, which increases this rate to 5.2%. The final rule updates the percentage to 5.2%, as shown in Step 2.

[283] As explained below, in the final rule, recipients must adjust actual revenue amounts based on certain tax policy changes.

The figure below illustrates the reduction in revenue for the hypothetical recipient calculated in accordance with the methodology.



Finally, as explained in greater detail below, the clear meaning of the statutory phrase ''due to the COVID–19 public health emergency'' is that it is referring to revenue reductions caused by the public health emergency. As such, it does not include revenue reduced for reasons other than the public health emergency. Treasury in the interim final rule presumed that any reduction in revenue relative to the counterfactual estimate would be considered revenue lost due to the pandemic and thereby relieved recipients of the administrative burden of determining the extent to which reduction in revenue was due to the public health emergency. The calculation methodology in the interim final rule implicitly assumed that recipients did not suffer a loss in revenue due to the public health emergency if they did not experience a reduction in aggregate revenue compared to the counterfactual estimate. The interim final rule invited comments on whether Treasury should revise its presumption to ''take into account other factors, including actions taken by the recipient as well as the expiration of the COVID–19 public health emergency, in determining whether to presume that revenue losses are 'due to' the COVID–19 public health emergency.''

Treasury received a substantial number of comments on the revenue loss provisions set forth in the interim final rule. These comments largely pertained to the following topics: The overall methodology for calculating revenue loss; the definition of ''revenue''; whether revenue should be aggregated or calculated on some alternative basis (*e.g.,* source-by-source or fund-by-fund); the appropriate calculation dates (*i.e.,* fiscal year or calendar year); the presumption that all revenue loss is due to the pandemic; the base year; and the definition of ''government services.''

Overall Methodology for Calculating Revenue Loss

As noted above, the interim final rule provided a formula for recipients to calculate revenue loss by comparing actual revenues received during a given time-period with a counterfactual amount of revenue based on revenues in the base year and an adjustment for expected growth in revenue each year.

Public Comment: Treasury received many public comments on the overall methodology for calculating revenue loss. Some recipients, including smaller governments, have expressed concern regarding the burden associated with the calculation of revenue loss, particularly the burden involved in calculating the amount of general revenue, given that the definition of general revenue in the interim final rule does not always align with the definition of revenue already calculated by recipients for other purposes, and requested clarifications regarding a number of components, including the definition of revenue. Commenters also asked for clarification on the relationship between revenue loss calculations across different calculation dates. Other commenters argued that the revenue loss formula does not precisely capture the nuances of local revenues or their particular situation. For example, some commenters stated that requiring that revenues be aggregated fails to capture decreases in revenue sources that cannot easily be made up for with other revenue sources.

Treasury Response: In the final rule, Treasury is largely maintaining the revenue loss formula as set forth in the interim final rule. To address comments that the formula for calculating revenue loss was difficult to apply, Treasury is including an option for recipients to use a standard allowance for revenue loss. Specifically, in the final rule, recipients will be permitted to elect a fixed amount of loss that can then be used to fund government services. This fixed

amount, referred to as the ''standard allowance,'' is set at up to $10 million total for the entire period of performance not to exceed the recipient's SLFRF award amount. Although Treasury anticipates that this standard allowance will be most helpful to smaller local governments and Tribal governments, any recipient can use this standard allowance instead of calculating revenue loss pursuant to the formula above, so long as recipients employ a consistent methodology across the period of performance (*i.e.,* choose either the standard allowance or the regular formula). Treasury intends to amend its reporting forms to provide a mechanism for recipients to make a one-time, irrevocable election to utilize either the revenue loss formula or the standard allowance.

The $10 million level is based on average revenue loss across state and local governments, taking into consideration potential variation in revenue types and losses and continued uncertainty faced by many recipients regarding revenue shortfalls. To calculate this estimate, Treasury applied a variation of the final rule's revenue loss calculation on available aggregate state and local government tax revenue data as reported by the Census Bureau for the first calculation date of December 31, 2020. This estimate accounts for expected variation across recipient experiences and reflects the fact that the final rule revenue loss calculation provides recipients several options for specific aspects (*e.g.,* calendar year or fiscal year basis; use of average state and local revenue growth rate or specific local rate). Treasury compared actual calendar year 2020 tax revenues, in aggregate for all state and local governments, to several counterfactual trends that vary based on the end date of the fiscal base year.[284] Treasury also assessed counterfactual trends using different revenue growth rates (*e.g.,* the three-year average growth rates of total state and local government general revenue for both fiscal years ending in 2016–2018 and fiscal years ending in 2017–2019; the three-year average growth rates of total state and local government tax revenues for fiscal years ending in 2017–2019; and the one-year growth rate for total state and local government tax revenue in the last full fiscal year before the public health emergency). To account for the fact that the initial estimate, based on tax revenue, only includes a subset of recipient aggregate general revenue, Treasury applied a scaling factor to recognize that tax revenues generally make up just over half of general revenue collected by state and local governments (*i.e.,* Treasury scaled up its estimate based on tax revenue to produce an estimate for total general revenue).[285] The resulting calculation was then extrapolated over the four-year period of performance and divided by a population of interest to arrive at an average loss estimate.

As noted above, Treasury estimated a range of scenarios to account for different values of the variables that would impact average losses. For example, the end date of the fiscal base year and growth rate of counterfactual revenue impact the overall estimate of revenue loss. In addition, this estimate takes into consideration the limitations in the available data. The governments covered by the Census Bureau's survey do not entirely align with SLFRF recipients. The Census Bureau's figures are based on 50 state governments, all local government property tax collectors and local government non-property tax imposers, representing at a minimum the more than 38,000 ''General Purpose Governments'' defined by Census. However, there are only roughly 32,000 recipients of SLFRF funds. Thus, Treasury considered the difference between the number and type of entities in the Census Bureau data and the SLFRF recipients.

Based on this methodology, Treasury estimates that average revenue loss (determined by comparing the counterfactual revenue to actual revenue) may range from $0 to $11.7 million per recipient over the period of performance.[286] Treasury settled on a point estimate toward the upper end of the range of potential averages, in part, to account for significant variation in the experiences of recipient governments: Some recipients likely experienced losses at the upper end of this range of potential averages. A point estimate toward the upper end of the range errs toward ensuring more recipients' experiences are covered and increases the utility of the standard allowance for SLFRF recipients. Specifically, the program includes a very large number of recipients with relatively smaller awards; these recipients have tended to describe having greater difficulty completing the regular revenue loss calculation. Thus, selecting a point estimate toward the higher end of the expected range not only increases the likelihood that the standard allowance will reflect the experience of a larger number of SLFRF recipients but is more responsive to the comments of those with smaller awards. In addition, using a point estimate toward the upper end of the range accounts for the difficulty and uncertainty in predicting revenue losses years into the future, throughout the period of performance.[287]

Finally, Treasury selected a single allowance level, as opposed to varying levels, to further the goals of simplicity, flexibility, and administrability. Furthermore, data limitations make it difficult to distinguish between types of local governments.[288]

General Revenue

The interim final rule adopted a definition of ''general revenue'' based largely on the components reported under ''General Revenue from Own Sources'' in the Census Bureau's Annual Survey of State and Local Government Finances. Under the interim final rule, general revenue included revenue collected by a recipient and generated from its underlying economy, and it would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.[289] Specifically, revenue under the interim final rule included money that is received from tax revenue, current charges, and miscellaneous general revenues and excluded refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, revenue from utilities, social insurance trust revenues, and intergovernmental

[284] Because the Census Bureau's state and local government tax revenue data is reported on a quarterly frequency, fiscal base year end dates of March 31, June 30, September 30, and December 31 were used in this assessment.

[285] Annual Survey of State and Local Government Finances (2019).

[286] This is the range of averages that Treasury calculated by varying the aforementioned assumptions.

[287] See, *e.g.,* Government Accountability Office, State and Local Governments: Fiscal Conditions During the COVID–19 Pandemic in Selected States (July 2021) (noting that ''[s]tate and local government revenues partly depend on the overall economy, and actions to stem the spread of the virus drastically reduced economic activity.''); Board of Governors of the Federal Reserve System, Monetary Policy Report (July 9, 2021) (noting that the pandemic ''pushed down state and local government tax collections'' and that while some of the drag is ''abating'' state and local ''government payrolls . . . have only edged up from their lows at the onset of the pandemic'').

[288] Local government tax revenue data in the Census Bureau's Quarterly Summary of State and Local Tax Revenue, *supra* note 271, is provided on an aggregated basis.

[289] The Department also released guidance clarifying how a recipient may determine whether a particular entity is ''part of the recipient's government.'' *See FAQ 3.14.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

transfers from the federal government, including transfers made pursuant to section 9901 of the ARPA.[290] In the case of Tribal governments, it also included revenue from Tribal business enterprises.

Public Comment: Many commenters asked Treasury to include certain items in the definition of ''general revenue.'' For instance, several commenters that operate their own utilities asked that revenue from utilities be included, arguing that declines in utility revenue directly affect contributions to their general funds. Many of these commenters noted that moratoriums on utility shutoffs and a decline in collections have resulted in significant budgetary pressures.

Some commenters also asked for the exclusion of certain intergovernmental transfers in the definition of general revenue, including transfers of shared revenue from the state.[291] Other commenters asked for the inclusion of certain transfers from the federal government, including fees paid for services and grants that are, in effect, paid for the provision of services.

Treasury also received multiple requests to include revenue from Tribal enterprises in the definition of ''general revenue'' and that ''Tribal enterprise'' be defined broadly. Others asked for the ability to choose whether to include revenue from Tribal enterprises.

Finally, some commenters requested that the definition of general revenue exclude certain sources of revenue, such as revenue sources that do not support a general fund (*i.e.,* revenue sources that are restricted in use). Commenters also asked that general revenue exclude revenue from special assessments, settlements that make the recipient whole for past expenditures, and one-time revenues such as revenue from the sale of property.

Treasury Response: In the final rule, Treasury has maintained the definition of ''general revenue'' from the interim final rule with two exceptions.

Treasury has adjusted the definition to allow recipients that operate utilities that are part of their own government to choose whether to include revenue from these utilities in their revenue loss calculation. This change responds to comments from recipients indicating that revenue from utilities is used to fund other government services and that utility revenues have declined on aggregate.[292] This approach is consistent with other eligible uses, which recognize decreased ability of many households to make utility payments; see section Assistance to Households, which identifies utility assistance as an enumerated eligible use of funds, including through direct or bulk payments to utilities for consumer assistance. Furthermore, for utilities or other entities (*e.g.,* certain service districts) that are not part of the recipient government, a transfer from the utility to the recipient constitutes an intergovernmental transfer and therefore is included in the definition of ''general revenue.'' [293]

Treasury has also added liquor store revenue to the definition of general revenue. The Supplemental Information to the interim final rule stated that the definition of tax revenue would include liquor store revenue, but the text of the rule did not include it. Accordingly, in the final rule, Treasury is clarifying that revenue includes liquor store revenue. However, Treasury believes revenue from government-owned liquor stores is better classified as general revenue than it is as tax revenue, so the final rule includes it as part of general revenue.

In response to requests that the definition of general revenue exclude revenue from special assessments, settlements that make the recipient whole for past expenditures, and one-time revenues such as revenue from the sale of property, Treasury is maintaining its position in the final rule that such revenue is included in general revenue. While such revenues may be less predictable than other sources of revenue (*e.g.,* property taxes), these are not uncommon sources of revenue for recipients, and their inclusion provides a more complete view of the financial health of a recipient government and is consistent with the Census Bureau methodology. Treasury is also maintaining the exclusion of all payments from the federal government (including payments for services) from general revenue in order to avoid substantial dilution of the definition of revenue, particularly in light of extraordinary fiscal support provided during the pandemic. Treasury is maintaining the inclusion of intergovernmental transfers other than from the federal government for the reasons provided in the Supplemental Information to the interim final rule; to do otherwise would be to significantly distort the revenue calculations for local governments that regularly receive revenue sharing payments, for example, from their state governments. Treasury is also maintaining the approach that ''general revenue'' includes revenue from Tribal enterprises. This approach recognizes that these enterprises often form the revenue base for Tribal governments' budgets.

To ease the burden on recipients and account for anomalous variations in revenue, as mentioned above, Treasury has incorporated a ''standard allowance'' option into the final rule. A recipient may choose to use the standard allowance, which under the final rule is set at up to $10 million, not to exceed the recipient's SLFRF award amount, as an alternative to calculating revenue loss according to the formula described above. This addition will promote administrative efficiency and simplify the revenue loss calculation for the vast majority of recipients. Treasury intends to amend its reporting forms to provide a mechanism for recipients to elect to utilize either the revenue loss formula or the standard allowance, in addition to other changes made as part of the final rule.

Aggregate Revenue Loss Calculation

Under the interim final rule, revenue loss was calculated based on aggregate revenues and therefore loss in one type of revenue could be offset by gains in another. The amount of SLFRF funds available to provide government services was based on overall net revenue loss. In the Supplementary Information to the interim final rule, Treasury asked commenters to discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or

[290] The interim final rule stated that ''general revenue'' and ''tax revenue'' excludes refunds and other correcting transactions. Instead of ''excluding'' refunds and other correcting transactions, the Census Bureau methodology upon which those definitions are based provides that general revenue and tax revenue are determined ''net of'' refunds and other correcting transactions. The use of ''excluding'' in the interim final rule is substantively the same as the Census Bureau methodology. However, to be consistent with the terminology used by the Census Bureau, the final rule uses ''net of'' instead of ''excluding.'' Current charges are defined as ''charges imposed for providing current services or for the sale of products in connection with general government activities.'' It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (*i.e.,* other than utility and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

[291] The interim final rule excluded governmental transfers from the Federal Government, but it did not exclude intergovernmental transfers from other governmental units for purposes of the revenue loss provisions.

[292] U.S. Energy Information Administration, Annual Electric Utility Data (October 2021), *available at https://www.eia.gov/electricity/sales_revenue_price/.*

[293] FAQ 3.14 provides further guidance on how to determine what entities constitute a government for purposes of calculating revenue loss. *See* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

appropriate to calculate the reduction in revenue by source.

Public Comment: Treasury received many comments stating that revenue loss should be calculated on a source-by-source basis. Some commenters argued that a source-by-source approach would be administratively simpler. Other commenters argued that calculating revenue loss source-by-source would better reflect the impact of the COVID–19 pandemic on their ability to fund government services because revenue gains in one source cannot always be used to make up for losses in another. For similar reasons, other commenters asked that revenue loss be calculated on a fund basis.

Treasury Response: Treasury considered alternative methods (*e.g.,* source-by-source, fund-by-fund) but ultimately determined to maintain the calculation of revenue loss in the aggregate. The pandemic has had different effects on recipients (and their revenues), and Treasury recognized that one particular type of revenue or one particular source may have experienced a greater amount of loss for some recipients. However, the statute refers only to ''*the* reduction in revenue of such State, local government, or Tribal government.'' The statute is thus clear that Treasury is to refer to the aggregate revenue reduction of the recipient due to the public health emergency. Further, this provision is designed to address declines in the recipients' overall ability to pay for governmental services, and calculating revenue loss on an aggregate basis provides a more accurate representation of the effect of the pandemic on overall revenues and the fiscal health of the recipient. In many circumstances, recipient governments have flexibility to use revenues from an array of sources and offset declines in some sources with gains in others. While the details and configuration of this flexibility vary widely across recipient governments, calculating revenue loss on a source-by-source or fund-by-fund basis would not capture how recipient governments balance their budgets in the regular course of business. Accordingly, the final rule maintains the requirement that revenue loss is to be calculated on an aggregate basis.

Calculation Dates

Public Comment: Under the interim final rule, recipients calculate revenue loss as of the end of the calendar year. Treasury received many comments requesting that recipients be permitted to calculate revenue loss as of the end of their fiscal year. Commenters argued that doing so would be simpler and less burdensome on recipients and that financial data as of the end of the fiscal year is audited and therefore more reliable. Commenters also argued that recipients' fiscal years are structured around the timing of major revenue sources, and that the Census Bureau uses fiscal years in its Annual Survey.

Treasury also received comments about the use of multiple calculation dates. Several Tribal governments stated that they would not see ongoing revenue losses due to the COVID–19 public health emergency and asked to be able to determine revenue loss as of the first calculation date. Several commenters asked whether revenue loss is determined independently for each year, so that a gain in one year does not offset a loss in another, or whether revenue loss is cumulative from the beginning of the pandemic.

Treasury Response: In the final rule, Treasury has made adjustments to give recipients more flexibility with respect to calculation dates and to clarify certain elements. Specifically, the final rule provides recipients the option to choose whether to calculate revenue loss on a fiscal year or calendar year basis, though they must choose a consistent basis for loss calculations throughout the period of performance. Treasury has also clarified in the final rule that revenue loss is calculated separately for each year such that the calculation of revenue lost in one year does not affect the calculation of revenue lost in prior or future years.

Presumption That Revenue Loss Is Due to the Pandemic

As stated above, sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act provide that SLFRF funds may be used ''for the provision of government services to the extent of the reduction in revenue of such . . . government due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the . . . government prior to the emergency.'' As discussed in the interim final rule, although revenue may decline for reasons unrelated to COVID–19, in order to minimize the administrative burden on recipients in calculating revenue loss and take into consideration the devastating effects of the COVID–19 public health emergency, any reduction in revenue relative to the counterfactual estimate was presumed in the interim final rule to be considered revenue lost due to the pandemic.

Treasury stated in the Supplementary Information to the interim final rule that it was considering when, if ever, during the period of performance it would be appropriate to reevaluate the presumption that all losses are attributable to the public health emergency. Treasury also sought comment on whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID–19 public health emergency, in determining whether to presume that revenue losses are ''due to'' the COVID–19 public health emergency.

Public Comment: Treasury received many comments in support of the presumption, as well as some opposed. Some commenters argued that the presumption eases the administrative burden on recipients because, without it, it would be difficult to identify which losses are attributable to the COVID–19 public health emergency. Many commenters also argued that Treasury should maintain the presumption because recipients are likely to experience losses due to the public health emergency even after the end of the public health emergency. Treasury also received comments asking that it adjust any revenue loss calculation to account for tax changes enacted by the recipient. In particular, some commenters noted that some recipients had increased taxes in order to meet additional demands for government services or to address declines in revenue due to the pandemic. These tax increases have in some cases offset some or all of the actual revenue loss attributable to the public health emergency. Because the interim final rule calculates revenue loss by reference to actual revenue collected, commenters argued that the calculation of revenue loss ''due to'' the public health emergency needs to take into consideration the effects of tax increases by deducting the effect of these tax increases from actual revenue collected.

Treasury Response: In the final rule, Treasury has maintained the presumption that a reduction in a recipient's revenue is due to the public health emergency with certain adjustments to respond to comments and to better account for revenue loss ''due to the COVID–19 public health emergency.'' The final rule makes adjustments to the presumption to take into account certain government actions to change tax policy. In particular, Treasury is adjusting the presumption to account for changes to tax policy by providing that changes in revenue that are caused by tax increases or decreases adopted after the issuance of the final rule will not be treated as due to the public health emergency.

Presumption of Revenue Loss ''Due To'' the Pandemic

In enacting sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act, Congress provided that a state, local government, or Tribal government could use funds to ''cover costs . . . for the provision of government services,'' but only ''to the extent of the reduction in revenue . . . due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year . . . prior to the emergency.'' In doing so, Congress recognized that the pandemic was causing significant disruption to economic activity and sought to minimize the impact of associated revenue losses on the ability of the recipient to provide government services when such services were needed most.[294] The text of the statute itself reinforces this important context: The law specifically limits funds to cover revenue losses that both are ''due to the COVID–19 public health emergency'' and could impact ''the provision of government services.''

Courts have recognized that the phrase ''due to'' can refer to various causal standards.[295] Here, in the context of Congress's addressing economic disruptions caused by the COVID–19 pandemic that could impact both revenues and government services, the key consideration is whether a revenue loss experienced by the recipient resulted from the exogenous impacts of the public health emergency (and were thus ''due to'' the pandemic) or instead from the recipient's own discretionary actions (and, in this context, were not ''due to'' the pandemic). Reductions in revenue due to the public health emergency does not cover revenue reductions that resulted from a recipient's own discretionary actions.

In the interim final rule, Treasury included a presumption that all revenue loss is due to the pandemic in order to minimize the administrative burden on recipients discussed above and take into consideration the devastating effects of the COVID–19 public health emergency. Based on comments, Treasury believes that the reasons for the presumption continue to be valid and has determined to maintain the presumption in the final rule with certain modifications. In particular, at this point in the course of the pandemic, with the fiscal pressure on state and local governments having been significantly reduced, it is appropriate for Treasury to reassess aspects of this presumption. As discussed below, the final rule requires recipients to exclude the value of tax policy changes adopted after January 6, 2022.

Recipients of the SLFRF range from states to the smallest local governments. At the time that the interim final rule was adopted, it was important for recipients to be able to calculate with ease and certainty their amount of revenue loss so that they could begin deploying these funds to continue to maintain essential government services. To this end, the presumption in the interim final rule provided a relatively simple formula for all recipients to use, but the exigent need for recipients to immediately deploy funds for the provision of government services has decreased and the benefit of the presumption in reducing administrative burden is less relevant for those governments that are not likely to avail themselves of the standard allowance described above.

Consistent with these considerations, the final rule requires recipients to exclude revenue loss due to tax changes adopted after January 6, 2022. Eliminating revenue loss due to tax changes from the presumption is appropriate given the significance of tax revenue as a portion of all revenue for state and local governments, the direct impact of tax policy decisions on revenue collected, and the relative ease with which recipients can isolate the estimated effect of a tax change on revenue.[296] Most state budgeting processes require a ''budget score,'' often developed through a consensus process with executive and legislative branch experts,[297] and Treasury expects that larger localities, those most likely to utilize the revenue loss formula rather than the standard allowance, also regularly use revenue or budget estimates when considering changes to tax policies. As such, in many cases, recipients already prepare estimates of the impact of tax changes on revenue, and as discussed below, Treasury will generally permit recipients to rely on such estimates in adjusting their revenue loss calculations.

Reductions in revenue that are not attributable to tax changes would continue to be subject to the presumption. A requirement that recipients evaluate the revenue effect of changes in discretionary policy actions other than tax changes would be more difficult for recipients than evaluating the changes attributable to tax changes given that state and local governments do not generally prepare estimates of the revenue effects of other actions. Finally, as noted above, taxes are the single largest source of revenue for state and local government recipients in the aggregate.

Revisions to Presumption To Address Tax Reductions

For these reasons, Treasury is providing in the final rule that changes in general revenue that are caused by tax cuts adopted after the date of adoption of the final rule (January 6, 2022) will not be treated as due to the public health emergency, and the estimated fiscal impact of such tax cuts must be added to the calculation of ''actual revenue'' for purposes of calculation dates that occur on or after April 1, 2022. Tax cuts include final legislative or regulatory action or a new or changed administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase and that the recipient assesses has had the effect of reducing tax revenue relative to current law. This includes the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the issuance of the final rule.

In assessing whether a tax change has had the effect of reducing tax revenue, recipients may either calculate the actual effect on revenue or rely on estimates prepared at the time the tax change was adopted. More specifically, recipients may rely on information typically prepared in the course of developing the budget (*e.g.,* expected revenues) and/or considering tax changes (*e.g.,* budget scores, revenue notes) to determine the amount of revenue that would have been collected in the absence of the tax cut, as long as those estimates are based on reasonable assumptions and do not use dynamic methodologies that incorporate the projected effects of macroeconomic growth, given that macroeconomic

[294] *See also* sections 602(a)(1) and 603(a) of the Social Security Act (appropriating the funds for payment to recipients in order to ''mitigate the fiscal effects stemming from the public health emergency'').

[295] *U.S. Postal Service* v. *Postal Regulatory Comm'n,* 640 F.3d 1263 (D.C. Cir. 2011); *see Kimber* v. *Thiokol Corp.,* 196 F.3d 1092, 1100 (10th Cir. 1999); *Adams* v. *Director, OWCP,* 886 F.2d 818, 821 (6th Cir. 1989).

[296] Treasury considered whether to also eliminate the presumption with respect to losses resulting from other changes in policy, such as decreases in user fees or fines. However, the effects of these changes are more minor overall and would be more challenging to accurately identify and quantify, so the administrability benefit of the presumption for recipients outweighs whatever distortion there might be as a result of not reflecting such changes.

[297] *See generally,* National Association of State Budget Officers, Budget Processes in the States, (2021), available at *https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Budget%20Processess/NASBO_2021_Budget_Processes_in_the_States_S.pdf.*

growth is accounted for in the counterfactual growth assumptions. Recipients that choose to calculate the actual effect of a tax change on revenue must similarly base their calculations on reasonable estimates that do not use dynamic methodologies. Recipients should apply this adjustment in determining their actual revenue totals at Step 3 in the revenue loss calculation described above.

Revisions to Presumption To Address Tax Increases

As noted above, the calculation methodology in the interim final rule implicitly assumed that recipients did not experience a reduction in revenue due to the public health emergency if they did not experience a reduction in aggregate revenue relative to the counterfactual estimate. Treasury recognizes that some recipients may have experienced a reduction in revenue due to the public health emergency that was offset by other revenue, particularly in the case of increases to tax revenue resulting from a tax increase. The final rule requires recipients that increased taxes to deduct the amount of increases to revenue attributable to such tax increase. This change is also consistent with the incorporation in the interim final rule and final rule of a counterfactual growth rate, which effectively permits recipients to count revenue losses due to the public health emergency that are offset by increased tax revenue resulting from organic growth.

For these reasons, Treasury is providing in the final rule that recipients must subtract from their calculation of actual revenue the effect of tax increases adopted after the date of adoption of this final rule (January 6, 2022) for purposes of calculation dates that occur on or after April 1, 2022. This change and the change to the final rule described above treat tax changes in a consistent manner: In the case of reduction in revenue resulting from a tax cut, a recipient must add the amount of that reduction to its calculation of actual revenue, and in the case of an increase in revenue resulting from a tax increase, a recipient must subtract the amount of additional revenue collected as a result of the tax increase from its calculation of actual revenue.[298]

As is the case with tax cuts, discussed above, tax increases that must be reflected in the calculation of revenue include final legislative or regulatory action or a new or changed administrative interpretation that increases any tax and that the recipient assesses has had the effect of increasing tax revenue relative to current law. In assessing whether a tax change has had the effect of increasing tax revenue, recipients may either calculate the actual effect on revenue or rely on estimates prepared at the time the tax change was adopted. Recipients may rely on information typically prepared in the course of developing the budget (*e.g.,* expected revenues) and/or considering tax changes (*e.g.,* budget scores, revenue notes) to determine the amount of revenue that was collected as a result of the tax increase as long as those estimates are based on reasonable assumptions and do not use dynamic methodologies that incorporate the projected effects of macroeconomic growth, given that macroeconomic growth is accounted for in the counterfactual growth assumptions. Recipients that choose to calculate the actual effect of a tax change on revenue must similarly base their calculations on reasonable estimates that do not use dynamic methodologies. Recipients should apply this adjustment in determining their actual revenue totals at Step 3 in the revenue loss calculation described above.

Previously Adopted Tax Changes

As discussed above, the final rule will not require recipients to reflect the revenue effects of tax increases or decreases adopted prior to the adoption of the final rule. Recipients that adopted a tax change in a previous period will not be required to recalculate the amount of revenue loss as of prior calculation dates or to reflect the fiscal impacts of such tax changes in calculation dates after the effective date of the final rule. However, the final rule will permit recipients to elect to reflect the revenue effects of their tax changes adopted between the beginning of the public health emergency and the adoption of the final rule.[299] If a recipient elects to do so, it must do so with respect to all of its tax changes adopted between the beginning of the public health emergency and the adoption of the final rule. Treasury intends to revise its reporting requirements to permit recipients to amend their previously reported calculation periods to reflect such changes.

Determination of the Base Year

Under the ARPA and interim final rule, SLFRF funds may be used ''for the provision of government services to the extent of the reduction in revenue . . . relative to revenues collected in the most recent full fiscal year'' of the recipient. Therefore, the base year for the revenue loss calculation is the most recent full fiscal year prior to the COVID–19 public health emergency.

Public Comment: Treasury received multiple comments asking for flexibility in determining base year revenues. For instance, some commenters asked to use a different base year than the ''most recent full fiscal year'' prior to the pandemic for calculating revenue loss; others asked to be able to average prior years. Commenters stated that, for various reasons, revenue was artificially low in the last full fiscal year prior to the public health emergency, and, therefore, using revenue in that year as the base year did not accurately reflect expected revenue in a normal year. For example, several Tribes stated that unforeseeable weather events resulted in forced closure of casinos which, in turn, artificially deflated revenues in the base year. Other commenters indicated that one-time anomalies in the timing of tax collection in that year artificially pushed revenue into the following fiscal year. Similarly, a few commenters noted that tax changes that took effect in the middle of the base year may artificially skew the size of the revenue loss experienced by the recipient government.

Treasury Response: Treasury understands that recipients may have experienced events in the base year that led to lower or higher revenues than what they otherwise would have collected. The ARPA provides that revenue loss is to be determined with respect to revenue in the most recent full fiscal year prior to the pandemic, and therefore the final rule maintains its incorporation of the statutory definition.

In calculating revenue loss, recipients may use data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period, which might help recipients adjust to certain delays in revenue receipt. Both the standard allowance and elements of the formula (*e.g.,*

[298] The final rule does not permit recipients to reflect the effects of other changes in policy, such as increases in fees adopted after adoption of the final rule. Treasury understands that the main beneficiaries of such a change would be those recipients that will benefit from the standard allowance provided for in the final rule and that for other recipients the administrative burden on recipients needed to calculate these adjustments would outweigh the benefit of having a somewhat larger amount of funds available for government services.

[299] The final rule also addresses the possibility that some recipients may have fiscal years ending during the period between January 6, 2022 and April 1, 2022; such recipients' election to reflect tax changes from prior periods would also apply to changes during this period with respect to the calculation date in this period.

counterfactual growth rate) incorporate generous assumptions to give recipients flexibility and to account for variation among recipients' experiences during the pandemic.

Government Services

The **SUPPLEMENTAL INFORMATION** to the interim final rule provided a non-exhaustive list of examples of services that are government services. The interim final rule also discussed why neither payment of debt service nor replenishing financial reserves constitutes government services, as these expenditures do not provide services but relate to the financing of such services. Similarly, government services under the interim final rule did not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, unless the judgment or settlement required the provision of government services.

Public Comment: Treasury received several comments requesting further clarification regarding the scope of government services, including asking for either a specific definition of government services or that a specific use be expressly deemed to be a government service. Some commenters disagreed with the exclusions from government services in the interim final rule. For instance, many of the comments Treasury received suggested that replenishing reserve funds and at least certain types of debt service should be treated as providing governmental services. Some commenters also suggested that a recipient should be able to use funds for costs incurred before March 3, 2021. Other commenters asked Treasury to maintain the prohibition on using the funds to pay debt service.

Treasury Response: Treasury continues to believe that the lists of activities that either are or are not providing government services are accurate but is clarifying here that, generally speaking, services provided by the recipient governments are ''government services'' under the interim final rule and final rule, unless Treasury has stated otherwise. Government services include, but are not limited to, maintenance or pay-go funded building [300] of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

The aforementioned list of government services is not exclusive. However, recipients should be mindful that other restrictions may apply, including those articulated in the section Restrictions on Use. In the final rule, Treasury is maintaining the limitations on government services included in the interim final rule and has addressed and responded to public commenters on these issues in the section Restrictions on Use.

D. Investments in Water, Sewer, and Broadband Infrastructure

Summary of Interim Final Rule

Under the ARPA, recipients may use funds to make necessary investments in water, sewer, and broadband infrastructure. The interim final rule provided recipients with the ability to use funds for a broad array of uses within these categories.

The interim final rule discussed two general provisions that apply across all water, sewer, and broadband infrastructure investments. First, the interim final rule addressed the meaning of ''necessary'' investments as meaning those designed to provide an adequate minimum level of service and unlikely to be made using private sources of funds. Second, the interim final rule encouraged recipients to use strong labor standards in water, sewer, and broadband projects, as discussed below.

Necessary Investments

The statute limits investments to those that are necessary. As discussed in more detail below, Treasury determined that the types of water and sewer projects that were authorized under the interim final rule by reference to existing Environmental Protection Agency (EPA) programs would in all cases be necessary investments given the conditions applicable to such EPA programs. Similarly, the interim final rule's definition of eligible broadband projects as those designed to provide a certain standard of service to those households and businesses with limited existing service was based on the statutory requirement that investments in water, sewer, and broadband must be ''necessary.''

As discussed further below, Treasury has expanded the scope of what is an eligible water and sewer infrastructure project to include additional uses. In particular, the final rule permits use of SLFRF funds for certain dam and reservoir restoration projects and certain drinking water projects to support population growth. The nature of these additional uses is such that additional factors must be considered in determining whether one of these additional uses is a necessary project. In addition, Treasury recognizes that there may be a need for improvements to broadband beyond those households and businesses with limited existing service as defined in the interim final rule. Treasury has replaced this specific requirement based on an understanding that broadband investments may be necessary for a broader set of reasons.

Given this expansion of what is considered in scope as a water, sewer, or broadband infrastructure project, the final rule provides a further elaboration of Treasury's understanding of the conditions under which an infrastructure project will be considered to be a necessary investment. Treasury considers a necessary investment in infrastructure to be one that is (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise and (2) a cost-effective means for meeting that need, taking into account available alternatives. In addition, given that drinking water is a resource that is subject to depletion, in the case of investments in infrastructure that supply drinking water in order to meet projected population growth, the project must be projected to be sustainable over its estimated useful life.

Not included in the list of criteria above is the requirement in the interim final rule that the project be unlikely to be made using private sources of funds. Given that it may be difficult to assess in a particular case what the probability of private investment in a project would be, Treasury has eliminated this standard from the meaning of necessary but still encourages recipients to prioritize projects that would provide the greatest public benefit in their respective jurisdictions.

Strong Labor Standards in Water, Sewer, and Broadband Construction

As stated in the Supplementary Information to the interim final rule, Treasury encourages recipients to carry out investments in water, sewer, or broadband infrastructure in ways that produce high-quality infrastructure, avert disruptive and costly delays, and

[300] Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

promote efficiency.[301] Treasury encourages recipients to use strong labor standards, including project labor agreements (PLAs) and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also recommends that recipients prioritize in their procurement decisions employers who can demonstrate that their workforce meets high safety and training standards (*e.g.,* professional certification, licensure, and/or robust in-house training), that hire local workers and/or workers from historically underserved communities, and who directly employ their workforce or have policies and practices in place to ensure contractors and subcontractors meet high labor standards. Treasury further encourages recipients to prioritize employers (including contractors and subcontractors) without recent violations of federal and state labor and employment laws.

Treasury believes that such practices will promote effective and efficient delivery of high-quality infrastructure projects and support the economic recovery through strong employment opportunities for workers. Such practices will also reduce the likelihood of potential project challenges like work stoppages or safety accidents, while ensuring a reliable supply of skilled labor and minimizing disruptions, such as those associated with labor disputes or workplace injuries. That will, in turn, promote on-time and on-budget delivery.

Furthermore, among other requirements contained in 2 CFR 200, Appendix II, all contracts made by a recipient or subrecipient in excess of $100,000 with respect to water, sewer, or broadband infrastructure project that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5).

Treasury will continue to seek information from recipients on their workforce plans and water, sewer, and broadband projects undertaken with SLFRF funds. This reporting will support transparency and competition by enhancing available information on the services being provided. Since publication of the interim final rule, Treasury has provided recipients with additional guidance and instructions on the reporting requirements.[302]

Environmental and Other Generally Applicable Requirements

Treasury cautions that, as is the case with all projects engaged in using the SLFRF funds, all projects must comply with applicable federal, state, and local law. In the case of infrastructure projects in particular, this includes environmental and permitting laws and regulations. Likewise, as with all capital expenditure projects using SLFRF funds, projects must be undertaken and completed in a manner that is technically sound, meaning that they must meet design and construction methods and use materials that are approved, codified, recognized, fall under standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry.

1. Water and Sewer Infrastructure

Sections 602(c)(1)(D) and Section 603(c)(1)(D) of the Social Security Act provide that recipients may use the SLFRF funds ''to make necessary investments in water [and] sewer . . . infrastructure.'' The interim final rule permitted a broad range of necessary investments in projects that improve access to clean drinking water and improve wastewater and stormwater infrastructure systems. As discussed below, after review of comments received on the interim final rule, Treasury has made changes in the final rule to expand the scope of eligible water and sewer projects.

Summary of Interim Final Rule and Final Rule Structure

Background: In the interim final rule, Treasury aligned eligible uses of the SLFRF with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF) administered by the Environmental Protection Agency (EPA). By referring to these existing programs, with which many recipients are already familiar, Treasury intended to provide flexibility to recipients to respond to the needs of their communities while facilitating recipients' identification of eligible projects. Furthermore, by aligning SLFRF eligible uses with these existing programs, Treasury could ensure that projects using the SLFRF are limited to ''necessary investments.''

Public Comment: Treasury received many comments responding to the water and sewer infrastructure provisions of the interim final rule from state, local, and Tribal governments, industry trade associations, public interest groups, private individuals, and other interested parties. Commenters requested that Treasury provide a wider set of eligible uses for water and sewer infrastructure beyond those uses articulated by the DWSRF and CWSRF, suggesting that Treasury expand the definition of necessary water and sewer infrastructure.

Treasury Response: In response to commenters, Treasury is expanding the eligible use categories for water and sewer infrastructure, discussed in further detail below. Because the interim final rule aligned the definition of necessary water and sewer infrastructure with the eligible uses included in the DWSRF and CWSRF, Treasury is reflecting in the final rule a revised standard for determining a necessary water and sewer infrastructure investment for eligible water and sewer uses beyond those uses that are eligible under the DWSRF and CWSRF.

Interpretation of Necessary Investments and Water and Sewer Infrastructure

Necessary Investments: As discussed above, Treasury considers an investment in infrastructure to be necessary if it is (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which for some eligible project categories may include a reasonable projection of increased need, whether due to population growth or otherwise and (2) a cost-effective means for meeting that need, taking into account available alternatives. In addition, in the case of investments in drinking water service infrastructure to supply drinking water to satisfy a projected increase in population, the project must also be projected to be sustainable over its estimated useful life. As detailed further below, DWSRF and CWSRF eligible projects continue to be presumed to be necessary investments under the final

[301] Treasury received several comments related to its encouragement of certain wage and labor standards in the Supplementary Information to the interim final rule. Some commenters opposed this encouragement, arguing that even encouragement and reference to PLAs and prevailing wage laws could lead to confusion or make it more likely that recipients would apply labor standards in ways that would discourage competition and raise project costs. Conversely, some commenters supported the encouragement of the use of certain standards, including giving preference to employers that meet certain employment standards (*e.g.,* those that maintain high safety and training standards) because it would support the goal of completing water, sewer, and broadband projects efficiently and safely. As in the interim final rule, this encouragement does not impose a legally binding restriction on recipients.

[302] *See* U.S. Department of the Treasury, *Compliance and Reporting Guidance,* 21 (June 24, 2021), *https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf.*

rule, with the exception of projects for the rehabilitation of dams and reservoirs, which the EPA has permitted in certain circumstances under the DWSRF and, as discussed below, are addressed separately in the final rule.

In evaluating whether a project would respond to a need to achieve or maintain an adequate minimum level of service, a recipient should consider whether it would meet the needs of the population to be served and would satisfy applicable standards. For example, a drinking water project must be sized such that it provides an adequate volume of water to households and other customers and must meet applicable standards for drinking water quality under the Safe Drinking Water Act (SDWA). Similarly, a centralized wastewater treatment project should be designed to manage updated estimated flow rates and comply with Clean Water Act requirements. These requirements are already reflected in the eligibility criteria of the DWSRF and CWSRF, respectively.

In evaluating whether a project is a cost-effective means of providing the water or sewer service, the recipient should consider the need for the project, the costs and benefits of the project compared to alternatives, and the effectiveness of the project in meeting the identified need. Recipients are not required to conduct a full cost-benefit analysis; however, they should consider and analyze relevant factors. For example, a recipient may not use funds to pursue a costly dam rehabilitation to provide drinking water to a community if it could provide the same service with a significantly smaller investment by drawing water from another available reservoir, assuming that doing so would meet the other requirements of the final rule. As detailed further below, recipients are only required to assess cost-effectiveness of projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs.

Certain DWSRF eligibilities are already subject to a cost-effectiveness test. Specifically, projects that create new drinking water systems must be a cost-effective solution to addressing the identified problem.[303] The EPA also imposes a cost-effectiveness condition on dam and reservoir rehabilitation projects undertaken pursuant to its class deviation from the DWSRF rule. These projects are particularly expensive and, unlike in the case of other types of eligible projects, there are often available alternatives to conducting these projects. Projects for the extension of drinking water service to meet population growth needs are also often particularly expensive, and there are often different ways to meet the needs of expanding populations. Treasury will accordingly require that recipients engage in a cost-effectiveness analysis when engaging in projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs. Other types of eligible water or sewer projects will not be subject to this cost-effectiveness test, including lead line replacement and lead remediation.[304]

In the case of projects that expand drinking water service infrastructure to satisfy a projected increase in population, the project must also be sustainable, meaning that the project can continue providing the adequate minimum level of service for its estimated useful life, taking into account projected impacts of changes to the climate and other expected demands on the source of water. For example, a reservoir rehabilitation project may not be pursued if the reservoir will no longer be able to provide an adequate source of drinking water before the end of the estimated useful life of the improvements to the reservoir. In areas currently impacted by drought or where drought conditions are expected to be more frequent or more severe in the future, sources of drinking water may be diminished more quickly than in prior periods. In considering how much of a source of water will be available in the future for the drinking water project, a recipient must consider that a source of water may be drawn upon or otherwise used for other current and expected uses, including use by fish and other wildlife.

The final rule applies this sustainability condition to projects that expand drinking water service infrastructure to satisfy a projected increase in population but not to other drinking water projects. When a new source of water is required to remedy an existing threat to public health, as in the case of source projects eligible under the DWSRF, sustainability should be a consideration, but in some cases, the need to replace a contaminated source may mean that a less sustainable choice may be made. When faced with such an issue, such as in the case of a contaminated well system, a project to replace the contaminated source can be said to be ''necessary'' even if the replaced source is not sustainable over the long term. Expediency may dictate that a shorter-term solution is pursued if it is cost-effective and will prevent health issues while a longer-term solution can be found. In contrast, an expansion to accommodate population growth cannot be said to be necessary if it is not sustainable over its estimated useful life.

Not included in the list of criteria above is the requirement in the interim final rule that the project be unlikely to be made using private sources of funds. Given that it may be difficult to assess in a particular case what the probability of private investment in a project would be, Treasury has eliminated this standard from the meaning of necessary but nevertheless encourages recipients to apply funds to projects that would provide the greatest public benefit.

Water and Sewer Infrastructure: As stated above, Congress provided that SLFRF funds are available for ''necessary water, sewer, and broadband infrastructure.'' Treasury interprets the reference to water and sewer uses consistent with the inclusion of broadband uses. Water, sewer, and broadband infrastructure all involve the provision of essential services to residents, businesses, and other consumers. As the pandemic has made clear, access to broadband has itself become essential for individuals and businesses to participate in education, commerce, work, and civic matters and to receive health care and social services.

Water and sewer services provided broadly to the public as essential services include the provision of drinking water and the removal, management, and treatment of wastewater and stormwater.[305] Although governments are engaged in other infrastructure related to water, including irrigation projects, transportation projects, and recreation projects, such projects go beyond the scope of what is provided to all residents as an essential service. Provision of drinking water and removal, management, and treatment of

[303] *See* 40 CFR 35.3520(b)(2)(vi).

[304] In such cases, either the projects are presumptively cost-effective (*e.g.,* lead projects would always be considered cost-effective given the costs imposed by lead poisoning) or a cost-effectiveness test is less relevant given the lack of available alternatives or the relatively low cost of the project.

[305] In many jurisdictions, stormwater flows into the sewer system rather than into a separate stormwater system. The separate inclusion of ''water'' and ''sewer'' infrastructure also makes clear that ''water'' in this context cannot refer to all uses relevant to water. Given that sewer systems carry wastewater (and often stormwater), if water infrastructure were to refer to all water-related infrastructure in this context, it would make the inclusion of sewer infrastructure redundant.

wastewater and stormwater are the typical responsibilities of ''water and sewer'' authorities throughout the country, and there is a tremendous need for improvements to the ability of state, local, and Tribal governments to provide such services, including to address the consequences of deferred maintenance and additional resiliency needed to adapt to changes to the climate.[306]

Although the meaning of water and sewer infrastructure for purposes of sections 602(c)(1)(D) and 603(c)(1)(D) of the Social Security Act does not include all water-related uses, Treasury has made clear in this final rule that investments to infrastructure include a wide variety of projects. Treasury interprets the word ''infrastructure'' in this context broadly to mean the underlying framework or system for achieving the given public purpose, whether it be provision of drinking water or management of wastewater or stormwater.[307] As discussed below, this can include not just storm drains and culverts for the management of stormwater, for example, but also bioretention basins and rain barrels implemented across a watershed, including on both public and private property, that together reduce the amount of runoff that needs to be managed by traditional infrastructure.

Further, Treasury understands that investments in infrastructure include improvements that increase the capacity of existing infrastructure and extend the useful life of existing infrastructure. Accordingly, water and sewer infrastructure investment projects include those that conserve water, thereby reducing pressure on infrastructure for the provision of drinking water, and that recycle wastewater and stormwater, thereby reducing pressure on the infrastructure for treating and managing wastewater and stormwater.

As with other infrastructure projects and capital expenditure projects that are permitted as responses to the public health emergency and its negative economic impacts, costs for planning and design and associated pre-project costs are eligible uses of SLFRF funds. Costs for the acquisition of land are also eligible, but only if needed for the purposes of locating eligible project components. Recipients should ensure that they have the technical, financial, and managerial capability to ensure compliance with the requirements of the SDWA, or that the assistance will ensure compliance and the owners or operators of the systems will undertake feasible and appropriate changes in operations to ensure compliance over the long-term.

Drinking Water State Revolving Fund and Clean Water State Revolving Fund

Background: As stated above, in the interim final rule, Treasury included eligible uses of the DWSRF and the CWSRF as eligible uses of the SLFRF in the water and sewer infrastructure category. By providing that projects eligible under the DWSRF and the CWSRF are also eligible uses of SLFRF funds, the interim final rule permitted a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. With respect to clean water and wastewater infrastructure, the interim final rule provided that recipients may use SLFRF funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, and facilitate water reuse, among other uses. Consistent with the DWSRF and the CWSRF, the interim final rule provided that SLFRF funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Use of DWSRF and CWSRF to Support Climate Change Adaptations. Many of the types of projects eligible under either the DWSRF or CWSRF also support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and CWSRF may reduce energy required to treat drinking water. Similarly, projects eligible under the DWSRF and CWSRF include measures to conserve and reuse water, for example through projects to reuse or recycle wastewater, stormwater, or subsurface drainage water. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include bioretention basins that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use SLFRF funds for water infrastructure to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Public Comment: Many commenters expressed support for the interim final rule's alignment of the use of funds for water and sewer infrastructure under the SLFRF with the project categories provided through the EPA's DWSRF and CWSRF programs.

Many commenters also provided recommendations about the specific types of water infrastructure projects that should be eligible under the final rule. In many of these cases, commenters recommended that Treasury include project types that are already eligible under the DWSRF and CWSRF and thus eligible under the interim final rule and final rule. For example, several commenters requested that aquifer recharge projects, or other groundwater protection and restoration projects, be included as eligible uses of SLFRF when certain aquifer recharge projects that (1) implement a nonpoint source pollution management program [308] or (2) constitute reuse of

[306] In addition, Treasury interprets the eligible uses of SLFRF funds against the background of the Coronavirus Relief Fund (CRF), for which the SLFRF funds are, in part, a successor. CRF recipients expressed great interest in using the CRF to pursue water infrastructure projects, including provision of drinking water and internal plumbing on Tribal lands and in Alaskan villages, and broadband projects throughout the country; Treasury permitted these projects given the connection to the public health emergency (see Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182, 4190, 4192 (Jan. 15, 2021), but the short deadline for use of funds made it difficult to use CRF funds in this way. Congress' inclusion of the water, sewer, and broadband clause in the ARPA, along with the SLFRF funds' longer eligible use date, is responsive to this unmet need. As discussed below, Congress in the Infrastructure Investment and Jobs Act amended sections 602(c) and 603(c) of the Social Security Act to add a new paragraph as sections 602(c)(4) and 603(c)(5), respectively, providing that SLFRF funds may be used to meet non-federal matching requirements of any authorized Bureau of Reclamation project. This authority was added as a separately enumerated eligible use regardless of whether the underlying project would be an eligible use of SLFRF funds under the water and sewer infrastructure eligible use category.

[307] *See, e.g.,* section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362), defining ''green infrastructure'' as ''the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspirate stormwater and reduce flows to sewer systems or to surface waters.''

[308] Specifically, this would include desalination projects that decrease the burden on aquifers where there is causal relationship between aquifer withdrawals and saltwater intrusion if the projects implement a nonpoint source pollution

Continued

wastewater, stormwater, or subsurface drainage water are in fact eligible uses under the CWSRF. Furthermore, under the DWSRF, eligible projects include certain aquifer storage and recovery systems for water storage.

Treasury Response: Eligible projects articulated in the DWSRF and CWSRF continue to be eligible uses of SLFRF funds under the final rule. Recognizing that recipients have faced challenges interpreting eligible use categories under the interim final rule or cross-referencing EPA program materials to interpret eligible project types, Treasury is including in this Supplementary Information additional information on the types of projects eligible under the DWSRF and CWSRF. Treasury emphasizes that this further clarification does not represent a change in eligibility. Treasury encourages recipients to reference EPA handbooks for the DWSRF and CWSRF, which provide further information and detail about the types of projects eligible under those programs and thus under the final rule.

Eligible projects under the DWSRF. Eligibilities under the DWSRF, the interim final rule, and the final rule include projects that address present or prevent future violations of health-based drinking water standards. These include projects needed to maintain compliance with existing national primary drinking water regulations for contaminants with acute and chronic health effects. Projects to replace aging infrastructure are also eligible uses if they are needed to maintain compliance or further the public health protection objectives of section 1452 of the SDWA.[309] The following project categories are eligible under the DWSRF, were eligible under the interim final rule, and continue to be eligible under the final rule:

(i) *Treatment projects,* including installation or upgrade of facilities to improve the quality of drinking water to comply with primary or secondary standards and point of entry or central treatment under section 1401(4)(B)(i)(III) of the SDWA.

(ii) *Transmission and distribution projects,* including installation or replacement of transmission and distribution pipes to improve water pressure to safe levels or to prevent contamination caused by leaks or breaks in the pipes.

(iii) *Source projects,* including rehabilitation of wells or development of eligible sources to replace contaminated sources.

(iv) *Storage projects,* including installation or upgrade of eligible storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering a public water system.

(v) *Consolidation projects,* including projects needed to consolidate water supplies where, for example, a supply has become contaminated or a system is unable to maintain compliance for technical, financial, or managerial reasons.

(vi) *Creation of new systems,* including those that, upon completion, will create a community water system to address existing public health problems with serious risks caused by unsafe drinking water provided by individual wells or surface water sources. Eligible projects are also those that create a new regional community water system by consolidating existing systems that have technical, financial, or managerial difficulties. Projects to address existing public health problems associated with individual wells or surface water sources must be limited in scope to the specific geographic area affected by contamination. Projects that create new regional community water systems by consolidating existing systems must be limited in scope to the service area of the systems being consolidated.

Ineligible projects under the DWSRF. Federally-owned public water systems and for-profit noncommunity water systems are not eligible to receive DWSRF funds and therefore SLFRF funds.[310] The acquisition of water rights, laboratory fees for routine compliance monitoring, and operation and maintenance expenses are not costs associated with investments in infrastructure and thus would not be eligible under the final rule. [311] Projects needed primarily to serve future population growth are also ineligible under the DWSRF; the treatment of such projects under the final rule is discussed separately below under ''Expansion of Drinking Water Service.'' Projects eligible under the DWSRF must be sized only to accommodate a reasonable amount of population growth expected to occur over the useful life of the project.

Eligible projects under the CWSRF. The final rule continues to allow the use of SLFRF funds for projects eligible under the CWSRF, consistent with the interim final rule. Under the CWSRF, a project must meet the criteria of one of the following CWSRF eligibilities to be eligible for assistance. Section 603(c) of the Clean Water Act (CWA) [312] provides that the CWSRF can provide assistance:

(i) to any municipality, intermunicipal, interstate, or state agency for construction of publicly owned treatment works (as defined in section 212 of the CWA); [313]

(ii) for the implementation of a management program established under section 319 of the CWA; [314]

(iii) for the development and implementation of a conservation and management plan under section 320 of the CWA; [315]

(iv) for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage. Eligible projects include, but are not limited to, the construction of new decentralized systems (*e.g.,* individual onsite systems and cluster systems), as well as the upgrade, repair, or replacement of existing systems.

(v) for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water. Publicly and privately owned, permitted and unpermitted projects that manage, reduce, treat, or recapture stormwater or subsurface drainage water are eligible. For example, projects that are specifically required by a Municipal Separate Storm Sewer System (MS4) permit are eligible, regardless of ownership. Projects may include, but are not limited to green roofs, bioretention basins, roadside plantings, porous pavement, and rainwater harvesting.

(vi) to any municipality, intermunicipal, interstate, or state agency for measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse. Eligible projects include, but are not limited to, the installation, replacement, or upgrade of water meters; plumbing fixture retrofits or replacement; and gray water recycling. Water audits and water conservation plans are also eligible.

management program under section 319 of the Clean Water Act. This could include projects in which desalinated seawater is injected into the aquifer to mitigate or prevent salt water intrusion, as well as projects in which brackish water is removed from an aquifer, desalinated, and returned to the aquifer.

[309] *See* 42 U.S.C. 300j–12(a)(2)(B) (limiting financial assistance used by a public water system to expenditures (including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not including monitoring, operation, and maintenance expenditures of a type or category which the Administrator of the EPA has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under 42 U.S.C. 300g–1 or otherwise significantly further the health protection objectives of the SWDA); *See also* 40 CFR 35.3520(b).

[310] *See* 40 CFR 35.3520(d)(1).

[311] *See id at* § 35.3520(e)(2)–(4).

[312] 33 U.S.C. 1383(c).

[313] 33 U.S.C. 1292.

[314] 33 U.S.C. 1329.

[315] 33 U.S.C. 1330.

Equipment to reuse effluent (*e.g.,* gray water, condensate, and wastewater effluent reuse systems) is eligible.

(vii) for the development and implementation of watershed projects meeting the criteria set forth in section 122 of the CWA.[316] Projects that develop or implement a watershed pilot project related to at least one of the six areas identified in section 122 of the CWA are eligible: Watershed management of wet weather discharges, stormwater best management practices, watershed partnerships, integrated water resource planning, municipality-wide stormwater management planning, or increased resilience of treatment works.

(viii) to any municipality, intermunicipal, interstate, or state agency for measures to reduce the energy consumption needs for publicly owned treatment works. Projects may include, but are not limited to, the installation of energy efficient lighting, HVAC, process equipment, and electronic equipment and systems at publicly owned treatment works. Planning activities, such as energy audits and optimization studies are also eligible.

(ix) for reusing or recycling wastewater, stormwater, or subsurface drainage water. Projects involving the reuse or recycling of wastewater, stormwater, or subsurface drainage water are eligible. This includes, as part of a reuse project, the purchase and installation of treatment equipment sufficient to meet reuse standards. Other eligible projects include, but are not limited to, distribution systems to support effluent reuse, including piping the effluent on the property of a private consumer, recharge transmission lines, injection wells, and equipment to reuse effluent (*e.g.,* gray water, condensate, and wastewater effluent reuse systems).

(x) for measures to increase the security of publicly owned treatment works. Security measures for publicly owned treatment works might include, but are not limited to, vulnerability assessments, contingency/emergency response plans, fencing, security cameras/lighting, motion detectors, redundancy (systems and power), secure chemical and fuel storage, laboratory equipment, securing large sanitary sewers, and tamper-proof manholes. The CWSRF cannot fund operations and maintenance activities. Therefore, maintaining a human presence (*i.e.,* security guards) and monitoring activities are not eligible.

[316] 33 U.S.C. 1274.

Other Clarifications of DSWRF and CWSRF Eligible Project Categories

Public Comment: Several commenters requested that Treasury provide clarification of the requirements associated with use of SLFRF funds for necessary investments in water and sewer infrastructure.

Treasury Response: After release of the interim final rule, Treasury clarified in further guidance that, while recipients must ensure that water and sewer infrastructure projects pursued are eligible under the final rule, recipients are not required to obtain project pre-approval from Treasury or any other federal agency when using SLFRF funds for necessary water and sewer infrastructure projects unless otherwise required by federal law. For projects that are being pursued under the eligibility categories provided through the DWSRF or CWSRF programs, project eligibilities are based on federal project categories and definitions for the programs and not on each state's eligibility or definitions. While reference in the final rule to the DWSRF, CWSRF, or other federal water programs is provided to assist recipients in understanding the types of water and sewer infrastructure projects eligible to be funded with SLFRF, recipients do not need to apply for funding from the applicable state programs or through any federal water program. Similarly, besides eligible project categories, the final rule does not incorporate other program requirements or guidance that attach to the DWSRF, CWSRF, or other federal water programs. However, as noted above, recipients should be aware of other federal or state laws or regulations that may apply to construction projects or water and sewer projects, independent of SLFRF funding conditions, and that may require pre-approval from another federal or state agency.

Expanded Eligible Uses for Water and Sewer Infrastructure

Summary

Public Comment: Many commenters requested broader flexibility in the use of SLFRF funds for water and sewer infrastructure projects that are not eligible under the DWSRF and CWSRF. These commenters argued that localities are best situated to identify the highest-need water and sewer projects in their communities. Several Tribal government commenters noted that Tribes have different water and sewer infrastructure needs than states and localities and that additional flexibility in the use of funds would lift current barriers to improving infrastructure on Tribal lands.

To achieve additional flexibility, commenters suggested a range of options for broadening the eligible use of SLFRF funds for necessary water and sewer infrastructure. For example, several commenters suggested Treasury broaden the eligibilities provided under the interim final rule to include project types eligible under other federal water and sewer programs.

Treasury Response: Treasury agrees that additional flexibility for use of SLFRF funds is warranted and is providing expanded eligibilities as described below, several of which address specific areas of need outlined by Tribal and rural communities.

As discussed below, Treasury has incorporated into the final rule projects that are eligible under certain programs established by the EPA under the Water Infrastructure Improvements for the Nation Act (WIIN Act). Other water-related grant programs cited by commenters include projects that are otherwise already covered by the final rule, for example because they are covered as eligible under the DWSRF or the CWSRF, or projects that are ineligible under the final rule because they are beyond the scope of the meaning of water and sewer projects for purposes of ARPA. To minimize the need for recipients of SLFRF funds to cross reference eligibilities across multiple federal programs, which may exacerbate current challenges to understanding eligibility under SLFRF, Treasury is providing detailed information related to expanded eligibilities within the text of this **SUPPLEMENTARY INFORMATION** for the final rule.

Stormwater Infrastructure

Public Comment: Several commenters requested that additional stormwater infrastructure projects be included as eligible uses of SLFRF funds under the final rule. Commenters suggested that culvert repair and resizing and replacement of storm sewers is necessary to address increased rainfall brought about by a changing climate. Other commenters noted that rural communities that do not manage their own sewer systems may rely on this type of water infrastructure.

Treasury Response: The CWSRF includes a broad range of stormwater infrastructure projects, and as such these projects were eligible under the interim final rule and continue to be eligible under the final rule. These projects include gray infrastructure projects, such as traditional pipe, storage, and treatment systems. Projects

that manage, reduce, treat, or recapture stormwater or subsurface drainage water are also eligible, including real-time control systems for combined sewer overflow management, and sediment control. Culvert infrastructure projects are eligible under the CWSRF if they (1) implement a nonpoint source management plan, (2) implement National Estuary Program Comprehensive Conservation and Management Plan, or (3) implement a stormwater management plan with the goal of providing a water quality benefit. Stormwater projects under the CWSRF also encompass a number of eligible green infrastructure categories, such as green roofs, green streets, and green walls, rainwater harvesting collection, storage, management, and distribution systems, real-time control systems for harvested rainwater, infiltration basins, constructed wetlands, including surface flow and subsurface flow (*e.g.,* gravel) wetlands, bioretention/bioswales (*e.g.,* bioretention basins, tree boxes), permeable pavement, wetland, riparian, or shoreline creation, protection, and restoration, establishment or restoration of urban tree canopy, and replacement of gray infrastructure with green infrastructure including purchase and demolition costs.

In addition to the eligible uses under the CWSRF, Treasury is expanding the eligible uses under the final rule to include stormwater system infrastructure projects regardless of whether there is an expected water quality benefit from the project. Treasury anticipates that this eligible use will allow recipients to manage increased volumes of stormwater as a result of changes to the climate. For example, the final rule now permits the use of SLFRF funds for the repair, replacement, or removal of culverts or other road-stream crossing infrastructure to the extent the purpose of the project is to manage stormwater. In addition, Treasury understands that the repair, replacement, or removal of culverts may necessitate the repair or upgrade of roads. As noted in guidance issued after the interim final rule, recipients may use SLFRF funds for road repairs and upgrades that interact directly with an eligible stormwater infrastructure project. All stormwater infrastructure projects undertaken should incorporate updated design features and current best practices.

Private Wells and Septic Systems

Public Comment: Several commenters requested that the scope of eligible projects be expanded to allow for the expenditure of SLFRF funds on private wells or septic systems. Commenters noted that wells may be contaminated with dangerous substances, including arsenic, lead, radon, and PFAS (per- and polyfluoroalkyl). Commenters also suggested that, because rural and underserved communities are often reliant on these infrastructure types for their drinking water or wastewater needs, lack of appropriate funding to maintain these systems could present health and safety issues that disproportionately affect certain communities.

Treasury Response: Consistent with the CWSRF, the installation, repair, or replacement of private septic units continues to be an eligible use of SLFRF funds under the final rule. For example, eligible projects include those that address groundwater contamination resulting from faulty septic units and those that would connect failing septic systems to centralized wastewater treatment. Consistent with the DWSRF, connecting homes served by a private well to a public water system is an eligible use of SLFRF funds.

In addition, Treasury has provided in the final rule that recipients may use SLFRF funds for an expanded set of infrastructure projects that improve access to and provision of safe drinking water for individuals served by residential wells. Eligible projects under this category include rehabilitation of private wells, testing initiatives to identify contaminants in wells, and treatment activities and remediation strategies that address contamination.

Remediating Lead in Water

Public Comment: Several commenters emphasized the need to fully remediate lead contamination, especially in structures that serve the public or populations like children that are particularly vulnerable to the effects of lead exposure, such as schools and daycares. Many American households and an estimated 400,000 schools and childcare centers currently lack safe drinking water.[317]

Treasury Response: The replacement of lead service lines, up to premise plumbing, is an eligible use under the DWSRF and continues to be an eligible use of SLFRF funds. Such projects are eligible regardless of the pipe material of the replacement lines and ownership of the property on which the service line is located. Lead service line replacement projects can serve households, schools, or any other entities. Given the lifelong impacts of lead exposure for children and the widespread prevalence of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

In addition, Treasury is providing in the final rule that for lead service line replacement projects, recipients must replace the full length of the service line, and not just a partial portion of the service line. Some water utilities, when replacing service lines, will only replace the ''public portion'' of the service line and physically slice through the lead service line at the public/private line. This action can result in elevated drinking water lead levels for some period of time after replacement, suggesting the potential for harm, rather than benefit during that time period.[318] Requiring replacement of the full length of the service line is also consistent with the requirements of the EPA's Lead and Copper Rule Revisions for water systems that have an action level exceedance for lead [319] and certain other water systems.[320]

Treasury is expanding eligible uses of SLFRF funds to include infrastructure projects eligible under EPA grant programs authorized by the WIIN Act.[321] Eligible projects under these programs include the installation or re-optimization of corrosion control treatment, replacing lead service lines, replacing galvanized pipes downstream of a lead service line (other than lead pipes within a home as discussed below), and maintaining an inventory of the drinking water system's service lines. Water quality testing, compliance monitoring, and remediation activities in schools and other childcare facilities, as well as activities necessary to respond to a contaminant, are eligible uses of SLFRF funds.[322] Remediation

[317] The White House, Updated Fact Sheet: Bipartisan Infrastructure Investment and Jobs Act (August 2, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/02/updated-fact-sheet-bipartisan-infrastructure-investment-and-jobs-act/.*

[318] *See* EPA Science Advisory Board, Evaluation of the Effectiveness of Partial Lead Service Line Replacements, (September 2011), *https://www.epa.gov/sdwa/science-advisory-board-evaluation-effectiveness-partial-lead-service-line-replacements* (advising against partial lead service line replacement).

[319] Environmental Protection Agency, *supra* note 188.

[320] Environmental Protection Agency, National Primary Drinking Water Regulations: Lead and Copper Rule Revisions, 86 FR 4198. 40 CFR 141.84, and preamble *at* 4215, January 15, 2021, *https://www.federalregister.gov/d/2020-28691;* scheduled to become effective December 16, 2021, Environmental Protection Agency, 86 FR 31939, *https://www.federalregister.gov/d/2021-12600.*

[321] Eligible uses of funds include those eligible under the Small, Underserved, and Disadvantaged Communities Grant (Section 2104), Reduction in Lead Exposure via Drinking Water Grant Program (Section 2105) and Lead Testing in School and Child Care Program Drinking Water Grant Program (Section 2107).

[322] Such testing and remediation programs would be an eligible use of SLFRF funds given that they

activities such as replacement of faucets, internal plumbing, and fixtures in schools and childcare facilities are also an eligible use of SLFRF funds.

Consistent with the EPA programs, replacement of lead pipes within a home is not eligible under the final rule because the vast majority of lead contamination cases can be solved by replacing lead service lines (including on public and private property) and faucets and fixtures themselves. As such, replacement of lead pipes within a home would not be considered a cost-effective means for achieving the desired level of service and thus would not be a ''necessary'' investment. The provision of bottled water is also not an eligible use of SLFRF funds under this eligible use category, as it is not an investment in infrastructure. However, bottled water in areas with an action level exceedance for lead in water may be an eligible use of SLFRF funds under a separate eligible use category for ''remediation of lead paint and other lead hazards;'' see Assistance to Households in Public Health and Negative Economic Impacts.

Water filtration systems are eligible under the EPA grant programs and the final rule as long as they are installed as a permanent part of a facility's system and not intended for temporary use. Conducting remediation, follow-up monitoring, and conducting public education and outreach about the availability of infrastructure programs, such as water testing and fixture replacement programs funded with SLFRF funds or otherwise, are also eligible projects. Finally, recipients should note that ''remediation of lead paint and other lead hazards'' is a separate eligible use category and a broader range of programs and services may be eligible under that section, including investments that are not infrastructure; see the eligible use for ''remediation of lead paint and other lead hazards'' in section Assistance to Households in Public Health and Negative Economic Impacts.

Dams and Reservoirs

Public Comment: Many commenters requested that Treasury broaden eligibilities to include dams and reservoirs, infrastructure that commenters noted may in its current state be unsafe and could put surrounding communities at risk. Some commenters argued that dams and reservoirs play an important role in providing municipal water supply and water to irrigate farmland, including in areas impacted by recent droughts. Other commenters noted that a large number of dams are currently classified as high-hazard structures, the failure of which would have severe consequences for public safety and the local environment. With respect to reservoirs, commenters articulated that changing climate conditions have necessitated upgrades to reservoir infrastructure to ensure existing facilities can meet the local water needs of a community. Commenters noted that communities facing drought may also need to adjust or enhance reservoirs to maintain adequate water supply.

In contrast, several commenters suggested that infrastructure projects related to dams and reservoirs should not be considered eligible uses of SLFRF funds. These commenters noted that alternate sources of funding exist for dam and reservoir projects and that dams and reservoir infrastructure could result in negative impacts to Tribal communities and negative environmental impacts, including harm to wildlife habitats.

Treasury Response: Treasury understands that many dams and reservoirs in need of rehabilitation are dams and reservoirs whose primary purpose is to provide drinking water. As discussed above, SLFRF funds are available for projects related to the provision of drinking water. Moreover, since issuance of the interim final rule, the EPA has adopted a class deviation from the DWSRF regulations that permits such dam and reservoir rehabilitation projects in certain circumstances.[323] In approving this class deviation, the EPA recognized that many dams used for drinking water are aging and deteriorating and pose a public health risk to communities; that current dam conditions do not meet state safety standards; and that reservoir capacity has diminished and requires dredging to meet drinking water needs of the existing population.

Treasury's final rule provides that funds may be used for rehabilitation of dams and reservoirs if the primary purpose of the dam or reservoir is for drinking water supply and the rehabilitation project is necessary for continued provision of drinking water supply. In considering whether a dam or reservoir project is necessary for the provision of drinking water supply, a recipient may take into consideration future population growth in certain circumstances, as discussed under ''Expansion of Drinking Water Service Infrastructure'' below, but the project must in any case be designed to support no more than a reasonable level of projected increased need. The recipient must also determine that the project is cost-effective, *i.e.,* that there are not significantly superior alternatives that are available, taking into consideration the relative costs and benefits of the project as compared to those alternatives.

This change to the final rule would permit a wide variety of projects.[324] The limitation in the final rule to rehabilitation of existing dams and reservoirs reflects the scope of the EPA class deviation referenced above and Treasury's understanding of the significant need for investments in rehabilitation to address deterioration of dams and the diminished capacity of reservoirs. Further, Treasury expects that in many cases it would be considerably more difficult to demonstrate that construction of a new dam or reservoir would be necessary for the purpose of the provision of drinking water than is the case for rehabilitation of dams and reservoirs already serving that purpose for a particular population, particularly given opportunities to meet drinking water needs through water reuse and conversation efforts. For these reasons, and given that the relatively short period of availability of the funds makes new dam and reservoir construction with these funds less likely, Treasury has limited the scope of the final rule to dam and reservoir rehabilitation projects.

As discussed above, Treasury has determined that ARPA does not authorize the use of SLFRF funds for uses other than the provision of drinking water and the management of wastewater and storm water. As such, the final rule does not include infrastructure projects related to dams and reservoirs as eligible uses of SLFRF funds unless they meet the conditions discussed above.

would help a recipient determine whether an infrastructure project, such as a lead line replacement, is necessary. In contrast, as mentioned above, the costs of continual testing that is part of a drinking water or wastewater facilities' operating costs would not be considered part of an infrastructure project.

[323] *See* EPA, Approval of Class Exception from the Regulatory Prohibitions on the Use of Drinking Water State Revolving Fund for Rehabilitation of Dams and Reservoirs (July 14, 2021), available at *https://www.epa.gov/system/files/documents/2021-07/dwsrf-class-deviation-dam-reservoir-rehab-2021_0.pdf.*

[324] As noted in the EPA's class deviation, examples of dam rehabilitation projects include spillway reconstruction or repair; dam resurfacing, patching, or other structural repairs, including minimal height increases if needed to maintain the structural integrity of the dam; grouting for seepage control or liquefaction remediation (*e.g.,* epoxy resin, asphalt, or rock); repair or replacement of drainage systems; and seismic stability efforts (*e.g.,* anchors). Examples of reservoir rehabilitation projects include sedimentation dredging and reservoir lining.

Public Comment: Several commenters requested that the removal of dams and associated habitat restoration should be eligible uses of SLFRF funds, noting that in some cases, dam removal will improve water quality while removing long-term operational expenses for the recipient.

Treasury Response: Dam removal projects and associated stream and habitat restoration projects are eligible uses of the CWSRF and continue to be eligible under the final rule when the removal implements either a nonpoint source management program plan or a National Estuary Program Comprehensive Conservation and Management Plan or when the removal will provide a water quality benefit. Habitat restoration projects more generally may also be eligible under the CWSRF and the final rule if they constitute a form of stormwater infrastructure.

Expansion of Drinking Water Service Infrastructure

Public Comment: Commenters asked for the ability to use funds for drinking water projects for the purpose of meeting needs arising from future growth, which, given the restrictions applicable to the DWSRF, was not permitted under the interim final rule.

Treasury Response: As provided for in the SDWA, the DWSRF is meant to serve the public health needs of the existing population. The EPA regulation implementing the DWSRF program provides that projects needed primarily to serve future population growth are not eligible uses of the DWSRF. A project that is intended primarily to address public health or regulatory compliance issues for the existing service population may be sized for a ''reasonable'' amount of population growth over the useful life of the project.[325]

ARPA does not include the same limitation as the SDWA. Accordingly, the final rule provides that recipients may use SLFRF funds for projects that are needed to support increased population in certain cases. ARPA limits projects to those investments that are ''necessary.'' As discussed above, Treasury interprets this to mean that the investments must be (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which for some eligible project categories may include a reasonable projection of increased need, whether due to population growth or otherwise and (2) a cost-effective means for meeting that need, taking into account available alternatives. For this eligible use category, expansion of drinking water service infrastructure, the project must also be projected to be sustainable over its estimated useful life.

Investments must be determined to be necessary when they are initiated. Accordingly, Treasury is clarifying in the final rule that the need identified for a water or sewer project may include a need arising from reasonable expectations of future population growth, provided that it is necessary at the time the investment is initiated for the recipient to make the investment to meet this growth. For example, a recipient expecting increased population during the period of performance may install a drinking water treatment plant to meet that growth. In addition, a recipient expecting increased population growth outside the period of performance may install the treatment plant if the planning and construction timeline for the project would require work to begin during the performance period in order to meet the expected population growth. A recipient may install transmission lines as part of the development of new housing occurring during the period of performance. In this case, the housing development must be in progress; a recipient may not use the SLFRF funds to install a water main, for example, to an undeveloped tract in the expectation that in the future that tract will be developed with housing, because there would be no need for that investment to be made at the time it is initiated.

For the reasons discussed above, if a project is undertaken to address expected growth in population, the project must also be sustainable, meaning that the project can continue providing the adequate minimum level of service for its estimated useful life, taking into account projected impacts of changes to the climate and other expected demands on the source of water. In considering how much of a source of water will be available in the future for the drinking water project, a recipient must consider that a source of water may be drawn upon or otherwise used for other current and expected uses, including use by fish and other wildlife. A drinking water project that is designed to address a growing population cannot be considered a necessary investment if the source of drinking water will cease to be available to meet the population's needs before the end of the estimated useful life of the project. In such a case, a recipient should consider alternative sources for drinking water. See ''Interpretation of Necessary Investments and Water and Sewer Infrastructure'' above for more information.

Non-Federal Matching Requirements for Authorized Bureau of Reclamation Projects

The Infrastructure Investment and Jobs Act amends sections 602(c) and 603(c) of the Social Security Act to add an additional eligible use of SLFRF funds, providing that SLFRF funds ''may be used for purposes of satisfying any non-Federal matching requirement required for [an authorized Bureau of Reclamation project].'' [326]

This amendment permits the use of SLFRF funds to meet non-federal matching requirements of any authorized Bureau of Reclamation project, regardless of whether the underlying project would be an eligible use of SLFRF funds under the water and sewer infrastructure eligible use category. These amendments are effective as of March 11, 2021, as if included in the ARPA at the time of its enactment.[327] Treasury will provide further guidance to recipients on the scope of Bureau of Reclamation water projects and expenses covered by this provision.

Floodplain Management and Flood Mitigation Projects

Public Comment: Several commenters requested that projects to address floodwater, including floodplain management and flood mitigation projects, be included as an eligible use of SLFRF funds. Within this category of floodplain management and flood mitigation infrastructure, several commenters requested that the installation of levees, flood walls, sea walls, elevation projects, dredging, or nature-based flood mitigation projects be included as eligible projects.

Treasury Response: Treasury notes that some floodplain management and flood mitigation infrastructure projects, including green infrastructure designed to protect treatment works from flood waters and flood impact are currently eligible under the CWSRF and therefore continue to be eligible under the final rule.

Treasury has not included floodplain management and flood mitigation projects more generally as eligible under the final rule. Although floodplain management and flood mitigation are functions of many state and local governments, they are not the sort of generally-provided essential services included within the meaning of water

[325] *See* 40 CFR 35.3520(e)(5).

[326] *See* Public Law 117–58, 40909(a)–(b) (Nov. 15, 2021).

[327] *See* Public Law 117–58 § 40909(c).

and sewer projects under the ARPA, as discussed above.

Irrigation

Public Comment: Some commenters requested that irrigation projects be an eligible use because they consider such projects to be critical infrastructure. Several commenters supported this request by noting that irrigation systems may be used to replenish aquifers and recharge wells, in addition to delivering water for irrigation. One commenter also noted that the national irrigation system is antiquated and in need of repair.

Treasury Response: Some irrigation projects were eligible under the interim final rule and continue to be eligible under the final rule as a result of their inclusion as eligible projects under the CWSRF. For example, water efficient irrigation equipment that reduces the runoff of nutrients and implements a management program established under section 319 of the CWA and/or a conservation and management plan under section 320 of the CWA are eligible uses under the CWSRF and therefore continue to be an eligible use of SLFRF funds under the final rule. Likewise, projects to receive and distribute reclaimed water for irrigation systems or other agricultural use are eligible under the CWSRF and therefore continue to be an eligible use under the final rule. Unlike projects for the improvement of irrigation systems generally, these reclaimed water projects are related to wastewater treatment and stormwater management, which are within the scope of the meaning of water and sewer infrastructure for purposes of ARPA.

Treasury considered commenter requests for inclusion of additional irrigation infrastructure and determined that irrigation projects more generally are not permitted under the final rule. Although these types of projects may be water-related infrastructure, they are not the sort of generally-provided essential services included within the meaning of water and sewer projects under ARPA, as discussed above.

Consumer Incentive Programs

Public Comment: One commenter requested that consumer incentive programs in the areas of water use efficiency, conservation, green infrastructure, reuse, and other distributed solutions be an allowable use of SLFRF.

Treasury Response: The DWSRF and CWSRF eligibilities include the development and implementation of incentive and educational programs that address and promote water conservation, source water protection, and efficiency related to infrastructure improvements, *e.g.,* incentives such as rebates to install green infrastructure such as rain barrels or promote other water conservation activities. Treasury clarifies that such project types were eligible under the interim final rule and continue to be eligible under the final rule.

2. Broadband Infrastructure

Under the ARPA, recipient governments may use SLFRF funds to make ''necessary investments in . . . broadband infrastructure.'' In the Supplementary Information to the interim final rule, Treasury interpreted necessary investments in infrastructure as investments ''designed to provide an adequate minimum level of service and [that] are unlikely to be made using private sources of funds.'' Treasury explained that, with respect to broadband specifically, such necessary investments include projects that ''establish [ ] or improve [ ] broadband service to underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.''

Summary of Interim Final Rule, Public Comments, and Treasury Response

Summary of Interim Final Rule: In implementing the ARPA, the interim final rule provided that eligible broadband infrastructure investments are limited to those that are designed to provide service to unserved or underserved households or businesses, defined as those that lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload. The interim final rule also provided that eligible projects under the SLFRF are limited to those that are designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. In instances where it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project, the interim final rule provided that the project would be required to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.

In addition, Treasury, in the Supplementary Information to the interim final rule, encouraged recipients to pursue a number of other objectives. First, Treasury encouraged recipients to prioritize investments in fiber-optic infrastructure wherever feasible and focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last-mile connections. Second, Treasury encouraged recipients to integrate affordability options into their program design. Third, Treasury encouraged recipients to prioritize support for local networks owned, operated, or affiliated with local governments, nonprofits, and cooperatives. Fourth, Treasury encouraged recipients to avoid investing in locations with existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources. Finally, following release of the interim final rule, Treasury provided further guidance clarifying some aspects of broadband infrastructure eligibility, specifically on flexibility for recipients to determine eligible areas to be served,[328] middle-mile projects,[329] pre-project development costs,[330] broadband connections to schools or libraries,[331] and the applicability of the National Environmental Policy Act (NEPA) and the Davis-Bacon Act.[332]

Summary of Public Comments: Treasury received several comments on the interim final rule's requirements regarding eligible areas for investment and build-to speed standards, as well as Treasury's encouragements in the Supplementary Information of the interim final rule. Many commenters found the interim final rule's requirement to limit projects to those designed to provide service to unserved or underserved households or businesses to be appropriately focused on hard-to-reach areas. In contrast, other commenters argued that this requirement was too restrictive and that it would limit the ability for some recipients, particularly local governments, to invest in broadband infrastructure.

Separately, some commenters supported the interim final rule's requirement that eligible projects be built to reliable speeds of 100 Mbps symmetrical, with an exception for areas where it was impracticable, and encouragement that projects be built with fiber-optic infrastructure, while a

[328] *See FAQ 6.8, 6.9, 6.11.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

[329] *See FAQ 6.10. Id.*

[330] *See FAQ 6.12. Id.*

[331] *See FAQ 6.16. Id.*

[332] *See FAQ 6.4, 6.17. Id.*

few others argued that the interim final rule should remain technology-neutral and that lower speed standards would be more appropriate for today's usage needs.

Summary of Treasury Response: In response to the comments, the final rule expands eligible areas for investment by requiring recipients to invest in projects designed to provide service to households and businesses with an identified need for additional broadband infrastructure investment, which would include but not be limited to a lack of broadband service reliably delivering certain speeds. In addition, as discussed further below, the final rule further supports the expansion of affordable access to broadband service for households by requiring that recipients use a provider that participates in a qualifying affordability plan. Treasury encourages recipients to prioritize projects that are designed to provide service to locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed.

The final rule maintains the interim final rule's requirement that eligible projects be designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. As was the case under the interim final rule, in cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed. Treasury continues to encourage recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to focus on projects that will achieve last-mile connections, whether by focusing directly on funding last-mile projects or by ensuring that funded middle-mile projects have commitments in place to support new and/or improved last-mile service.

The final rule requires recipients to address the affordability needs of low-income consumers in accessing broadband networks funded by SLFRF, given that such a project cannot be considered a necessary investment in broadband infrastructure if it is not affordable to the population the project would serve. Recipients must require the service provider for a completed broadband infrastructure investment project that provides service to households to either participate in the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP), or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.

Treasury also recognizes the importance of affordable broadband access for all consumers beyond those that are low-income. As part of their project selection process, recipients are encouraged to consult with the community on the general affordability needs of the target markets in the proposed service area. Additionally, recipients are encouraged to require that services provided by a broadband infrastructure project include at least one low-cost option offered without data usage caps and at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients will be required to report speed, pricing, and any data allowance information as part of mandatory reporting to Treasury.

The final rule also clarifies that subsidies to households and communities impacted by the pandemic to access the internet, broadband adoption programs, digital literacy programs, and device programs are eligible programs to respond to the public health and negative economic impacts of the pandemic under sections 602(c)(1)(A) and 603(c)(1)(A). See section Assistance to Households in Negative Economic Impacts.

Treasury continues to encourage recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and cooperatives. In addition, to the extent recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable service at speeds of at least 100 Mbps download speed and 20 Mbps upload speed, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams. Further, Treasury highlights that recipients are subject to the prohibition on use of grant funds to procure or obtain certain telecommunications and video surveillance services or equipment as outlined in 2 CFR 200.216 and 2 CFR 200.471 and clarifies that modernization of cybersecurity for existing and new broadband networks are eligible uses of funds under sections 602(c)(1)(D) and 603(c)(1)(D).

Finally, this Supplementary Information to the final rule incorporates and confirms guidance issued by Treasury following the interim final rule regarding middle-mile projects,[333] pre-project development costs,[334] broadband connections to schools or libraries,[335] and applicability of the National Environmental Policy Act (NEPA) and Davis-Bacon Act.[336]

The remainder of this section provides additional details on the final rule. Specifically, these sections address: (1) Eligible areas for investment; (2) build-to speed standards; (3) affordability; (4) public networks; (5) duplication of efforts and resources; (6) cybersecurity; and (7) use of funds to meet non-federal match under the Infrastructure Investment and Jobs Act.

Eligible Areas for Investment

The interim final rule limited eligible broadband investments to projects focused on delivering service to unserved or underserved locations, defined as households or businesses that lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload. This targeted approach was generally consistent with certain speed thresholds used in other federal programs to identify eligible areas for federal investment in broadband infrastructure, such as the FCC's Rural Digital Opportunity Fund (RDOF) program and the National Telecommunication and Information Administration's (NTIA's) Broadband Infrastructure Program, and generally aligns with the FCC's benchmark for an ''advanced telecommunications capability'' for wireline broadband services.

Public Comment: Many commenters discussed the disadvantages of such an approach. Some commenters, including several local government recipients, argued that limiting investments to locations without access to reliable wireline 25/3 Mbps [337] was too

[333] *See FAQ 6.10.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

[334] *See FAQ 6.12. Id.*

[335] *See FAQ 6.16. Id.*

[336] *See FAQ 6.4, 6.17. Id.*

[337] In the remainder of this Supplementary Information, ''25/3 Mbps'' refers to broadband infrastructure that is designed to reliably meet or exceed at least 25 Mbps download speeds and 3

restrictive because some urban jurisdictions are already mostly or entirely covered by a network with at least 25/3 Mbps speeds yet lack widespread broadband adoption for various reasons. Commenters suggested that recipients would benefit from greater flexibility to provide necessary investments in broadband access in areas that are nominally covered by speeds of at least 25/3 Mbps, such as to provide affordable broadband access in low-income areas or to address service quality and reliability issues. Further, commenters argued that Treasury's requirement that new projects meet minimum reliable speeds of 100 Mbps symmetrical was inconsistent with the requirement that broadband infrastructure projects focus on those with access to significantly lower speeds, and further noted that several states have already expanded the focus of their broadband programs beyond those without reliable access to speeds of 25/3 Mbps. Commenters argued that if the limitation to unserved and underserved households and businesses were maintained, the definition of unserved and underserved households and businesses should be revised to include households and businesses currently served by higher standards. Commenters proposed a number of alternative cutoff speeds, including 25/25 Mbps, 50/10 Mbps, and 100 Mbps symmetrical. Others expressed support for providing flexibility for recipients to make their own determination on eligible areas for investment. These commenters referenced studies indicating that 25/3 Mbps is inadequate for today's modern household or business needs.

Some commenters advocated for unserved and underserved areas to be prioritized while providing flexibility for recipients to serve areas beyond those designated as unserved or underserved. Reflecting the perceived restrictiveness of the interim final rule approach, some commenters asked for assurance that projects conducted under other categories of SLFRF eligible uses, specifically to respond to the public health and negative economic impacts of the pandemic under sections 602(c)(1)(A)–(C) and 603(c)(1)(A)–(C), were not barred by the presence of 25/3 Mbps service, including ''gap networks,'' which are networks designed to offer low-cost or no-cost internet access for lower-income households with low broadband adoption rates.

Commenters suggested additional factors to be incorporated in the consideration of locations that are eligible to be served. Many commenters suggested that affordability should be considered a key factor when determining whether a community has access to broadband, as the presence of 25/3 Mbps service does not necessarily mean the service is financially accessible to the area's residents. Commenters noted that surveys indicate that affordability, not lack of coverage, is the most significant barrier for most Americans who do not have robust broadband service in their households. Some advocated that the final rule allow for investments in areas with existing reliable wireline access at or above 25/3 Mbps as long as existing broadband service has been unaffordable for a certain segment of the population; others advocated that Treasury presume eligibility when investments are made in certain areas, such as Qualified Census Tracts or neighborhoods with persistent poverty, or are made by Tribal governments. Separately, some commenters noted that Treasury should provide more clarification on what constitutes a ''reliabl[e]'' connection, including providing details as to latency, jitter, and other technical specifications that would meet that standard, and what it means for certain technologies, such as copper and other outdated technologies, to be deemed presumptively unreliable.

Other commenters supported the interim final rule's approach on eligible areas for investment or suggested tightening eligibility even further. They argued that higher speed thresholds beyond 25/3 Mbps would likely lead to investments in or building of new broadband infrastructure in areas already served by broadband at speeds these commenters considered sufficient; these areas, commenters suggested, are less in need of federal assistance and permitting investments here could divert funding away from rural areas to more densely populated areas.

Treasury Response: The final rule expands eligible areas for investment by requiring recipients to invest in projects designed to provide service to households and businesses with an identified need for additional broadband infrastructure investment. Recipients have flexibility to identify a need for additional broadband infrastructure investment: Examples of need include lack of access to a connection that reliably meets or exceeds symmetrical 100 Mbps download and upload speeds, lack of affordable access to broadband service, or lack of reliable broadband service. Recipients are encouraged to prioritize projects that are designed to provide service to locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed, as many commenters indicated that those without such service constitute hard-to-reach areas in need of subsidized broadband deployment.

Households and businesses with an identified need for additional broadband infrastructure investment do not have to be the only ones in the service area served by an eligible broadband infrastructure project. Indeed, serving these households and businesses may require a holistic approach that provides service to a wider area, for example, in order to make ongoing service of certain households or businesses within the service area economical.

Consistent with further guidance issued by Treasury,[338] in determining areas for investment, recipients may choose to consider any available data, including but not limited to documentation of existing broadband internet service performance, federal and/or state collected broadband data, user speed test results, interviews with community members and business owners, reports from community organizations, and any other information they deem relevant.

In evaluating such data, recipients may take into account a variety of factors, including whether users actually receive internet service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency, jitter, or deterioration of the existing connections make their user experience unreliable, and whether the existing service is being delivered by legacy technologies, such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier),[339] and other factors related to

Mbps upload speeds. ''100 Mbps'' symmetrical refers to broadband infrastructure that is designed to reliably meet or exceed at least 100 Mbps download speeds and 100 Mbps upload speeds.

[338] *See FAQ 6.11.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

[339] Legacy technologies such as copper telephone lines (typically using Digital Subscriber Line technology) and early versions of cable system technology (DOCSIS 2.0 or earlier) typically lag on speeds, latency, and other factors, as compared to more modern technologies like fiber-optic. *See, e.g., https://www.fcc.gov/sites/default/files/tech_transitions_network_upgrades_that_may_affect_your_service.pdf* (comparing copper to fiber and noting that copper wire networks have ''limited speeds,'' are ''susceptible to signal interference/loss,'' and have a ''relatively short life''); *https://*

Continued

the services to be provided by the project. In addition, recipients may consider the actual experience of current broadband customers when making their determinations; whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive.

Build-To Speed Standards

The interim final rule provided that a recipient may use funds to make investments in broadband infrastructure that is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. In cases where it is not practicable, because of the excessive cost of the project or the geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, so long as it is scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed. Relatedly, Treasury in the **SUPPLEMENTARY INFORMATION** to the interim final rule encouraged recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to prioritize projects that achieve last-mile connections.

Public Comment: Many commenters discussed the advantages of setting minimum symmetrical download and upload speeds of reliable 100 Mbps as the speed threshold for new projects. Some commenters indicated support for the interim final rule's standard as it takes into account growing demands on internet use resulting from pandemic broadband usage and suggested that such a standard will help to ensure that networks built with SLFRF funds remain valuable for years to come, even as demands continue to accelerate, particularly on upload speeds. Some also indicated that the interim final rule standard has the effect of prioritizing the use of fiber-optic infrastructure to deliver such speeds, which some noted was a ''gold standard'' future-proof technology, although some commenters noted that other technologies like fixed wireless have been shown to deliver such speeds in certain circumstances.

Other commenters suggested that 100 Mbps symmetrical speeds were unnecessary given current broadband usage needs and that such high standards may have the potential to slow down expansion to unserved or underserved rural areas. Some argued that setting this symmetrical threshold may limit the type of technologies that can be used, thereby decreasing competition and limiting flexibility to recipients whose communities might be better served by technologies such as wireless solutions or inexpensive gap networks. Commenters suggested alternate minimum speeds, ranging from 25/3 Mbps (which some argued best balances reaching all communities and maximizing the impact of federal funds) to 100/20 Mbps (which some argued best serves the typical broadband usage patterns of households and businesses, including new pandemic-driven needs). A few commenters suggested a higher minimum speed, such as gigabit speeds, advocating that such speeds were necessary for a network to last at least a decade.

Many commenters supported the interim final rule's lower speed standards for projects where it is impracticable to meet minimum reliable speeds of 100 Mbps symmetrical, as it provides flexibility for recipients to invest in hard-to-reach areas, such as those in mountainous regions. A few commenters indicated that Treasury should more clearly define the characteristics of a location eligible for this exception. Some indicated that the minimum standard for all new projects should be 100 Mbps symmetrical. In contrast, others argued that scalability to 100 Mbps symmetrical should not be a requirement to meet today's demands, particularly in hard-to-reach areas.

Some commenters requested that Treasury clarify eligibility for middle-mile projects as these projects potentially provide connectivity to far-reaching areas, while other commenters suggested that last-mile projects generally require more capital investment and are therefore most in need of government support.

Treasury Response: The final rule maintains the interim final rule's requirement that eligible projects be designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds, with the interim final rule's exception for projects where it is impracticable to build to such speeds due to excessive cost, geography, or topography of the area to be served by the project. Given the build time associated with broadband infrastructure projects, these standards will enable SLFRF funds to fund lasting infrastructure that will be able to accommodate increased network demand once the network is complete,[340] while providing flexibility for certain locations to meet lower speed standards where 100 Mbps symmetrical speeds are impracticable.

To illustrate the accelerating need for higher upload speeds, by one measure, mean upload speeds as of October 2021 increased to 75.21 Mbps as compared to 62.11 Mbps a year earlier.[341] Jurisdictions are increasingly responding to the growing demands of their communities for high speeds; for example, Illinois requires 100 Mbps symmetrical service as the construction standard for their state broadband grant programs. The 100 Mbps symmetrical standard accounts for increased pandemic internet usage and provides adequate upload speeds for individuals and businesses to accommodate interactive applications such as virtual learning and videoconferencing, while also helping ensure that funding is responsibly used to provide a true and lasting benefit for years to come. Treasury continues to encourage recipients to prioritize investments in fiber-optic infrastructure wherever feasible, as such advanced technology enables the next generation of application solutions for all communities and is capable of delivering superior, reliable performance and is generally most efficiently scalable to meet future needs.[342] In designing these projects, recipients should ensure that the broadband infrastructure provides ''reliable'' service at required speeds and are not required to rely on providers' advertised speeds in their assessments.

Consistent with further guidance issued by Treasury,[343] while recipients are permitted to make investments in ''middle-mile'' connections that otherwise satisfy the requirements of the final rule, Treasury continues to encourage recipients to focus on

data.fcc.gov/download/measuring-broadband-america/2020/2020-Fixed-Measuring-Broadband-America-Report.pdf (comparing fiber with DSL and cable technologies on a number of dimensions); *https://www.eff.org/wp/case-fiber-home-today-why-fiber-superior-medium-21st-century-broadband* (providing a technical background comparing fiber technology to other legacy technologies).

[340] Using the Federal Communications Commission (FCC) Broadband Speed Guide, a household with two telecommuters and two to three remote learners today is estimated to need 100 Mbps download to work simultaneously. *See* Federal Communications Commission, Broadband Speed Guide, available at *https://www.fcc.gov/consumers/guides/broadband-speed-guide* (last visited October 28, 2021).

[341] United States' Mobile and Broadband Internet Speeds—Speedtest Global Index, available at *https://www.speedtest.net/global-index/united-states#fixed.*

[342] Bennett Cyphers, The Case for Fiber to the Home, Today: Why Fiber is a Superior Medium for 21st Century Broadband, Electronic Frontier Foundation (October 16, 2019), *https://www.eff.org/wp/case-fiber-home-today-why-fiber-superior-medium-21st-century-broadband.*

[343] *See FAQ 6.10,* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

projects that will achieve last-mile connections—whether by focusing directly on funding last-mile projects or by ensuring that funded middle-mile projects have commitments in place to support new and/or improved last-mile service.

Affordability

The interim final rule encouraged recipients to consider ways to integrate affordability options into their program design but did not require recipients to take particular actions. The interim final rule also provided that assisting households with internet access and digital literacy is an eligible use of SLFRF funds under sections 602(c)(1)(A) and 603(c)(1)(A) to respond to the negative economic impacts of COVID–19.

Public Comment: Many commenters suggested that Treasury provide recipients with a broader set of tools to tackle what the commenters characterized as an affordability crisis in the broadband sector. As noted above, some commenters proposed that Treasury consider affordability when determining whether an area is unserved or underserved by broadband. Some commenters indicated that the final rule should allow for the construction of broadband networks in low-income neighborhoods including low-cost or no-cost gap networks, even in areas with existing service at the speeds required under the interim final rule. Other commenters voiced support for direct subsidies to low-income communities to afford broadband service, which would provide additional incentives for providers to serve these communities.

Treasury Response: In response to many commenters that highlighted the importance of affordability in providing meaningful access to necessary broadband infrastructure, the final rule provides additional requirements to address the affordability needs of low-income consumers in accessing broadband networks funded by SLFRF. Recipients must require the service provider for a completed broadband infrastructure investment project that provides service to households to:

- Participate in the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP); or
- Otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.

Recipients must require providers to participate in or provide access to these programs through the life of the ACP. This requirement will no longer apply once the SLFRF-funded broadband infrastructure is no longer in use.

Furthermore, Treasury also recognizes the importance of affordable broadband access for all consumers beyond those that are low income. As part of their project selection process, recipients are encouraged to consult with the community on the general affordability needs of the target markets in the proposed service area. Additionally, recipients are encouraged to require that services provided by a broadband infrastructure project include at least one low-cost option offered without data usage caps at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Treasury will require recipients to report speed, pricing, and any data allowance information as part of their mandatory reporting to Treasury.

Further, Treasury is clarifying that, as a response to the public health and negative economic impacts of the pandemic, recipients may provide households and communities impacted by the pandemic with subsidies to help pay for internet service, digital literacy programs, broadband adoption programs, and device programs that provide discounted or no-cost devices for low-income households to access the internet. For further discussion of this eligible use category, see the section internet Assistance in Assistance to Households in Public Health and Negative Economic Impacts.

Public Networks

The interim final rule encouraged recipients to prioritize support for local networks owned, operated, or affiliated with local governments, nonprofits, and cooperatives.

Public Comment: Many commenters voiced their support for Treasury's encouragement that recipients work with governmental or community entities to establish local networks, arguing that they have been shown to effectively provide broadband access to areas that would otherwise be left with unaffordable or insufficient service. These commenters suggested that, since these entities are less driven by financial returns to investment than private providers, in some circumstances they may be able to provide robust service at a lower price as compared to private providers, along with potentially increasing local competition in a service area.

Other commenters argued against Treasury's encouragement, remarking that private businesses have a robust track record of serving hard-to-reach customers. These commenters argued that commercial providers have greater technical and operational expertise in deploying and operating broadband networks and may be able to construct broadband networks with greater efficiency. Additionally, some commenters argued that providing what they considered an unfair competitive advantage for government- or community-owned or operated networks may hurt consumers over time.

Treasury Response: The final rule maintains the interim final rule's encouragement for recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and cooperatives, given that these networks have less pressure to generate profits and a commitment to serve entire communities.[344] This encouragement provides flexibility for recipients to select providers that best fit their needs, while noting the critical role that networks owned, operated, or affiliated with local governments and community organizations can play in providing sufficient coverage, affordable access, or increased competition in the broadband sector.

Duplication of Efforts and Resources

Public Comment: Some commenters raised concerns that Treasury's encouragement in the interim final rule that recipients avoid funding projects in locations with an existing agreement to provide service that reliably delivers 100/20 Mbps by December 31, 2024 was too restrictive. Commenters noted that many plans do not always lead to a successful and complete deployment, as issues may arise that prevent such infrastructure from deploying on time or at all, and that several existing federal grants were designed and awarded before the onset of the COVID–19 pandemic and do not meet the critical broadband needs highlighted by the pandemic. Other commenters argued that Treasury's encouragement to avoid duplication of resources should be strengthened, as investing in areas with existing agreements would be an inefficient duplication of efforts.

Treasury Response: Given the final rule's revised requirements on eligible areas for investment, this

[344] The Executive Office of the President, Community-Based Broadband Solutions (January 2015), *https://obamawhitehouse.archives.gov/sites/default/files/docs/community-based_broadband_report_by_executive_office_of_the_president.pdf.*

Supplementary Information to the final rule also modifies the interim final rule's requirements around duplication of resources. Since recipients must ensure that the objective of the broadband projects is to serve locations with an identified need for additional broadband investment, the final rule provides that, to the extent recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable service at speeds of at least 100 Mbps download speed and 20 Mbps upload speed, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams.

Cybersecurity

Public Comment: Several commenters expressed concern about the cybersecurity of new broadband projects funded with SLFRF funds and urged Treasury to prohibit recipients from utilizing SLFRF funds to procure equipment from certain providers from the People's Republic of China that may pose a national security risk. These commenters pointed out that the 2019 National Defense Authorization Act (NDAA) and the FCC's Universal Service Fund have similar prohibitions. Further, several commenters requested that Treasury explicitly include cybersecurity costs as an eligible use for broadband infrastructure investment given the growing threat of cyber-attacks and cyber-intrusions into the nation's infrastructure.

Treasury Response: Treasury highlights that investments in broadband infrastructure must be carried out in ways that comply with applicable federal laws, including the 2019 NDAA. Among other requirements contained in 2 CFR part 200, 2 CFR 200.216 implements certain provisions of the NDAA and contains prohibitions on the use of federal financial assistance to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China. In addition, 2 CFR 200.471 provides that certain telecommunications and video surveillance costs associated with 2 CFR 200.216 are unallowable.

Further, the final rule allows for modernization of cybersecurity for existing and new broadband infrastructure as an eligible use under sections 602(c)(1)(D) and 603(c)(1)(D) as such investments are necessary for the reliability and resiliency of broadband infrastructure.[345] Recipients may provide necessary investments in cybersecurity, including modernization of hardware and software, for existing and new broadband infrastructure regardless of their speed delivery standards. The final rule maintains the interim final rule's provision that allows for broader modernization of cybersecurity, including hardware, software, and protection of critical infrastructure as an eligible provision of government services, to the extent of revenue loss due to the pandemic, under sections 602(c)(1)(C) and 603(c)(1)(C).

Use of Funds To Meet Non-Federal Match Under the Infrastructure Investment and Jobs Act

The Infrastructure Investment and Jobs Act specifies that, except as otherwise provided, an entity using funding under section 60102 of the law for broadband deployment ''shall provide, or require a subgrantee to provide, a contribution, derived from non-Federal funds (or funds from a Federal regional commission or authority) . . . of not less than 25 percent of project costs.'' [346] It further states that the matching contribution may include funds provided to an eligible entity or subgrantee under the American Rescue Plan Act for the purpose of deployment of broadband service, which includes funds provided under the SLFRF program.

SLFRF and the program established under section 60102 of the Infrastructure Investment and Jobs Act are separate programs with separate requirements. While section 60102 allows states and other eligible entities to use SLFRF funds as the source of matching funds for broadband deployment, the requirements of the SLFRF program still apply. As such, recipients that use SLFRF funds to meet the section 60102 matching requirement will continue to be subject to the requirements of the SLFRF program.

[345] For more on the importance of cybersecurity to the reliability and resiliency of broadband networks, see: Federal Communications Commission, *https://docs.fcc.gov/public/attachments/FCC-10-63A1.doc;* Brookings Institute, Protecting the Cybersecurity of America's Networks (February 11, 2021), *https://www.brookings.edu/blog/techtank/2021/02/11/protecting-the-cybersecurity-of-americas-networks/.*

[346] *See* Infrastructure Investment and Jobs Act, Public Law 117–58 (2021).

III. Restrictions on Use

While recipients have considerable flexibility to use funds to address the diverse needs of their communities, some restrictions on use of funds apply. The ARPA includes two statutory provisions that further define the boundaries of the statute's eligible uses. First, section 602(c)(2)(A) of the Social Security Act provides that states and territories may not ''use the funds . . . to either directly or indirectly offset a reduction in . . . net tax revenue . . . resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax . . . or delays the imposition of any tax or tax increase.'' Second, sections 602(c)(2)(B) and 603(c)(2) prohibit all recipients, except Tribal governments, from using funds for deposit into any pension fund. These restrictions support use of funds only for the congressionally permitted purposes described in the Eligible Uses section by providing a backstop against the use of funds for purposes outside of the eligible use categories provided for in the statute.

In addition to the restrictions on use of funds provided for in the ARPA statute, the interim final rule noted that several uses of funds would be ineligible under any eligible use category, including as a response to the public health and negative economic impacts of the pandemic or as a ''government service'' under the revenue loss eligible use category. Specifically, use of funds for debt service, to replenish financial reserves, or to satisfy an obligation arising from a judicial settlement or judgment were ineligible uses of funds under the eligible use categories for public health and negative economic impacts and revenue loss. These restrictions apply to all recipients.

Recipients should note that restrictions on use of funds for debt service, to replenish financial reserves, or to satisfy an obligation arising from a judicial settlement or judgment apply to all eligible use categories, not just the eligible use categories in which they were discussed in the interim final rule.

Recipients are also subject to other restrictions on use of funds in the ARPA, the Award Terms and Conditions, and other federal laws. As discussed further below, uses of funds may not conflict with the overall statutory purpose of the ARPA to reduce the spread of COVID–19. Per the Award Terms and Conditions, recipients must adopt and abide by policies to prevent conflicts of interest. Finally, recipients are reminded that other federal laws

also apply to uses of funds, including environmental and civil rights laws.

To enhance clarity, this **SUPPLEMENTARY INFORMATION** for the final rule consolidates these restrictions on use of funds into one section and makes clear that they apply to all eligible use categories and any use of funds under the program by recipients to whom each specific restriction applies.

This section discusses the aforementioned restrictions, public comments received, and Treasury's response to these comments. For clarity, Treasury has divided the following discussion into (A) statutory restrictions under the ARPA, which include (1) offsetting a reduction in net tax revenue, and (2) deposits into pension funds, and (B) other restrictions on use, which include (1) debt service and replenishing reserves, (2) settlements and judgments, and (3) general restrictions.

A. Ineligible Uses of Funds Under the ARPA Statute

1. Offset a Reduction in Net Tax Revenue

For states and territories (recipient governments [347]), section 602(c)(2)(A)—the offset provision—prohibits the use of SLFRF funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation [348] during the covered period. If a state or territory uses SLFRF funds to offset a reduction in net tax revenue resulting from a change in law, regulation, or interpretation, the ARPA provides that the state or territory must repay to Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount of SLFRF funds received by the state or territory. A state or territory that uses SLFRF funds to offset a reduction in net tax revenue does not forfeit its entire allocation of SLFRF funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-SLFRF funding.

The interim final rule implements these conditions by establishing a framework for states and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—*i.e.,* cover the cost of—any reduction in net tax revenue resulting from such changes. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than SLFRF funds: Organic revenue growth, increases in revenue due to policy changes (*e.g.,* an increase in a tax rate), and certain cuts in spending.

Specifically, the interim final rule establishes a step-by-step process for determining whether, and the extent to which, SLFRF funds have been used to offset a reduction in net tax revenue, based on information reported by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to ''pay for'' with sources other than SLFRF funds (total value of revenue reducing changes).
- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which it is reporting. If the recipient government's actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.
- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than SLFRF funds. These are:
  - State or territory tax changes that would increase any source of general fund revenue, such as a change that would increase a tax rate; and
  - Spending cuts in areas not being replaced by SLFRF funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (*i.e.,* fiscal year 2019 tax revenue adjusted for inflation). This ''revenue reduction cap,'' together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

- Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts along with an explanation of such amounts. This process is discussed in greater detail in section Remediation and Recoupment of this Supplementary Information.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with SLFRF funds.

Overview of Comments: Many commenters supported the framework established under the interim final rule. These commenters argued that the offset provision, and the interim final rule's implementation of the offset provision, was essential to ensuring SLFRF funds are used in a manner consistent with the statute's defined eligible uses and, in particular, to support the use of SLFRF funds to build public sector capacity. Several commenters argued that the framework should be made more restrictive; for example, some comments advocated that the offset provision be applied to local governments.

Other commenters argued that the offset provision and the interim final rule's implementation of the offset provision is too restrictive, with some asserting that the offset provision prohibits states from making changes to reduce taxes. Many of these commenters argued that the offset provision presents constitutional concerns. These commenters asserted that the offset provision is ambiguous and the restriction is unrelated to the purpose of the ARPA. These commenters also

[347] In this sub-section, ''recipient governments'' refers only to states and territories. In other sections, ''recipient governments'' refers more broadly to eligible governments receiving funding from the SLFRF.

[348] For brevity, this phrase is referred to as ''changes in law, regulation, or interpretation'' for the remainder of this **SUPPLEMENTARY INFORMATION.**

argued that the generous amount of SLFRF funds provided to those governments gave recipient governments little choice as to whether to accept the SLFRF funds and, as a result, the offset provision is coercive. In describing these concerns and arguments, several of these commenters referenced litigation regarding the offset provision.[349] Many of these commenters also expressed concern regarding the interim final rule's implementation of the offset provision. Some of these commenters argued that Treasury lacked the authority to implement the provision, asserting that the significance of the provision required Congress to make an explicit delegation of rulemaking authority and provide clearer principles by which Treasury should implement the provision. Finally, one commenter argued that the offset provision should only apply if the recipient expressly and intentionally uses SLFRF funds to offset a reduction in revenue, arguing that the term ''offset'' implies a deliberate use SLFRF funds to ''pay for'' a tax cut.

As discussed in the interim final rule, the offset provision does not prevent a recipient government from enacting a broad variety of tax changes. Rather, the offset provision prevents a recipient government from using SLFRF funds to offset a revenue reduction resulting from a tax cut. A recipient government would only be considered to have used SLFRF funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than SLFRF funds to offset the reduction in net tax revenue. Only if sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, will the remaining amount not covered by these sources be considered to have been offset by SLFRF funds, in contravention of the offset provision. Consistent with the statutory text, the approach taken in the interim final rule recognizes that, because money is fungible, even if SLFRF funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the state's or territory's funds that would otherwise have been needed to cover the costs of the reduction. As discussed below, the scope of changes in law, regulation, or interpretation is further limited to those that the recipient government voluntarily enacted during the covered period.

Congress has the authority under the Spending Clause in Article I, section 8 of the Constitution to specify the permissible and impermissible uses of federal grants. The Supreme Court has repeatedly ''upheld Congress's authority to condition the receipt of funds on the States' complying with restrictions on the use of those funds, because that is the means by which Congress ensures that the funds are spent according to its view of the 'general Welfare.' '' [350] ''The power to keep a watchful eye on expenditures . . . is bound up with congressional authority to spend in the first place.'' [351] Assertions that the amount of SLFRF funds are sufficiently large to be coercive are inconsistent with the Supreme Court's reasoning in *NFIB,* which distinguished between conditions placed on new federal funds and conditions placed on existing federal funds and not based on the size of funds.[352] Further, the conditions placed on the use of SLFRF funds under the ARPA—both the eligible uses and additional limitations on deposits into pension funds and the offset provision—were well known to recipient governments prior to recipient governments requesting to receive SLFRF funds. Finally, the ARPA provides Treasury with the express authority ''to issue such regulations as may be necessary or appropriate to carry out'' section 602, which includes the offset provision.

A number of commenters expressed concern regarding the burden associated with complying with the offset provision and the interim final rule. Similarly, other commenters argued that the framework provided in the interim final rule complicated implementation of the offset provision. Treasury took several steps to minimize burden for recipient governments in the interim final rule. For example, the interim final rule incorporates the types of information and modeling already used by states and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, states and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of SLFRF funds based on information they likely have or can readily obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of SLFRF funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or interpretation, making the funds potentially subject to recoupment. To further reduce burden, Treasury is considering whether the scope of reporting requirements can be further tailored.

As described in greater detail below, Treasury is finalizing its implementation of the offset provision largely without change. This approach is consistent with the text of the ARPA. The remainder of this section discusses and responds to comments on specific aspects of the framework.

1. Definitions

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from ''a change in law, regulation, or administrative interpretation.'' Consistent with this language, the interim final rule defines a ''covered change'' to include any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Thus, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. For example, covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period.[353] Changed

[349] *See, e.g., State of West Virginia* v. *U.S. Department of the Treasury,* No. 7:21–cv–00465–LSC, 2021 WL 2952863 (N.D. Ala. Jul. 14, 2021); *State of Ohio* v. *Yellen,* No. 1:21–cv–181, 2021 WL 2712220 (S.D. Ohio Jul. 1, 2021).

[350] *National Fed'n of Indep. Bus.* v. *Sebelius (NFIB),* 567 U.S. 519, 580 (2012) (plurality opinion); see, *e.g., South Dakota* v. *Dole,* 483 U.S. 203, 206–208 (1987); *Gruver* v. *Louisiana Bd. of Supervisors for Louisiana State Univ. Agric. & Mech. Coll.,* 959 F.3d 178, 183 (5th Cir.), cert. denied, 141 S. Ct. 901 (2020). For additional discussion of these issues, *see, e.g., Brief Reply for Appellants, Ohio* v. *Yellen,* No. 21–3787 (6th Cir. Oct. 26, 2021).

[351] *Sabri* v. *United States,* 541 U.S. 600, 608 (2004).

[352] The new federal funds offered by the Affordable Care Act totaled $100 billion per year. Even the dissenting Justices agreed that ''Congress could have made just the new funding provided under the ACA contingent on acceptance of the terms of the Medicaid Expansion,'' although they disagreed with the majority about whether that funding condition was severable. NFIB at 687–688 (joint dissent).

[353] For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the federal government's expansion of the EITC in the ARPA *See, e.g.,* Tax

administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period. The operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only changes within the control of the state or territory are considered covered changes. Finally, covered changes do not include changes that simply conform with recent changes in federal law (including those to conform to recent changes in federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program).

Scope of Covered Changes

Public Comment: Several commenters argued that the definition of covered change, and thus the limitations of the offset provision, should apply to subsidies for businesses. Similarly, other commenters requested that Treasury clarify that the offset provision applies to tax abatements and reductions in corporate taxes, even if administered by a sub-unit of the recipient government. Citing to empirical research and other evidence, these commenters argued that these types of economic development policies were poorly administered, reduced public sector capacity, and were ineffective at achieving stated objectives of creating jobs, increasing income, and increasing economic growth. On the other hand, some commenters argued that, because subsidies were economically similar to some tax cuts, neither action should be considered a covered change and subject to the offset provision. Finally, other commenters requested that Treasury clarify whether covered changes must be broad-based policies or whether administrative decisions applicable to individuals would be considered covered changes.

Treasury Response: Section 602(c)(2)(A) applies to any change that ''reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise or delays the imposition of any tax or tax increase.'' Accordingly, and consistent with this statutory text, the final rule applies to covered changes that reduce any tax, which can include tax abatements, but does not apply to loans, grants, or other types of interventions that do not reduce tax revenue.[354] In addition, by including changes in regulation or administrative interpretation, in addition to changes in law, within the scope of the offset provision, the ARPA recognizes that a recipient government may make a covered change through its legislature or may delegate the authority to make a covered change including, but not limited to, to a sub-unit of government. Treasury has revised the definition of ''covered change'' in the final rule using the statutory language above to make clear that the offset provision only applies to such changes in law, regulation, or administrative interpretation. With respect to the question of whether covered changes could include administrative decisions applicable to individuals, as discussed above, a covered change includes a change in law, regulation, or administrative interpretation that reduces any tax. Such changes may apply to one or more individuals or entities, provided that—consistent with the statutory text—they result from a change in law, regulation, or administrative interpretation.

Prior Enactment and Phase-In

Public Comment: A number of commenters expressed concern, or requested clarification, regarding changes that were enacted prior to the covered period but take effect or phase-in during the covered period. Several commenters argued that the definition of covered change should include changes that were made prior to the covered period but that phase-in during the covered period.

Treasury Response: As discussed above, the offset provision is triggered by a reduction in net tax revenue resulting from ''a change in law, regulation, or administrative interpretation'' made during the covered period. Consistent with the statutory text, ''covered change'' is defined to include any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period.

Conformity

Public Comment: A number of commenters requested clarification on the scope of covered changes. Specifically, several commenters requested clarification on the scope of changes that would be considered as conforming to recent changes in federal law. These commenters requested that Treasury clarify whether actions to selectively conform with federal law would be considered covered changes and requested clarification regarding the extent to which changes would be considered ''recent.'' For example, these commenters requested clarification regarding conformance with the Global Intangible Low-Taxed Income provision of the 2017 Tax Cuts and Jobs Act. Some commenters further argued that changes that selectively conform or decouple from the Internal Revenue Code should be included within scope of covered changes and thus subject to the offset provision.

Treasury Response: The final rule maintains the treatment of changes that simply conform with recent changes in federal law, such as those to conform to recent changes in federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program [355] and including other changes over the past several years. Regardless of the particular method of conformity and the effect on net tax revenue, Treasury views such changes as permissible under the offset provision.

Accordingly, and for the reasons discussed above, Treasury is maintaining the definition of covered change without change.

Tax revenue. The interim final rule's definition of ''tax revenue'' is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.[356] It provides a consistent, well-established definition with which states and territories will be familiar and is consistent with the approach taken in section Revenue Loss of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act regarding revenue loss. A number of commenters expressed concern and requested clarification regarding the definition of ''tax revenue.'' These comments and responses are discussed in section Revenue Loss of this Supplemental Information and, for the reasons discussed above, Treasury is finalizing the definition of tax revenue without

Policy Center, How do state earned income tax credits work?, *https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/* (last visited May 9, 2021).

[354] Assistance must be consistent with eligible uses of SLFRF funds. *See* section Eligible Uses of this **SUPPLEMENTARY INFORMATION**.

[355] *See* Statement on State Fiscal Recovery Funds and Tax Conformity, April 7, 2021, available at *https://home.treasury.gov/news/press-releases/jy0113.*

[356] U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, *https://www.census.gov/programs-surveys/state/about/glossary.html* (last visited Apr. 30, 2021).

change and maintaining a consistent definition of ''tax revenue.'' [357]

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline is calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.[358]

Public Comment: Some commenters expressed concern regarding the choice of FY 2019 as the baseline, arguing that the choice lacked justification and would make the offset provision more restrictive as applied to recipient governments that experienced a decline in revenue independent of making any covered changes.

Treasury Response: Measuring a ''reduction'' in net tax revenue requires identification of a baseline. In other words, a ''reduction'' can be assessed only by comparing two amounts. The Act defines ''covered period'' to begin on March 3, 2021, and thus the baseline year must end prior to March 3, 2021. As discussed in the interim final rule, FY 2019 is the last full fiscal year prior to the COVID–19 public health emergency, and thus is consistent with the statutory definition and does not include the extraordinary effects of the pandemic that began in 2020. Further, as discussed above, the interim final rule recognizes three potential ways that a recipient government may offset or ''pay for'' a reduction in net tax revenue due to a covered change: Increases in taxes, decreases in spending, and organic revenue growth. U.S. gross domestic product rebounded to exceed its pre-pandemic level in 2021,[359] suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels and provides recipients with flexibility to identify organic growth as a permissible offset. Finally, this baseline year is consistent with the approach directed by sections 602(c)(1)(C) and 603(c)(1)(C), which identify the ''most recent full fiscal year of the [state, territory, or Tribal government] prior to the emergency'' as the comparator for measuring revenue loss. For these reasons, Treasury is finalizing the definition of ''baseline'' without change.

The interim final rule includes several other definitions that are applicable to the implementation of the offset provision, such as the term ''reporting year.'' [360] Commenters did not express concern regarding other definitions in the interim final rule.

2. Framework

The interim final rule provides a step-by-step framework, to be used in each reporting year, to determine whether a state or territory used SLFRF funds to offset a reduction in net tax revenue. Consistent with section 602(c)(2) and the interim final rule, the final rule applies to states and territories:

(1) *Covered changes that reduce tax revenue.* Under the interim final rule, a recipient government identifies and values covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The interim final rule states that the value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures these effects relative to a current law baseline. If the recipient would prefer, the covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s).[361] Further, estimation approaches may not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework.

Estimation

Public Comment: A number of commenters expressed concern that estimating the value of covered changes required a number of assumptions and that the actual effects of covered changes on tax revenue would be difficult to predict. Several commenters expressed support for the interim final rule's approach to dynamic scoring methodologies, and one commenter argued that the final rule should prohibit the use of prior cash balances in calculations of permissible tax cuts.

Treasury Response: Treasury recognizes that estimating the effects of covered changes requires assumptions and that many other factors influence the amount of tax revenue received. The interim final rule addresses these concerns in several ways. First, in general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, by relying on scoring methodologies that do not incorporate projected effects of macroeconomic growth, the estimation of the value of covered changes relies on fewer assumptions and thus provide greater consistency among states and territories. Finally, as discussed below, the interim final rule includes a de minimis threshold, below which the sum of covered changes will be deemed not to have any revenue-reducing effects.

Timing of the Impact of Covered Changes

Public Comment: Several commenters expressed concern that recipient governments, to evade the offset provision, may backload the costs of certain covered changes outside of the covered period, and advocated that covered changes be instead evaluated as the net present value in the year that the covered change is enacted. These commenters argued that some tax cuts could have effects on tax revenue for many decades or could be structured to take effect after the end of the covered period.

Treasury Response: As discussed in section Timeline for Use of SLFRF Funds, SLFRF funds must be used to cover costs incurred prior to December 31, 2024. Accordingly, SLFRF funds

[357] As discussed in section Revenue Loss of this Supplementary Information, for purposes of measuring revenue lost due to the pandemic under sections 602(c)(1)(C) and 603(c)(1)(C), recipients must adjust the amount of revenue lost to reflect changes that resulted from a tax increase or decrease. These adjustments do not apply to or affect the definition of tax revenue.

[358] U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, *https://www.bea.gov/data/prices-inflation/gdp-price-deflator* (last visited Apr. 30, 2021). The FY 2019 baseline revenue is adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

[359] Economy Statement by Catherine Wolfram, Acting Assistant Secretary for Economy Policy, for the Treasury Borrowing Advisory Committee November 1, 2021 (Nov. 1, 2021), *available at https://home.treasury.gov/news/press-releases/jy0453*.

[360] One commenter requested clarification that references to fiscal year refer to the fiscal year of the recipient. ''Reporting year'' is defined in the interim final rule and final rule to mean ''a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.''

[361] By permitting recipient governments to use actual or estimated values, the interim final rule and final rule provide flexibility to recipients and thus minimizes burden.

generally would not be able to offset a reduction in net tax revenue occurring after December 31, 2024.

For these reasons, Treasury is maintaining this element of the interim final rule without change.

(2) *In excess of the de minimis.* Under the framework established in the interim final rule, after establishing that a covered change occurred, the recipient government next calculates the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government is deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue. Under the interim final rule, the de minimis level is calculated as 1 percent of the reporting year's baseline.

Public Comment: Many commenters supported the inclusion of the de minimis, noting that the de minimis protects recipients from penalty resulting from minor or incidental changes, minimizes administrative burden, and enhances predictability of the application of the offset provision. Some commenters expressed concern that the fixed threshold could result in cliff effects.

Treasury Response: A clear de minimis threshold supports recipient governments' compliance with the offset provision. A de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. In other words, states and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as ''resulting from'' tax law changes. However, a de minimis does not automatically result in consequences under the offset provision, since a recipient government could demonstrate that other, non-SLFRF funds to offset a net reduction in tax revenue. Accordingly, any cliff effects associated with a clear de minimis threshold are mitigated by other aspects of the framework.

Public Comment: Commenters expressed a range of views regarding the amount of the de minimis. Some commenters argued that the de minimis was too generous, noting that the choice of 1 percent could, in some cases, permit reductions in net tax revenue of hundreds of millions of dollars. These commenters advocated that the de minimis be lowered (*e.g.,* to 25 basis points) or be tied to a fixed amount. Other commenters argued that the choice of de minimis was not well supported by the statute, advocated for a larger de minimis and suggested that the amount be tied to the recipient government's total expenditures in the prior fiscal year.

Treasury Response: Treasury adopted a de minimis threshold as an administrative accommodation for the reasons discussed above. As discussed in the interim final rule, Treasury determined that the 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies and was determined by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.[362]

For these reasons, Treasury is adopting the 1 percent de minimis without change.

(3) *Safe harbor.* Next, under the interim final rule, if the revenue reduction caused by the covered changes exceeds the 1 percent de minimis threshold, the recipient government compares the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of SLFRF funds only in the event that such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, the offset provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of any covered changes. One commenter argued that the offset for organic growth be adjusted to reflect population growth. To minimize administrative burden, and for the reasons discussed above, Treasury is maintaining the measurement of actual tax revenue without adjustment for population growth.

(4) *Consideration of other sources of funding.* The recipient government will then identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. Recipient governments should use the same approach to identify and value covered changes that increase tax revenue as applied to covered changes that reduce tax revenue. For the reasons discussed above, Treasury is adopting these aspects of identifying and valuing covered changes without change.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays in an area where the recipient government has not spent SLFRF funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent SLFRF funds on that same department, agency, or authority. If the recipient government has not spent SLFRF funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have spent SLFRF funds in such department, agency, or authority, the SLFRF funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of SLFRF funds spent on the department, agency, or authority would count. This approach—allowing only spending reductions in areas where the recipient government has not spent SLFRF funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using SLFRF funds to supplant state or territory funding in the eligible use

[362] Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

areas, and then using those state or territory funds to offset tax cuts. Such an approach helps ensure that SLFRF funds are not used to ''indirectly'' offset revenue reductions due to covered changes.

Department, Agency, or Authority

Public Comment: Several commenters supported the interim final rule's approach to considering spending cuts at the department, agency, or authority level, on the basis that this approach is supported by the statutory language prohibiting SLFRF funds from being used to ''directly or indirectly'' offset a reduction in net tax revenue. On the other hand, some commenters argued that the methodology for identifying offsetting spending cuts was too restrictive; specifically, that measurement at the agency or department-level may not adequately account for the size and various programs that could occur in one agency or department. One commenter argued that recipient governments should instead be permitted to consider spending cuts on a more granular sub-unit of a department but noted that this additional flexibility would come at the cost of transparency and clarity.

Treasury Comment: Treasury recognizes that some recipients may vary in their budgeting processes, with some budgeting on a department level and others budgeting at more or less granular sub-units of government. Relying on spending at a department, agency, or authority level allows recipient governments to report how SLFRF funds have been spent using reporting units already incorporated into their budgeting process.

Spending Cuts Baseline

Under the interim final rule, to calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding SLFRF funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offset other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding SLFRF funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue.

Public Comment: Several commenters expressed concern regarding the measurement of spending cuts relative to the recipient's FY 2019, for example arguing that the choice did not take into account increases in spending in 2020. As one commenter noted, the fiscal year 2020 required extraordinary intervention by recipient governments and the ongoing public health emergency continues to require extraordinary intervention.

Treasury Response: FY 2019 provides a reasonable and relatively generous baseline for considering spending because it is the last full fiscal year prior to the COVID–19 public health emergency and governments' extraordinary efforts to address the impact of the pandemic. This approach also aligns with the FY 2019 baseline for measuring revenue loss. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of states and territories.

For the reasons discussed above, Treasury is adopting the approach taken in the interim final rule without change.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used SLFRF funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of the reduction revenue due to covered changes that a recipient government must cover is capped at the difference between the baseline and actual tax revenue.[363] In the event that the baseline is above actual tax revenue but the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. The revenue reduction cap implements this approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, a recipient government may request reconsideration of any amounts identified in a notice from Treasury as subject to recoupment under this framework. Comments and responses to the recoupment process are discussed in section Remediation and Recoupment of this Supplemental Information.

3. Reporting

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, recipient governments are required to report certain information. The interim final rule indicated that Treasury would provide additional guidance at a later date and that, on an annual basis, it expected each recipient government would be required to provide the following information:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change; and
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule.

Since the adoption of the interim final rule, Treasury has provided guidance on reporting regarding eligible uses and has required recipient governments to indicate whether they have made covered changes and the value of such changes.[364]

Reporting Burden

Public Comment: Some commenters argued that the framework for identifying and reporting impermissible offsets was burdensome and that the burdens should be accounted for under Executive Order 13132 (Federalism, August 4, 1999).

Treasury Response: Taking into consideration comments received regarding burden, Treasury is considering a tiered approach to reporting on the offset provision. Specifically, under this approach, a recipient would only be required to report information to the extent needed to determine whether SLFRF funds had been used to offset a reduction in net tax revenue. For example, a recipient government would be required to report

[363] This cap is applied in section 35.8(c) of the final rule, calculating the amount of funds used in violation of the tax offset provision.

[364] *See* Reporting Guidance, Section C.11, available at *https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf.*

information regarding permissible offsets only if it had also reported covered changes that were in excess of the de minimis and had reported a net reduction in tax revenue. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

As discussed in section Regulatory Analyses of this Supplemental Information, Treasury maintains that the final rule does not have federalism implications within the meaning of Executive Order 13132 (Federalism, August 4, 1999). In the ARPA, Congress requires states and territories to repay the Secretary for amounts used in violation of the prohibition on using SLFRF funds to offset reductions in net tax revenue, and it authorizes the Secretary to issue regulations to carry out this limitation and other requirements of the statute. Section 6(b) of Executive Order 13132 contemplates that certain regulations will be required by statute, as is the case with the interim final rule and the final rule, in which case section 6(b)(2)(B)'s requirement to include a federalism summary impact statement in the Supplementary Information to the regulation does not apply. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected state, local, and Tribal government officials and associations in the process of developing the interim final rule.

Reporting Transparency

Public Comment: Several commenters argued that information supporting the net tax offset calculation should be publicly available. Some of these commenters requested that reporting be made available in a machine-readable format, and others advocated that recipient governments disclose this information on their local budget agency's website. These commenters argued that making information regarding tax changes publicly available would increase transparency and accountability. Further, several commenters suggested that Treasury provide a mechanism for citizens to register their concerns about particular tax actions.

Treasury Response: As discussed in other sections, reporting requirements promote transparency and accountability for the general public and constituents of recipient governments to understand how state, local, and Tribal governments have used SLFRF funds. Since the publication of the interim final rule, Treasury issued supplementary reporting guidance in the Compliance and Reporting Guidance and in the User Guide: Treasury's Portal for Recipient Reporting (User Guide), which addresses the particular content and form of required reporting. Treasury will continue to issue updated guidance prior to each reporting period clarifying any modifications to requested report content and will continue to consider how reporting can best support transparency and accountability while minimizing recipient administrative burden. Further, as discussed in the section Remediation and Recoupment, Treasury may address potential violations of this final rule based on both information submitted from recipients, either through quarterly reports or self-reporting, and from other sources of information (*e.g.,* information submitted from the public).

2. Deposit Into Pension Funds

Background: Subsection 602(c)(2)(B) of the Social Security Act provides that ''[n]o State or territory may use funds made available under this section for deposit into any pension fund.'' Similarly, subsection 603(c)(2) of the Social Security Act provides that ''[n]o metropolitan city, nonentitlement unit of local government, or county may use funds made available under this section for deposit into any pension fund.''

For purposes of this restriction on pension deposits, the interim final rule defined deposit to mean ''an extraordinary payment of an accrued, unfunded liability.'' The interim final rule also specified that a deposit does not include routine contributions made as part of a payroll obligation, such as the normal cost component of a pension contribution or the component that consists of amortization of unfunded liabilities calculated by reference to the employer's payroll costs. The interim final rule applied the restriction on pension deposits to all recipients.

Public Comment: Several commenters observed that the statutory restriction on deposits into pension funds does not apply to Tribal governments.

Treasury Response: In response, Treasury is clarifying in the final rule that the pension restriction does not apply to Tribal governments.

Public Comment: Treasury also received a comment expressing concern that the interim final rule permitted recipients to make a larger than usual pension contribution, so long as the timing of that contribution aligns with the historical timing of contributions.

Treasury Response: The interim final rule prohibited the use of SLFRF funds from the ARPA to make extraordinary payments, and the **SUPPLEMENTARY INFORMATION** to the interim final rule said that a payment would be an extraordinary payment if it reduces a liability incurred prior to the start of the COVID–19 public health emergency and occurs outside the recipient's regular timing for making the payment. At the same time, however, as suggested by the comment Treasury received, a payment made at the regular time for pension contributions may very well be an extraordinary payment, for example, if it is larger than a regular payment would have been. Such a payment would be a restricted use.

Public Comment: Other commenters asked which pension contributions are permitted.

Treasury Response: To be an eligible use of SLFRF funds, a use must (1) be eligible under one of the eligible use categories and (2) not contravene any of the applicable restrictions on uses of funds. Some pension contributions may be eligible because they both fit within an eligible use category and do not contravene the restriction on deposits into pension funds (*i.e.,* they are not an extraordinary payment of an accrued, unfunded liability). For example, payroll and covered benefits for public health and safety staff responding to COVID–19 are an eligible use of funds to respond to the public health and negative economic impacts of the pandemic; routine pension contributions as part of an employee's regular covered benefits are permissible under that eligible use category.

B. Other Restrictions on Use of Funds

1. Debt Service and Replenishing Financial Reserves

The **SUPPLEMENTARY INFORMATION** to the interim final rule provided that debt service is not an eligible use of funds either to respond to the public health emergency or its negative economic impacts or as a provision of government services to the extent of revenue loss.[365] The interim final rule also provided that replenishing financial reserves (*e.g.,* rainy day funds) is not an eligible use of funds either to respond to the public health emergency or its negative economic impacts or as a provision of

[365] ''[G]overnment services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services.'' 86 FR 26796–97 (May 17, 2021).

government services to the extent of revenue loss.[366]

As explained in greater detail below, Treasury, in the final rule, has retained these restrictions and is clarifying that these restrictions on the use of SLFRF funds apply to all eligible use categories.

Public Comments

Several commenters suggested that debt service and reserve replenishment should qualify as the provision of a government service and be an eligible use of funds, up to the amount of revenue loss due to the pandemic. Many commenters indicated that they had been forced to borrow money or dip into reserve funds to continue providing government services during the public health emergency and that using SLFRF funds for resulting debt service or reserve replenishment costs should therefore be considered a government service.

Many comments from Tribal governments noted that their governments depend on revenue from Tribal enterprises to pay government debts and provide services. The comments suggest that it should be an eligible use of SLFRF to replace lost revenue from these enterprises that would typically be used to pay debt service costs. Other commenters argued that paying the interest or principal on debt should in some cases be considered provision of government services and an eligible use of funds as such expenditures facilitate the provision of government services.

Some commenters argued that debt costs or reserve drawdowns during the public health emergency constitute a negative economic impact to recipient governments, and thus debt service or reserve replenishment should be an eligible use to respond to that negative economic impact. For example, several commenters suggested that there should be a specific carve-out allowing the use of SLFRF funds for debt service on debt incurred for government services after January 27, 2020, the start of the public health emergency, or short-term debt incurred for this purpose. Others suggested that recipient governments should be able to service debt, up to the amount of debt incurred in direct response to the pandemic. These commenters generally reasoned that the cost of responding to the public health emergency and its negative economic impacts prior to APRA's passage constitutes a negative economic impact of the pandemic.

Some commenters argued that the specific impacts of the pandemic on the travel, tourism, and hospitality sector had affected their ability to meet debt service costs. For example, some commenters explained that specific tax streams (*e.g.,* hotel room taxes) or revenue sources (*e.g.,* hospitality generally) are tied to specific debt instruments and that these revenue sources had declined during the public health emergency; commenters argued that this constitutes a negative economic impact that SLFRF funds should be permitted to address.

Finally, some commenters questioned why servicing debt incurred after March 3, 2021 for an otherwise eligible project (*e.g.,* a broadband infrastructure project) would not be an eligible use of funds.

On the other hand, many commenters expressed support for the interim final rule's prohibition on use of funds for debt service and reserve replenishment. These commenters largely argued that SLFRF funds should be used to provide current services to communities in response to the public health emergency and that use of funds for debt service or reserve replenishment represented, respectively, payment for past costs or savings for potential future costs. In addition to the prohibition on debt service and reserve replenishment, some commentors suggested that the final rule should also prevent funds from being used for state UI trust fund replenishment or for paying off debt owed through UI trust funds. One commenter argued that Treasury should further restrict recipient governments, for example by preventing recipients from making cuts to an allowable budget item, filling the budget gap with SLFRF funds, and then using the savings from the initial cut for debt service or reserve replenishment.

Treasury Response

The final rule maintains the restriction on the use of funds for debt service or reserve replenishment for the reasons described below and clarifies that this restriction applies to all eligible use categories.

First, debt service and reserve replenishment costs do not constitute the provision of services to constituents. As noted in the interim final rule, financing expenses—such as issuance of debt or payment of debt service—do not provide services or aid to citizens. Similarly, contributions to rainy day funds and similar financial reserves constitute savings for future spending needs. As such, these expenses do not respond to the current and ongoing public health and negative economic impacts of the pandemic, nor do they provide a government service.

Second, payments from the SLFRF are intended to be used prospectively (see section Timeline for Use of SLFRF Funds). The interim final rule provided that funds may be used for costs incurred beginning on March 3, 2021, which Treasury has maintained in the final rule. Use of funds for debt service on indebtedness issued prior to March 3, 2021 necessarily entails using funds for costs incurred during prior time periods, rather than the present response to the public health emergency and its negative economic impacts or to provide government services.

Third, SLFRF funds provide recipients with substantial latitude to use funds to support the diverse needs in their communities. With SLFRF resources available, recipients have less need to incur debt for otherwise-eligible SLFRF uses.

Finally, given the strong performance of overall revenues and low municipal bond yields, state and local governments generally do not face high levels of fiscal stress. Limits on debt service or replenishment of reserves would not have a substantial impact on recipients' ability to provide services. The ratio of state and local debt-to-GDP, which spiked briefly during the pandemic, has recovered to its pre-pandemic level and remains well below levels seen during the Great Recession.[367]

2. Settlements and Judgments

The interim final rule also provided that satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding would not be an eligible use of funds to respond to the public health and negative economic impacts of the pandemic or as a government service provided under the revenue loss eligible use category. However, if the judgment or settlement requires the recipient to provide services that are otherwise eligible under an SLFRF eligible use category, specifically if the settlement or judgment requires the recipient to provide services to respond to the COVID–19 public health emergency or its negative economic impacts or to provide government services, then those costs are eligible uses of SLFRF funds.

[366] ''In addition, replenishing financial reserves (*e.g.,* rainy day or other reserve funds) would not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.''

[367] Table Z.1 of the Financial Accounts of the United States, Board of Governors of the Federal Reserve System, and Table 1.1.5 of National Income and Product Accounts, Bureau of Economic Analysis.

In other words, satisfaction of a settlement or judgment itself is not itself an eligible use of funds, unless the settlement requires the recipient to provide services or incur other costs that are eligible uses of SLFRF funds.

In the final rule, Treasury is maintaining the interim final rule approach and clarifying that it applies to all eligible use categories and any use of funds under the SLFRF program.

3. General Restrictions

In addition to the above restrictions, there are three general restrictions that apply to SLFRF funds. These restrictions, which reflect existing laws and regulations, the Award Terms and Conditions, and application of the ARPA statute, applied under the interim final rule, and they continue to apply under the final rule.

A primary purpose of the SLFRF in the ARPA is to support efforts to stop the spread of COVID–19.[368] As discussed above, recipients of SLFRF funds are required to comply with the Award Terms and Conditions established for the use of such funds. The interim final rule and final rule implement this objective by, in part, providing that recipients may use SLFRF funds for COVID–19 mitigation and prevention.[369] See section Public Health in Public Health and Negative Economic Impacts.

The CDC has provided recommendations and guidelines to help mitigate and prevent COVID–19 and has identified vaccines and masks as two of the best tools to prevent the spread of COVID–19. The interim final rule and final rule help support recipients in stopping the spread of COVID–19 through these recommendations and guidelines. Consistent with the purpose of the ARPA and as implemented through the interim final rule and final rule, a recipient may not use SLFRF funds for a program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID–19. A program or service that imposes conditions on participation or acceptance of the service that would undermine efforts to stop the spread of COVID–19 or discourage compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID–19 is not a permissible use of SLFRF funds.

In other words, recipients may not use funds for a program that undermines practices included in the CDC's guidelines and recommendations for stopping the spread of COVID–19. This includes programs that impose a condition to discourage compliance with practices in line with CDC guidance (*e.g.,* paying off fines to businesses incurred for violation of COVID–19 vaccination or safety requirements), as well as programs that require households, businesses, nonprofits, or other entities not to use practices in line with CDC guidance as a condition of receiving funds (*e.g.,* requiring that businesses abstain from requiring mask use or employee vaccination as a condition of receiving SLFRF funds).

Second, a recipient may not use SLFRF funds in violation of the conflict of interest requirements contained in the Award Terms and Conditions or the Office of Management and Budget's Uniform Guidance, including any self-dealing or violation of ethics rules. Recipients are required to establish policies and procedures to manage potential conflicts of interest.[370] Treasury may provide further guidance on the types of activities or conflicts that the recipient's policies and procedures must cover.

Lastly, recipients should also be cognizant that federal, state, and local laws and regulations, outside of SLFRF program requirements, may apply. Recipients may not use revenue loss funds, for instance, to violate other background laws that limit the scope of activities that may be conducted as ''government services,'' including other state and federal laws. State and local procurement, contracting, and conflicts-of-interest laws and regulations may include applicable requirements, including, for example, required procurement processes for contractor selection or competitive price setting. Furthermore, recipients are also required to comply with other federal, state, and local background laws, including environmental laws [371] and federal civil rights and nondiscrimination requirements, which include prohibitions on discrimination on the basis of race, color, national origin, sex, (including sexual orientation and gender identity), religion, disability, or age, or familial status (having children under the age of 18).

IV. Program Administration Provisions

The interim final rule included several sections that described the processes and requirements for administering the program on an ongoing basis, specifically: Distribution of funds, transfer of funds, use of funds for program administration, reporting on the use of funds, and remediation and recoupment of funds used for ineligible purposes.

To enhance clarity, this **SUPPLEMENTARY INFORMATION** for the final rule organizes these issues into one section on Program Administration Provisions. Recipients should also consult Treasury's Compliance and Reporting Guidance for additional information on program administration processes and requirements, including the applicability of the Uniform Guidance.

A. Payments in Tranches to Local Governments and Certain States

Section 602(b)(6)(A)(ii) of the Social Security Act authorizes the Secretary to withhold payment of up to 50 percent of the amount allocated to each state and territory for a period of up to 12 months from the date on which the state or territory provides its statutorily-required certification to the Secretary. The Social Security Act requires any such withholding be based on the unemployment rate in the state or territory as of the date of the certification.

Under the interim final rule, Treasury provided that it would withhold 50 percent of the amount allocated from any state that had an unemployment rate less than two percentage points above its unemployment rate in February 2020 as of the date the state submitted its initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act. Based on data available at the time of the issuance of the interim final rule, this threshold was expected to result in a majority of states being paid in two tranches. Treasury did not split the payments of any territories.

Public Comment: One commenter asked Treasury to allow a state to request release of the portion of the state's second tranche payment after the state could demonstrate that it had allocated the entirety of the first tranche, a need to continue ongoing programs, and a desire to avoid borrowing costs. Another commenter asked Treasury to clarify whether states that received half their funding in the

[368] *See* Sec. 602(a)(1); 603(a)(1); 602(c)(1); 603(c)(1).

[369] *See* 35.6(b); Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26786.

[370] Specifically, the Award Terms and Conditions provide that ''[r]ecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 CFR 200.318(c), and that such conflict-of-interest policy is applicable to each activity funded under this award. Recipients and subrecipients must disclose in writing to Treasury or the pass-through agency, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 CFR 200.112.''

[371] An exception is statutes that do not apply unless explicitly stated, including, *e.g.,* the National Environmental Policy Act and the Davis-Bacon Act.

first payment would receive their second half payment within 12 months. Similarly, some recipients requested clarification on whether they could obligate second tranche funds before receipt or use second tranche funds for costs incurred prior to receipt.

Treasury Response: The final rule maintains the approach in the interim final rule with two modifications. As described in the interim final rule, splitting payments for most states provides consistency with payments to local governments and encourages states to adapt their use of funds to developments that arise in the course of the economic recovery. Moreover, SLFRF funds may be used for costs incurred during the period of performance. Recipients may use their jurisdiction's budgeting and procurement practices and laws to determine how and when second tranche funds may be obligated.

The final rule makes two adjustments for operational purposes. First, the final rule provides that Treasury expects to make all second tranche payments to states available beginning 12 months from the date that funding was first made available by Treasury (May 10, 2021) regardless of when each individual state submitted its initial certification. This should increase clarity and consistency on the timing of second tranche payments for both states and Treasury. Second, also to ease recipient states' administrative burden, the final rule strikes a requirement from the interim final rule that states must certify for their second tranche payments and file all required reports at least 30 days prior to the date on which their second payment is made available. The final rule simply requires that states certify for their second tranche payment and file all required reports before receiving their second tranche payment, with no 30 day wait period required.

B. Payments to Nonentitlement Units of Local Government (NEUs) and Units of Local Government (UGLGs) Within Non-UGLG Counties

The interim final rule established requirements related to distributions of SLFRF funds by states and territories to NEUs and UGLGs within non-UGLG counties. Specifically, the interim final rule provided that the total distribution to an NEU cannot exceed 75 percent of the most recent budget for the NEU (the 75 percent budget cap); a requirement set forth in section 603(b)(2)(C)(iii) of the Social Security Act. The interim final rule **SUPPLEMENTARY INFORMATION** defined the NEU's budget for purposes of calculating the 75 percent budget cap as the NEU's ''most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020.'' The interim final rule further provided that states and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the 75 percent budget cap. Further, the interim final rule prohibited states and territories from placing additional conditions or requirements on distributions to NEUs beyond those required by the statute, the interim final rule, or Treasury's guidance and from offsetting any debt owed by such NEUs against such distributions.

Commenters predominantly focused on the definition of an NEU's budget for purposes of calculating the 75 percent budget cap, NEU allocations and eligibility, and the prohibition on states and territories imposing additional conditions or requirements in the NEU distribution process.

Definition of NEU Budget

Public Comment: Commenters suggested that Treasury provide greater clarification on the definition of an NEU's ''most recent budget'' for purposes of the 75 percent budget cap calculation. Treasury provided updated guidance on its interpretation of the 75 percent budget cap on June 30, 2021, and a commenter suggested that Treasury incorporate such updated interpretation into the **SUPPLEMENTARY INFORMATION** of the final rule.

Treasury Response: Consistent with the Update on Interpretation for the 75 Percent Budget Cap Calculation published on June 30, 2021,[372] the **SUPPLEMENTARY INFORMATION** of the final rule defines an NEU's budget for purposes of calculating the 75 percent budget cap as its total annual budget, including both operating and capital expenditure budgets, in effect as of January 27, 2020. The guidance also gives states and territories flexibility to provide further guidance to their NEUs to operationalize the 75 percent budget cap. Given the variance in local financial accounting, this updated definition will better facilitate states' and territories' distribution of SLFRF funds to NEUs.

Allocations and Eligibility

Public Comment: Many commenters provided feedback on specific allocation calculations and eligibility of local governments for NEU funding. Commenters addressed how a locality was classified as an NEU or metropolitan city, deviations between Treasury's allocation calculations and earlier estimates from other sources, treatment of unincorporated areas, sources for population data, and Treasury's allocation of NEU funding to states and territories based on the population of a state and territory outside of its metropolitan cities. Two commenters proposed that Treasury provide an appeal process for localities that were not identified on the List of Local Governments used by states and territories as part of the process in which a state or territory determines the eligibility of an NEU in accordance with Treasury guidance, or for Minor Civil Divisions (MCDs) that were denied funding as part of a facts-and-circumstances test undertaken by a weak-MCD state.

Treasury Response: Neither the interim final rule nor the final rule addresses eligibility or allocations issues, and comments on these topics are outside the scope of this rulemaking. These questions are addressed in other Treasury guidance, including the Guidance on Distribution of Funds to Non-entitlement Units of Local Government and Non-entitlement Unit of Local Government Definitional and Data Methodology guidance documents available on Treasury's website.[373] Because Treasury interpreted the definition of an NEU [374] in accordance with the statute and established an NEU distribution process in May 2021, the final rule does not incorporate an appeals process regarding the definitions or the facts-and-circumstances test used for eligibility determinations.

Prohibition on Additional Conditions or Requirements in the NEU Distribution Process

Public Comment: One commenter expressed support for Treasury's prohibition on states and territories

[372] Treasury's Update on Interpretation for the 75 Percent Budget Cap Calculation can be found at: *https://home.treasury.gov/system/files/136/NEU-Update-75-Percent-Budget-Cap.pdf.*

[373] The Guidance on Distribution of Funds to Nonentitlement Units of Local Government can be found at this link: *https://home.treasury.gov/system/files/136/NEU_Guidance.pdf.* The Nonentitlement Unit of Local Government Definitional and Data Methodology can be found at this link: *https://home.treasury.gov/system/files/136/NEU_Methodology.pdf.*

[374] Treasury has interpreted NEU to generally include both incorporated places and MCDs with active functioning governments, subject to the state determining, in the case of weak-MCD States, that a weak MCD has the legal and operational capacity to accept SLFRF funds and provides a broad range of services that would constitute eligible uses under ARPA. More details can be found in the Nonentitlement Unit of Local Government Definitional and Data Methodology, available at *https://home.treasury.gov/system/files/136/NEU_Methodology.pdf.*

placing additional conditions or requirements on distributions to NEUs. This prohibition restricts states and territories from imposing limitations on NEUs' use of SLFRF funds based on an NEU's proposed spending plan or other policies, offsetting any debt owed by an NEU against the NEU's distribution, or providing funding on a reimbursement model. In particular, the commenter noted that a reimbursement model would lead to inequities in accessing SLFRF funds.

Treasury Response: The final rule maintains and finalizes the prohibition on states and territories placing additional conditions or requirements on distributions to NEUs as well as to any UGLGs within counties that are non-UGLGs. Such conditions or requirements may contravene the statutory requirement that states and territories make distributions based on population and within the statutorily defined timeframe.

Other Provisions

Treasury did not receive substantive comments on the requirement that states and territories permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the 75 percent budget cap, or Treasury's interpretation of the 75 percent budget cap applying only to a consolidated government's NEU allocation under section 603(b)(2) but not to a consolidated government's county allocation under section 603(b)(3). Further, Treasury did not receive substantive comments on the interim final rule's allowance that states and territories be able to use SLFRF funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government. As such, the final rule maintains these provisions as written in the interim final rule without modification.

Treasury received some comments that are not addressed because they are beyond the scope of the NEU provision of the interim final rule or not authorized by the statute, including comments related to state accounting practices, re-allocations of NEU allocations that exceed the 75 percent budget cap, and concerns around eligible uses under SLFRF that small local governments may find particularly salient.

C. Timeline for Use of SLFRF Funds

The interim final rule provided that ''[a] recipient may only use funds to cover costs incurred during the period beginning March 3, 2021 and ending December 31, 2024.'' The interim final rule also provides that the period of performance will run until December 31, 2026, which will provide recipients an additional two years during which they may expend funds for costs incurred (*i.e.,* obligated).

As explained in more detail below, in the final rule Treasury is maintaining these time periods. Treasury will retain March 3, 2021 as the first date when costs may be incurred, to provide for forward-looking or prospective use of funds and to align with the start date of the ''covered period'' as such term is used in section 602(c)(2)(A). The deadline for costs to be incurred—which the final rule clarifies means obligated—December 31, 2024, is specified in the ARPA statute, and Treasury will retain December 31, 2026 as the end of the period of performance to provide a reasonable amount of time for recipients to liquidate obligations incurred by the statutory deadline.

Public Comments. Some commenters expressed concerns about costs incurred before March 3, 2021 not being covered and recommended the ''start date'' be changed to January 2020 to coincide with the declaration of the public health emergency. These commenters argued that recipient governments began incurring costs to respond to COVID–19 and its economic impacts in January 2020 and that prior federal fiscal relief, such as relief provided in the Coronavirus Aid, Relief, and Economic Security Act, did not fully compensate recipient governments for these costs. These commenters recommended that costs incurred before March 3, 2021 that otherwise fit within eligible use categories for SLFRF should be permissible uses of funds.

Some commenters asked Treasury to clarify whether local governments are subject to the same covered period as states and territories beginning March 3, 2021. Commenters noted that section 603(g) of the Social Security Act does not contain the same definition of ''covered period'' as section 602(g)(1) of the Social Security Act, which references a statutory provision that only applies to states and territories.

Many commenters requested that the deadline for costs to be incurred and the period of performance be extended due to the longer timeline for completing water and sewer projects. One commenter requested that recipients be able to split projects into different phases so that funds could be expended on larger, longer term projects (*e.g.,* by obligating funds on one portion of the project by the statutory deadline). One commenter recommended that the period of performance be extended for at least two additional years beyond the expenditure deadline set forth in the interim final rule, *i.e.,* until December 31, 2028. One commenter wrote that the final rule should allow for extended projects (*e.g.,* over a time horizon of more than ten years) for recipients working to develop long-term water supplies to prepare for extreme drought.

Treasury Response. In the final rule, Treasury is maintaining March 3, 2021 as the date when recipients may begin to incur costs using SLFRF funds. As described in the interim final rule, use of SLFRF funds is forward looking and the eligible use categories provided by statute are all prospective in nature. While recipients may identify and respond to negative economic impacts that occurred during 2020, the costs incurred to respond to these impacts remain prospective. Further, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be a relevant reference point for this purpose that provides some flexibility for recipients that began incurring costs in the anticipation of enactment of the ARPA or in advance of the issuance of the interim final rule and receipt of payment.

Finally, establishing an earlier start date would permit governments to use funds received in 2021 to satisfy obligations incurred in 2020. This use raises a substantial risk of SLFRF funds being used to supplant other recipient funds previously used to pay for such 2020 obligations, freeing funds for recipients to use for any purpose rather than eligible uses of SLFRF funds under the ARPA. Permitting such usage would undermine the provisions setting forth permissible and impermissible uses in the statute. Therefore, a reading of the statute permitting use of funds prior to March 3, 2021 would be inconsistent with the statutory structure.

In the final rule, Treasury is also maintaining the deadlines by which funds must be obligated (*i.e.,* December 31, 2024) and by which such obligations must be liquidated (*i.e.,* December 31, 2026). The December 31, 2024 deadline by which eligible costs must be incurred is established by statute. Treasury is finalizing its interpretation of ''incurred'' to be equivalent to the definition of ''obligation,'' based on the definition used for purposes of the Uniform Guidance. Treasury is also maintaining the period of performance, which will run through December 31, 2026, and provides the deadline by which recipients must expend obligated funds. Most recipients received SLFRF funds in the spring and summer of 2021,

meaning that they have over three years to obligate and over five years to expend funds. This provides a sufficient amount of time for recipients to plan and execute projects.

D. Transfers of Funds

Under section 602(c)(3) of the Social Security Act, a state, territory, or Tribal government may transfer SLFRF funds to a ''private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of state or local government.'' Similarly, section 603(c)(3) authorizes a local government to transfer SLFRF funds to the same entities (other than Tribal organizations). Separately, section 603(c)(4) authorizes a local government to transfer SLFRF funds to the state in which it is located.

Entities Eligible for a Transfer Under Sections 602(c)(3) and 603(c)(3)

Regarding transfers permitted under sections 602(c)(3) and 603(c)(3) of the Act, the interim final rule Supplementary Information clarified that the lists of transferees in these sections are not exclusive and that state, local, territorial, and Tribal governments may transfer funds to other constituent units of government or private entities beyond those specified in the statute.

Public Comment: Several commenters supported Treasury's interpretation of eligible transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive. However, many commenters asked for greater clarity as to whether specific entities not listed in Treasury's examples of eligible subrecipients, such as nonprofits and Tribal governments, were eligible transferees. One commenter also asked whether a recipient may transfer SLFRF funds to a higher level of government, such as a locality to the county in which it is located.

Treasury Response: The final rule clarifies that, in addition to the entities enumerated in sections 602(c)(3) and 603(c)(3), recipients may transfer SLFRF funds to any entity to carry out as a subrecipient an eligible use of funds by the transferor, as long as they comply with the Award Terms and Conditions and other applicable requirements, including the Uniform Guidance at 2 CFR 200.331–200.333. Eligible subrecipients include, but are not limited to, other units of government (including Tribal governments), nonprofits and other civil society organizations, and private entities. Further, the final rule clarifies that transfers may be made to both constituent or non-constituent units of government. For example, county A may transfer SLFRF funds to county B as long as county B abides by the use restrictions applicable to county A and the transfer would constitute an eligible use of the funds by county A. County A must receive a benefit proportionate to the amount transferred.

As detailed in the interim final rule Supplementary Information, once transfers are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law, regulations, and program guidance. Further, the transferor remains responsible for monitoring and overseeing the subrecipient's use of SLFRF funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the Award Terms and Conditions. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the SLFRF for the duration of the award.

Pooling Funds

Public Comment: Several commenters asked for clarification about whether they may pool SLFRF funds for a project with other recipients, including when doing so involves a transfer to another entity, such as a regional organization or government that undertakes projects on behalf of a number of local governments. Commenters also asked for clarification on the oversight and reporting obligations that would result from such transfers.

Treasury Response: Consistent with guidance issued following the interim final rule,[375] the final rule clarifies that recipients may pool SLFRF funds for projects, provided that the project is itself an eligible use of SLFRF funds for each recipient that is contributing to the pool of funds and that recipients are able to track the use of funds in line with the reporting and compliance requirements of the SLFRF. In general, when pooling funds for regional projects, recipients may expend funds directly on the project or transfer funds to another government or other entity that is undertaking the project on behalf of multiple recipients. To the extent recipients undertake regional projects via transfer to another organization or government, recipients would need to comply with the rules on transfers specified in the final rule

SUPPLEMENTARY INFORMATION. A recipient may transfer funds to a government outside its boundaries (*e.g.,* county transfers to a neighboring county), provided that the transferor can document that the transfer constitutes an eligible expense of the transferor government and that its jurisdiction receives a benefit proportionate to the amount transferred.

Blending and Braiding of Funds

Treasury is clarifying in the final rule that, consistent with further guidance issued by Treasury following the interim final rule,[376] recipients may fund a project with both SLFRF funds and other sources of funding, provided that the costs are eligible costs under each source program and are compliant with all other related statutory and regulatory requirements and policies. The recipient must comply with applicable reporting requirements for all sources of funds supporting the SLFRF projects and with any requirements and restrictions on the use of funds from the supplemental funding sources and the SLFRF program. Specifically,

- All funds provided under the SLFRF program must be used for projects, investments, or services that are eligible under the SLFRF program. SLFRF funds may not be used to fund an activity that is not, in its entirety, an eligible use under the SLFRF program. For example:
  - SLFRF funds may be used in conjunction with other sources of funds to make an investment in water infrastructure that is eligible under section 602 or 603 of the Social Security Act and the final rule.
  - SLFRF funds could *not* be used to fund the entirety of a water infrastructure project that was partially, although not entirely, an eligible use under Treasury's final rule. However, the recipient could use SLFRF funds only for a smaller component project that does constitute an eligible use, while using other funds for the remaining portions of the larger planned water infrastructure project that do not constitute an eligible use. In this case, the ''project'' for SLFRF purposes under this program would be only the eligible use component of the larger project.
- In addition, because SLFRF funds must be obligated by December 31, 2024, and recipients must expend all funds under the award no later than December 31, 2026, recipients must be able to, at a minimum, determine and report to Treasury on the amount of SLFRF funds obligated and expended and when such funds were obligated and expended.

[375] Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

[376] *See FAQ 4.10. Id.*

Scope of a 603(c)(4) Transfer

Unlike in the case of a transfer under sections 602(c)(3) or 603(c)(3), the interim final rule **SUPPLEMENTARY INFORMATION** specified that transfers from a local government to the state under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee state.

Public Comment: Two commenters suggested that Treasury expand section 603(c)(4) beyond transfers from localities to the state to include transfers from counties to their constituent local governments, which would incentivize counties to augment funds to address the needs of local governments. These commenters noted that counties are disincentivized to make transfers under section 603(c)(3), as is currently allowed, as such transfers would require that counties provide oversight and monitoring over its subrecipients.

Treasury Response: Section 603(c)(4), by its terms, applies only to transfers from local governments to states. Accordingly, the final rule must maintain the interim final rule's limitation of section 603(c)(4) transfers as applicable only to transfers from local governments to states. Expansions of section 603(c)(4) transfer authority beyond transfers from local governments to states were not explicitly authorized by Congress. As such, transfers under section 603(c)(4) may only be made by local governments to the state in which they are located.

Congress enumerated two separate transfer provisions for local governments—section 603(c)(3) and section 603(c)(4)—that use different language and were intended to operate differently. Section 603(c)(4) contains prefatory language (''Notwithstanding paragraph (1)''—a reference to the eligible SLFRF uses) that section 603(c)(3) does not. In other words, section 603(c)(4) transfers are not required to constitute an eligible use of the funds from the perspective of the transferor local government, but section 603(c)(3) transfers are required to constitute an eligible use. A transfer to accomplish an eligible use fits within the recipient-subrecipient framework.

Further, treating section 603(c)(3) transfers as leading to a cancellation of the award for the transferor local government would result in scenarios that are inconsistent with the statutory language. An award cancellation pursuant to a section 603(c)(3) transfer would result in either (1) non-governmental entities becoming award recipients under the program, which would contravene the purpose of SLFRF or (2) transfers to governmental and non-governmental entities being treated in a distinct and inconsistent manner. That is, section 603(c)(3) transfers to governmental entities would lead to award cancellation but section 603(c)(3) transfers to non-governmental entities would lead to a recipient-subrecipient relationship. Therefore, in the final rule, Treasury maintains its distinct treatment of a section 603(c)(3) transfer and section 603(c)(4) transfer.

The final rule clarifies that a transfer under section 603(c)(4) will result in a modification, termination, or cancellation of the award on the part of the transferor local government and a modification of the award to the transferee state or territory. As detailed in the **SUPPLEMENTARY INFORMATION** to the interim final rule, the transferor must provide notice of the transfer to Treasury in a format specified by Treasury. Until the local government provides such notice and Treasury provides confirmation of its acceptance of the notice, the local government will remain responsible for ensuring that the SLFRF award is being used in accordance with the Award Terms and Conditions, section 602 or 603 of the Social Security Act, the final rule, and program guidance including reporting on such uses of the award funds to Treasury.

A state that receives a transfer from a local government under section 603(c)(4) will be bound, by statute, by all of the use restrictions set forth in section 602(c) with respect to the use of those SLFRF funds, including the prohibitions on use of such SLFRF funds to offset certain reductions in taxes or to make deposits into pension funds. The state will be responsible as the prime recipient for the use and reporting on any funds transferred under section 603(c)(4) by the local government. Such transferred funds will be subject to the Award Terms and Conditions previously accepted by the state in connection with its SLFRF award.

Subrecipient Transfers

Public Comment: Commenters sought clarification as to how funds may be transferred from a recipient to another entity. For instance, one commenter requested that recipients be able to advance funds to subrecipients as opposed to reimbursing subrecipients for expenses incurred.

Treasury Response: Treasury did not specify in the interim final rule whether recipients may advance funds to subrecipients. This omission was not intended to prevent recipients from advancing funds to subrecipients, consistent with the various methods permitted under the Uniform Guidance. Given the broad flexibility that recipients have in selecting eligible uses and the broad variety of potential subrecipients, Treasury believes that specifying a single method of advancement or reimbursement would add unnecessary administrative difficulty to program administration. Recipients may determine the optimal payment structure for the transfer of funds (*e.g.,* advance payments, reimbursement basis, etc.) from recipients to subrecipients. Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients.

E. Administrative Expenses

The interim final rule permitted, under the heading ''[e]xpenses to improve efficacy of public health or economic relief programs,'' use of funds for ''[a]dministrative costs associated with the recipient's COVID–19 public health emergency assistance programs, including services responding to the COVID–19 public health emergency or its negative economic impacts, that are not federally funded.''

Following release of the interim final rule, Treasury issued Compliance and Reporting Guidance that provided that ''recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the SLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are [sic] allocable to the SLFRF award such as the cost of facilities or administrative functions like a director's office.'' [377] Several commenters

[377] U.S. Department of the Treasury, Recipient Compliance and Reporting Responsibilities, as of November 5, 2021; *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-*

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requested clarity on which administrative expenses are permissible uses of funds and how recipients should structure administrative costs.

In the final rule, Treasury is clarifying that direct and indirect administrative expenses are permissible uses of SLFRF funds and are a separate eligible use category from ''[e]xpenses to improve efficacy of public health or economic relief programs,'' which refers to efforts to improve the effectiveness of public health and economic programs through use of data, evidence, and targeted consumer outreach. For details on permissible direct and indirect administrative costs, recipients should refer to Treasury's Compliance and Reporting Guidance.[378] Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

F. Treatment of Loans

The interim final rule allowed recipients to use SLFRF funds to make loans for uses that are otherwise eligible (for example, for small business assistance). Subsequent guidance clarified how recipients must track and dispose of program income from loans, consistent with the statutory requirements for the timing of SLFRF expenditures.

SLFRF funds must be used to cover ''costs incurred'' by the recipient between March 3, 2021 and December 31, 2024. The interim final rule provided that SLFRF funds must be obligated by December 31, 2024 and expended by December 31, 2026. In using SLFRF funds to make loans, recipients must be able to determine the amount of funds used to make a loan and must comply with restrictions on the timing of the use of funds and with restrictions in the Uniform Guidance.

When SLFRF funds are used as the principal for loans, there is an expectation that a significant share of the loaned funds will be repaid. Thus, recipients may not simply consider the full amount of loaned funds to be permanently expended and must appropriately account for the return of loaned funds.

For loans that mature or are forgiven on or before December 31, 2026, the recipient must account for the use of funds on a cash flow basis, consistent with Treasury's guidance regarding loans made by recipients using payments from the Coronavirus Relief Fund.[379] Recipients may use SLFRF funds to fund the principal of the loan and in that case must track repayment of principal and interest (*i.e.,* ''program income,'' as defined under 2 CFR 200). When the loan is made, recipients must report the principal of the loan as an expense.

Repayment of principal may be re-used only for eligible uses and is subject to restrictions on the timing of the use of funds. Interest payments received prior to the end of the period of performance will be considered an addition to the total award and may be used for any purpose that is an eligible use of funds under the statute and final rule. Recipients are not subject to restrictions under 2 CFR 200.307(e)(1) with respect to such payments.

For loans with maturities longer than December 31, 2026, the recipient must estimate the cost to the recipient of extending the loan over the life of the loan. In other words, at origination, the recipient must measure the projected cost of the loan and may use SLFRF funds for the projected cost of the loan. Recipients have two options for estimating this amount: They may estimate the subsidy cost (*i.e.,* net present value of estimated cash flows) or the discounted cash flow under current expected credit losses (*i.e.,* CECL method). See further guidance issued by Treasury for further explanation.[380]

Public Comment: Many commenters asked for further clarification on the treatment of loans and the calculation of ''costs incurred.'' Some commenters requested that grants made for eligible activities prior to December 31, 2024 to a revolving loan fund, an economic development corporation, a land bank, or a similar facility should be considered obligated and expended at the time of the grant. This would allow funds to be expended by the grantee beyond the covered period and for funds returned to the grantee to be re-invested in further uses outside of the covered period.

Treasury Response: The final rule maintains the treatment of loans from the interim final rule and subsequent guidance, as discussed above. This approach is consistent with the statutory requirement that funds be used for costs incurred for eligible purposes by December 31, 2024 and is consistent with standard accounting practices and the Uniform Guidance.

G. Use of Funds for Match or Cost-Share Requirements

As a general matter and as referenced in the **SUPPLEMENTARY INFORMATION** to the interim final rule, funds provided under one federal program may not be used by a recipient to meet the non-federal match or cost-share requirements of another federal program.

However, Treasury has since determined that, consistent with this general principle and the requirements of the Uniform Guidance at 2 CFR 200.306(b)(5), the funds available under sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act for the provision of government services, up to the amount of the recipient's reduction in revenue due to the public health emergency, generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. Federal funds that constitute revenue sharing to state and local governments may generally be used to meet non-federal match requirements.[381] The broad eligible uses of the SLFRF funds available under sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act, combined with the purpose of these provisions (which is to provide general fiscal assistance to governments facing revenue losses due to the public health emergency), demonstrate that these funds are revenue sharing. They thus should generally be permitted to be used to meet the non-federal match and cost-share requirements of other federal programs. As such, the SLFRF funds available for the provision of government services, up to the amount of the recipient's reduction in revenue due to the public health emergency, may be used to meet the non-federal match requirements of the Drinking Water State Revolving Fund and Clean Water State Revolving Fund programs administered by the EPA, for example.

Pursuant to 2 CFR 200.306(b) of the Uniform Guidance, if funds are legally available to meet the match or cost-share requirements of an agency's federal program, such awarding agency is required to accept such funds for the purpose of that program's match or cost-share requirements except in the circumstances enumerated in that section. The Office of Management and Budget has authority under 2 CFR

recovery-funds/recipient-compliance-and-reporting-responsibilities.

[378] *Id.*

[379] Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR at 4192.

[380] *See FAQ 4.11.* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

[381] See U.S. Government Accountability Office, *Principles of Federal Appropriations Law, Third Edition, Volume II,* p. 10–99, GAO–06–382SP (February 2006), *https://www.gao.gov/assets/gao-06-382sp.pdf.*

200.102 of the Uniform Guidance to issue waivers of this requirement on request of the relevant awarding agency. Analogous requirements and waiver authorities may be present in other regulations. If a recipient seeks to use SLFRF funds to satisfy match or cost-share requirements for a federal grant program, it should first confirm with the relevant awarding agency that no waiver has been granted for that program, that no other circumstances enumerated under 2 CFR 200.306(b) would limit the use of SLFRF funds to meet the match or cost-share requirement, and that there is no other statutory or regulatory impediment to using the SLFRF funds for the match or cost-share requirement. Note that SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and CHIP programs because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

SLFRF funds beyond those that are available under sections 602(c)(1)(C) or 603(c)(1)(C) of the Social Security Act for the provision of government services may not be used to meet the non-federal match or cost-share requirements of other federal programs other than as specifically provided for by statute. For example, as discussed in other sections of this final rule, section 40909 of the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of any authorized Bureau of Reclamation project, and section 60102 of the Infrastructure Investment and Jobs Act provides that the SLFRF may be used to meet the non-federal match requirements of the broadband infrastructure program authorized under that section (see sections Water and Sewer Infrastructure and Broadband Infrastructure).

H. Reporting

The interim final rule established Treasury's authority to collect information from recipients through requested reports and any additional requests for information. The interim final rule also provided Treasury flexibility to extend or accelerate reporting deadlines and to modify requested content for the Interim Report, Project and Expenditure reports, and Recovery Plan Performance reports.

The **SUPPLEMENTARY INFORMATION** of the interim final rule provided initial guidance on the reporting requirements for the SLFRF funds. States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments were required to submit one interim report and quarterly Project and Expenditure reports thereafter. Non-entitlement units of local government were not required to submit an interim report. States, territories, and metropolitan cities and counties with a population greater than 250,000 residents were also required to submit an annual Recovery Plan Performance report to Treasury. The Supplementary Information of the interim final rule provided guidance on the deadlines and content required for each type of report.

Public Comment: Treasury received many comments on the content and specific data elements required of program reporting. Some commenters expressed enthusiasm for including particular details in reporting to promote transparency. Other commenters requested that Treasury streamline reporting requirements to avoid imposing undue administrative burdens and compliance costs. Many commenters requested further clarification on or amendments to particular elements of reporting content. Some commenters requested that reports and specific reporting elements be public, including a request for a public website with a number of programmatic data metrics about the use of SLFRF funds. Some commenters sought clarification and guidance for using the reporting portal, which allows recipients to upload the required information, or requested user modifications to the portal. Finally, some commenters requested that Treasury provide example materials and reporting metrics to aid recipient understanding.

Treasury Response: Since the publication of the interim final rule, Treasury issued supplementary reporting guidance in the Compliance and Reporting Guidance and in the User Guide: Treasury's Portal for Recipient Reporting (User Guide).[382] Treasury has addressed many of these comments in the Compliance and Reporting Guidance and User Guide and will continue to issue updated guidance prior to each reporting period clarifying any modifications to requested report content. Treasury notes that the interim final rule did not address the specific content and data elements required in reporting, the reporting portal or submission process, and the specific form of reporting (*e.g.,* example templates, machine readability); comments on these topics are outside the scope of the final rule and, as noted, are addressed instead in Compliance and Reporting Guidance.

Reporting Deadlines

Public Comment: Treasury received comments requesting various changes to reporting deadlines to ease compliance burdens. For example, Treasury received several comments requesting that Treasury delay early reporting deadlines for various reasons, including to align with the timeline for issuing a final rule and to allow for more time for recipients to determine SLFRF allocations. Commenters also requested changes to the immediacy of reporting, for example requesting that Treasury allow expenses to be reported with a lag instead of the quarter in which they were accrued or that reports be due 90 days after period close instead of 30 days after the close of a reporting period. Some commenters requested changes to the reporting frequency, for example to report biannually rather than quarterly.

Treasury Response: Treasury has clarified reporting deadlines in the Compliance and Reporting guidance.[383] Treasury is retaining the reporting deadline of 30 days after the close of the reporting period to ensure timely accounting of the use of SLFRF funds; this timeline also aligns with practices in many other federal programs. The final rule maintains Treasury's discretion to extend or delay reporting deadlines.

Administrative Costs for Reporting and Compliance

Public Comment: Many commenters sought clarification about whether various administrative costs related to reporting and compliance were eligible uses of funds and asked for clarification on the limits of such use.

Treasury Response: Treasury notes that administrative costs are generally allowable uses of SLFRF funds, including for reporting. For additional information on administrative expenses, please see section Administrative Expenses under Program Administration Provisions.

Uniform Guidance

Public Comment: The **SUPPLEMENTARY INFORMATION** of the interim final rule clarified that SLFRF funds were generally subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit

[382] U.S. Department of the Treasury, Recipient Compliance and Reporting Responsibilities, as of November 5, 2021; *https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities.*

[383] *Id.*

Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost. Treasury received many comments requesting clarification about or modifications to the applicability of the Uniform Guidance on various issues.

For example, one commenter requested that Treasury remove requirements that expenditures of funds be made in conformance with the Uniform Guidance, particularly in case of expenditures made during period from March 3, 2021 to the release of the interim final rule, while other comments requested that Treasury raise the single-audit threshold from $750,000 to $5 million. Commenters sought clarification on items such as: The applicability of the Uniform Guidance for funds that are used for the provision of government services, the applicability of particular sections of the cost principles provided in subpart E of the Uniform Guidance, the applicability of the procurement provisions of the Uniform Guidance, and requirements for subrecipient reporting.

Treasury Response: Recipients of SLFRF funds are subject to the provisions of the Uniform Guidance (2 CFR part 200) from the date of award to the end of the period of performance on December 31, 2026 unless otherwise specified in this rule or program-specific guidance. Costs must follow the requirements in 2 CFR 200 Subpart E, Cost Principles, including procurement standards. Recipients that receive an aggregate amount of federal financial assistance in a given fiscal year that exceeds the Single Audit threshold are subject to the requirements in 2 CFR 200 Subpart F, Audit Requirements, unless otherwise specified in program-specific guidance.

SLFRF funds transferred to subrecipients are also subject to reporting and Uniform Guidance requirements. Additional information about the definition of subrecipients is available in the section Distinguishing Subrecipients versus Beneficiaries.

Recipients should refer to the Assistance Listing for details on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing is available on SAM.gov. Additional changes to compliance and reporting guidelines, including any clarifications on Uniform Guidance requirements, will be addressed in Compliance and Reporting Guidance and the User Guide.[384]

[384] *Id.*

I. Remediation and Recoupment

Sections 602(e) and 603(e) of the Social Security Act provide the Secretary with the power to recoup ''funds used in violation'' of the Social Security Act. The interim final rule implemented these provisions by establishing a process for recoupment. Treasury may identify funds used in violation of the Social Security Act based on information submitted by recipients, including as part of reporting requirements, as well as information from other sources.[385] If a potential violation is identified, Treasury will provide the recipient an initial written notice of the amount subject to recoupment along with an explanation of such amounts. A recipient then has 60 calendar days following receipt of a recoupment notice to submit a request for reconsideration containing any information it believes supports its use of funds. Within 60 calendar days of receipt of the request for reconsideration, the interim final rule provided that a recipient will receive a final notice of the Secretary's decision to affirm, withdraw, or modify the recoupment notice. If the recipient did not submit a request for reconsideration, the initial notice of recoupment would be deemed a final notice. A recipient would then be required to repay any amounts subject to recoupment within 120 calendar days of either the initial recoupment notice, if the recipient does not request reconsideration, or the final recoupment notice, if the recipient does request reconsideration.

Public Comments

Treasury received several comments on the process for recoupment. For instance, some commenters, including many Tribal governments, requested additional time to file a request for reconsideration and submit repayment to ensure that small entities have the time necessary to carry out any logistical steps and consult with counsel. Treasury was also asked to align its recoupment process with that of the Office of the Inspector General and other departmental administrative processes to resolve findings, agency decisions, and related timelines. One commenter asked if the 120-calendar-day time limit for repayment was based on the initial notice, rather than a final decision issued by the Secretary. Several commenters expressed concern regarding the recoupment process, arguing that consideration of ''all relevant facts and circumstances'' provided Treasury with too much authority and created ambiguity. Other commenters urged Treasury to establish a robust enforcement and compliance program and process and advocated for the creation of a whistleblower mechanism or public complaint process to allow public and private entities to report suspected misuses of funds. Finally, some commenters requested clarification regarding the process after a violation is identified and becomes final. One commenter also asked to allow recipients to amend reports deemed to contain ineligible expenses and inform recipients how the agency intends to resolve instances where a use was later deemed unacceptable. Another commenter asked if recouped funds could be released back to the recipient.

Commenters also expressed concern about Treasury's authority to recoup funds used in violation of the tax offset provision. Some commenters requested additional clarity around when tax cuts would trigger Treasury's recoupment authority and the duration of Treasury's authority to seek recoupment of such funds.

Treasury Response

The final rule largely preserves the process established in the interim final rule but includes several adjustments to clarify certain elements.

Like the interim final rule, the final rule provides that, after an initial determination is made that a recipient has used SLFRF funds in violation of the law, a recipient may submit a request for reconsideration concerning any amounts identified in a notice provided by Treasury. If a recipient chooses to seek reconsideration of the initial notice, the recipient must submit a request for reconsideration as provided under the final rule. If a recipient does not request reconsideration, the initial notice that the recipient received will be deemed the final notice.[386] Treasury has clarified that a recipient must invoke and exhaust the procedures available under section 35.10 of the final rule prior to seeking judicial review of a recoupment decision. Consistent with Section 602(b)(6)(A)(ii)(III) of the Social Security Act, if a state or territory is required to repay funds pursuant to the Secretary's recoupment authority, the Secretary may reduce the amount payable to the state or territory in a second tranche payment by the amount that the state or territory would be required to repay as recoupment.

In the final rule, Treasury has clarified that, if it identifies a potential

[385] Treasury will also consider the tax offset provision on an annual basis.

[386] Funds subject to recoupment cannot later be returned.

violation,[387] it may request additional information from a recipient before initiating the recoupment process and, where necessary, provide written notice to the recipient along with an explanation of such amounts potentially subject to recoupment. Furthermore, Treasury has also made clear that it retains the ability to expedite or extend timelines in any adjudication or pre-adjudication process pursuant to section 35.4(b) of the final rule, although the general timelines set forth in the interim final rule are maintained in the final rule.

This process is intended to provide the recipient with an adequate opportunity to present additional information regarding its uses of funds and provides flexibility for recipients to determine the information relevant to the particular facts and circumstances. It is also flexible enough to align with other adjudication procedures in other ARPA recovery programs administered by the Office of Recovery Programs at Treasury. As discussed above, the initial notice will provide recipients with an explanation of the identified potential violation in order to provide recipients with a meaningful opportunity to respond. Such initial notice will generally include information regarding the specific use of SLFRF funds and the source of such information.[388] This process also will allow the Secretary to take into consideration the information provided by recipients, along with other relevant information, to ensure SLFRF funds are used in a manner consistent with the Social Security Act.

Finally, Treasury expects to work with recipients to support the use of SLFRF funds consistent with the law. For example, Treasury may request additional information from a recipient before initiating the recoupment process. In addition, Treasury may pursue other forms of remediation and monitoring in conjunction with, or as an alternative to, recoupment.[389] These efforts may include working with recipients to identify and substitute permissible uses of SLFRF funds or amending uses of SLFRF funds to comply with applicable restrictions.

In response to comments regarding the amount of time provided to respond to an initial notice, the final rule clarifies that Treasury retains the ability to expedite or extend timelines in any adjudication or pre-adjudication process pursuant to section 35.4(b) of the final rule, although the general timelines set forth in the interim final rule are maintained in the final rule.

V. Regulatory Analyses

Executive Orders 12866 and 13563

Regulatory Impact Assessment

This final rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866 for the purposes of Executive Orders 12866 and 13563 because it is likely to have an annual effect on the economy of $100 million or more.

As explained below, this regulation meets a substantial need: ensuring that recipients—states, territories, Tribal governments, and local governments—of SLFRF funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress' intent to provide necessary relief to recipient governments adversely impacted by the COVID–19 public health emergency. Furthermore, as required by Executive Orders 12866 and 13563, Treasury has weighed the costs and benefits of this final rule and varying alternatives and has reasonably determined that the benefits of the final rule to recipients and their communities far outweigh any costs.

The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866.

Executive Orders 12866 and 13563

Under Executive Order 12866, OMB must determine whether this regulatory action is ''significant,'' and therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory action as an action likely to result in a rule that may, among other things, have an annual effect on the economy of $100 million or more. This rule is likely to have an annual effect on the economy of $100 million or more, and therefore, it is subject to review by OMB under section 3(f) of Executive Order 12866.

Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency: (1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices. Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' OMB's Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this final rule is consistent with the principles set forth in Executive Orders 12866 and 13563. This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs. Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits.

Need for Regulatory Action

This final rule implements the $350 billion SLFRF program of the ARPA, which Congress passed to help states, territories, Tribal governments, and localities respond to the ongoing COVID–19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this final rule is needed to ensure that recipients of SLFRF funds fully

[388] Treasury may address potential violations based on information submitted from recipients, either through quarterly reports or self-reported information, and from other sources of information as Treasury deems necessary and appropriate (*e.g.,* press, information submitted from the public).

[389] Treasury intends to work with recipients to support the use of SLFRF funds consistent with the law.

understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress' mandate for targeted fiscal relief. This final rule governs the use of $350 billion in grant funds from the federal government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by: aiming to target relief in key areas according to the congressional mandate; offering clarity to states, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits

Relative to a pre-statutory baseline, the SLFRF funds provide a combined $350 billion to state, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID–19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.[390] Absent such fiscal relief, fiscal austerity among state, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007–2009 recession.[391]

This final rule provides benefits across several areas by implementing the four eligible use categories, as defined in statute: strengthening the response to the COVID–19 public health emergency and its negative economic impacts; replacing lost revenue to ease fiscal pressure on state, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in water, sewer, and broadband infrastructure.

These benefits are achieved in the final rule through a broadly flexible approach that sets clear guidelines on eligible uses of SLFRF funds and provides state, local, and Tribal government officials discretion within those eligible uses to direct SLFRF funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the final rule includes several provisions that implement statutory requirements and will help support use of SLFRF funds to achieve the intended benefits. Preserving flexibility for recipients not only serves an important public policy goal by allowing them to meet particularized and diverse needs of their local communities but also enhances the economic benefits of the final rule by allowing recipients to choose eligible uses of funds that provide the highest utility in their jurisdictions.

In implementing the ARPA, Treasury has also prioritized supporting underserved communities that have been disproportionately impacted by the pandemic. The SLFRF program as implemented by the final rule provides even greater flexibility to recipients for uses of funds in underserved communities, recognizing that pre-existing health and economic disparities in these communities amplified the impact of the pandemic there. In general, investments in improving health outcomes and economic opportunities provide high economic returns, so this approach is likely to achieve substantial near-term economic and public health benefits, in addition to the longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure.

The remainder of this section clarifies how Treasury's approach to key provisions in the final rule will contribute to greater realization of benefits from the program.

Public Health and Negative Economic Impacts

The eligible use category for responding to the public health and negative economic impacts of the pandemic covers a wide range of eligible uses of funds. Treasury addresses several key uses of funds in this analysis, as well as ways that Treasury has structured this eligible use to minimize recipient administrative burden while also maintaining targeting of the funding to entities that experienced negative impacts from the pandemic.

Government Employment: In order to bolster the government's ability to effectively administer services, the final rule allows for a broader set of eligible uses to restore and support public sector employment relative to the interim final rule. In particular, eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector by allowing funds to be used to pay for payroll and covered benefits associated with the recipient increasing its number of employees up to 7.5 percent above its pre-pandemic baseline. Eligible uses also include providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring.

Treasury believes this expanded approach, relative to the interim final rule, provides useful flexibility to recipients, which may increase a state or local government's ability to effectively deliver services to its residents. While the interim final rule already explicitly permitted using funds to restore recipients' workforces up to pre-pandemic levels, the final rule's inclusion of an upward adjustment factor recognizes that, as the population or economy of a jurisdiction grows over time, more workers are generally needed to effectively meet responsibilities. It also provides recipients greater room to employ funds toward building back the public sector workforce after years of chronic underinvestment since the Great Recession. Treasury arrived at the 7.5 percent adjustment factor through an analysis of data from the Bureau of Labor Statistics on state and local government employment and data from the Census Bureau on population to estimate the extent of underinvestment in the public sector since the onset of the Great Recession. While Treasury considered a range of methodologies and point estimates to set the adjustment factor, a 7.5 percent factor errs on the side of recipient flexibility. Treasury believes this adjustment enhances recipients' ability to identify and meet the particularized needs of their communities. Treasury also believes that the additional enumerated eligible uses for supporting the workforce provide recipients several means to help retain current workers, decreasing turnover costs.

Identifying Eligible Populations

Treasury has provided several methods for recipients to identify households, populations, and communities eligible for services that respond to the public health and negative economic impacts of the pandemic. In general, these methods seek to provide recipients options to identify eligible populations with minimal administrative burden, while also maintaining targeting of the funds

[390] *See, e.g.,* Gabriel Chodorow-Reich et al., *Does state Fiscal Relief During Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act,* 4 American Economic Journal 118–145 (2012) *http://dx.doi.org/10.1257/pol.4.3.118.*

[391] See, *e.g.,* Fitzpatrick, *supra* note 278.

to entities impacted by the pandemic. Recipients also retain flexibility to identify and serve other populations and entities that experienced pandemic impacts, ensuring that recipients can meet the particularized needs of their local communities.

Defining Low and Moderate Income: To streamline the provision of funds relating to negative economic impacts resulting from the pandemic, Treasury has created an eligibility standard making it easier for recipients to provide assistance to low- and moderate-income populations without needing to identify and document a specific negative economic impact. Populations falling under the definition of low income are presumed to have been disproportionately impacted by the pandemic, while those falling under the definition of moderate income are presumed to have been impacted by the pandemic. In addition, the final rule recognizes categorical eligibility for certain enumerated programs and populations if a recipient chooses to implement categorical eligibility when identifying impacted and disproportionately impacted populations. Treasury considered several options for eligibility standards that would reduce administrative burdens for recipients when determining who qualifies as low and moderate income.

One option involved defining a household as low income or moderate income based only on FPG thresholds and could use levels lower than those selected. This option involved setting uniform thresholds throughout the country.

A second option took a broader approach, defining a household as low income if it has (i) income at or below 185 percent of the FPG for the size of its household or (ii) income at or below 40 percent of the AMI for its county and size of household. The option defined a household as moderate income if it has (i) income at or below 300 percent of the FPG for the size of its household or (ii) income at or below 65 percent of the AMI for its county and size of household. The combination of an FPG floor with AMI allows for a regional adjustment in areas with substantially higher costs and incomes. Finally, Treasury also considered a range of FPG and AMI thresholds above and below these levels.

Treasury chose the second option. Treasury believes that the higher FPG floor will ease administrative burdens by making more households presumptively eligible for funds meant to address negative economic impacts in a targeted manner. With respect to the low-income cutoff, 185 percent of the FPG for a family of four is $49,025, which is approximately the wage earnings for a two-earner household where both earners receive the median wage in occupations, such as waiters and waitresses and hotel clerks, that were heavily impacted by COVID–19. As such, this cutoff is likely to include more workers in industries heavily impacted by COVID–19, who may be most likely to face disproportionate impacts of the pandemic, than a lower threshold.[392] With respect to the moderate-income cutoff, many households with incomes between 200 percent and 300 percent of the FPG struggle with a lack of economic security, suggesting that 300 percent of the FPG was an appropriate cutoff for moderate income.

Treasury also considered relatively higher thresholds for both an FPG and AMI approach; however, increasing income thresholds for presumed eligibility increases the likelihood that higher-income workers, who generally experienced fewer economic impacts from the pandemic, would become presumed eligible for responsive services. Providing services to households that did not experience a negative economic impact, or experienced a relatively minimal impact, would provide much less benefit than serving households that experienced more severe impacts, diluting the benefits of the SLFRF funds.

In all, Treasury anticipates that these selected thresholds, combined with the regional adjustment, will allow resources to be targeted toward individuals and households with the greatest need while also reducing administrative burdens on recipients.

Disproportionately Impacted Populations: In the interim final rule, Treasury enumerated a broader set of eligible uses for disproportionately impacted communities, in recognition of the pre-existing health, economic, and social disparities that contributed to disproportionate pandemic impacts in certain communities and that addressing root causes of those disparities constitutes responding to the public health and negative economic impacts of the pandemic. To identify these communities and reduce administrative burden, Treasury allowed recipients to presume that certain populations—those in QCTs and those being served by Tribal governments—were disproportionately impacted. In the final rule, to further decrease administrative burden and enhance recipient flexibility, Treasury is allowing recipients to also presume that low-income households were disproportionately impacted. Treasury anticipates that adding low-income households as a presumed eligible population will maintain targeting of funds to populations and communities most likely to have experienced severe pandemic impacts, while providing a more flexible approach for recipients.

Identifying Impacted Classes: In the final rule, Treasury reiterated its stance in the interim final rule allowing recipients to designate a class of households or other entities as impacted or disproportionately impacted and provide responsive services. After designating a class, recipients can serve a household or entity by simply identifying that the household or entity is a member of the class. Relative to restricting services to only presumed eligible populations identified by Treasury, this decision provides vital administrative flexibility for recipients that may identify particular impacted classes in the context of their jurisdiction. Treasury anticipates that SLFRF funds will be targeted to impacted or disproportionately impacted communities, as recipients must demonstrate that the designated class experienced negative economic impacts or meaningfully more severe negative economic impacts. This approach maintains the requirement that entities served have to have experienced a negative economic impact, while simultaneously minimizing any administrative costs associated with meeting this requirement.

Additional Enumerated Uses

The interim final rule enumerated eligible uses of SLFRF funds to serve both impacted and disproportionately impacted communities. For example, enumerated eligible uses to serve impacted communities included food assistance; rent, mortgage, or utility assistance; and counselling and legal aid to prevent eviction or homelessness. Examples of enumerated eligible uses to serve disproportionately impacted communities included remediation of lead paint or other lead hazards and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity. In the final rule, Treasury had the option to retain, expand, or reduce enumerated eligible uses, or shift use eligibility between disproportionately impacted and impacted communities. Many

[392] *See* U.S. Bureau of Labor Statistics, Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/current/oes_nat.htm* (last visited November 9, 2021).

public comments suggested potential expansions of uses, including shifting enumerated eligible uses for disproportionately impacted communities to serve a broader population of impacted communities. Taking these comments into account, Treasury generally took this approach, in anticipation that the benefits of the program will increase while recipient administrative costs in identifying and justifying non-enumerated uses of funds will decrease.

Specifically, Treasury added enumerated eligible uses for impacted populations including paid sick, medical, or family leave; health insurance subsidies; and services for the unbanked and underbanked, on the basis that impacts of the pandemic that were broadly experienced by many communities would be addressed by these uses. Treasury also shifted some eligible uses, formerly restricted only to disproportionately impacted communities, to impacted communities. These uses included community violence intervention, assistance accessing or applying to public benefits and services, affordable housing development, and services to promote healthy childhood environments like childcare and early learning. These uses were shifted on the basis that the associated impacts of the pandemic were experienced by a broader population, and responses are, accordingly, eligible to benefit a broader population.

Additionally, the final rule clarified that investments in parks and other public outdoor recreation spaces are enumerated eligible uses for disproportionately impacted communities. In including these uses, Treasury took into account evidence on the social determinants of health, or the ways that social context, like the neighborhood built environment, impacts health outcomes. By taking a more holistic approach to public health, the final rule allows recipients to respond more broadly to factors that contributed to the pandemic's health impacts and more fully mitigate those health impacts.

To balance administrative flexibility with a maintenance of focus on impacts of the pandemic, Treasury considered, but did not include, other proposed enumerated uses that did not respond to the impacts of the pandemic or responded to impacts that were not experienced generally across the country by many jurisdictions and populations. For example, Treasury did not include pollution remediation broadly, a proposed enumerated eligible use for disproportionately impacted communities, on the basis that associated projects would only respond to disproportionate impacts of the pandemic depending on the specific issue addressed. In sum, Treasury expanded enumerated eligible uses while retaining a focus on broadly experienced impacts of the pandemic. Treasury anticipates that this will give recipients further flexibility to presume eligibility and respond to pandemic impacts without increasing administrative burden.

Capital Expenditures: In the interim final rule, Treasury permitted funds to be used for a limited number of capital expenditures mostly related to the COVID–19 public health response. This decision granted recipients some discretion to use SLFRF funds to address COVID–19 prevention and mitigation through certain investments in equipment, real property, and facilities, which Treasury recognized as critical components of the public health response. In the final rule, Treasury considered maintaining the provisions in the interim final rule or expanding allowable capital expenditures to provide recipients greater flexibility to pursue other capital investments that are responsive to the public health emergency and its negative economic impacts. While expanding allowable capital expenditures may increase the risk that recipients will undertake large expenditures that do not sufficiently address intended harms, or address harms in a less cost-efficient manner than an alternative investment (*e.g.,* a program or service), expanding allowable capital expenditures would likely help fill critical gaps in recipients' response to the pandemic and provide equipment and facilities that generate benefits beyond SLFRF's period of performance. To preserve flexibility while mitigating risks, the final rule allows recipients to undertake an expanded set of capital expenditures while requiring additional written justifications for projects with an expected total cost at or over $1 million. Treasury believes this approach balances the implementation of appropriate risk-based compliance requirements and the provision of administrative convenience for smaller capital expenditures, while generally allowing recipients the flexibility to undertake a greater variety of responsive capital expenditures.

Revenue Loss

Revenue Loss Formula: In this final rule, Treasury's approach to revenue loss allows recipients to compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury has made several adjustments in the final rule to decrease administrative burden, reducing costs for recipients, while still accurately capturing reductions in revenue due to the pandemic.

Under the interim final rule, Treasury specified that recipients calculate revenue loss on a calendar year basis. In this final rule, Treasury is providing recipients the option to calculate revenue loss on a calendar year or fiscal year basis, which will allow recipients the administrative flexibility to minimize administrative burdens based on the data available to them.

Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Recipients will have the opportunity to calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis is intended to result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis, given that recipients may have experienced offsetting changes in revenues across sources. The final rule also provides for removing the impact of tax increasing or decreasing changes, which affect the amount of revenue collected but are not ''due to'' the pandemic, from the calculation of revenue loss due to the public health emergency. Both of these components of Treasury's approach provide a more accurate representation of the effect of the pandemic on overall revenues.

Revenue Loss Standard Allowance: In addition to largely preserving the formula to calculate revenue loss from the interim final rule, Treasury also added an alternative ''standard allowance'' option for the revenue loss calculation to this final rule. Treasury's decision to elect to allow a fixed amount of loss that can be used to fund ''government services'' allows recipients the flexibility to use minimal administrative capacity on the calculation if desired. The decision also benefits recipients by allowing them to avoid expending administrative

resources to determine how unique variations in revenue interact with the revenue loss formula.

Premium Pay

Per the ARPA statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay. While the final rule provides significant flexibility to implement the statutory requirement that premium pay respond to essential workers, it requires recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold or is awarded to an individual whose annual pay is already above that threshold. To set this threshold, Treasury analyzed data from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Alternatively, a recipient need not submit written justification to Treasury if the worker receiving premium pay is eligible for overtime under the FLSA. Treasury believes this alternative, which is an addition to the final rule, will give recipients more flexibility and will simplify application of the final rule as employers, public and private, are already legally required to determine whether an employee is eligible for overtime pay under the FLSA. Treasury believes the threshold and overtime eligibility provision in the final rule strike the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The final rule also requires that workers eligible for premium pay have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

Water and Sewer Infrastructure

In the interim final rule, Treasury aligned eligible uses of funds for water and sewer infrastructure to those projects eligible to receive financial assistance through the DWSRF and CWSRF administered by the EPA.

The benefits of this approach included giving recipients an existing list that would provide them clarity as well as flexibility in identifying eligible projects, particularly given the broad range of projects eligible under the CWSRF and DWSRF. The approach also ensured that projects would conform to vetted project types from a widely used program. Treasury received comments from recipients requesting additional project categories to be considered eligible, indicating a potential cost to maintaining alignment with the CWSRF and DWSRF.

For the final rule, Treasury has expanded eligibility to include several additional project types beyond those covered by the CWSRF and DWSRF.

Treasury believes that expanded eligibility will benefit recipients by allowing them additional flexibility to pursue beneficial projects, including project categories that support the provision of drinking water and the removal, management, and treatment of wastewater and stormwater: Additional stormwater management projects, private well infrastructure, additional projects that address lead in water, and certain dam and reservoir rehabilitation projects undertaken to address the provision of drinking water. A potential cost of this approach is that uses beyond the CSWRF and DWSRF may have less public guidance available to understand project eligibilities. However, Treasury anticipates that this eligibility expansion will provide a net benefit to recipients by allowing them to pursue projects relevant to their goals that were ineligible under the interim final rule.

The expansion to allow private well infrastructure may also affect the distributional impact of SLFRF. Private wells disproportionately serve rural Americans, including low-income households, and expanding eligibility to include this use may allow SLFRF funds to benefit such households. While distributional impacts are uncertain, Treasury believes that the potential for benefits to accrue to rural and low-income households makes it important to clarify that these types of projects are eligible.

Broadband Infrastructure

In the final rule, Treasury expands eligible areas for broadband investment by requiring that recipients invest in projects designed to provide service to households and businesses with an identified need for additional broadband investment, including increasing access to high-speed broadband, increasing the affordability of broadband services, and improving the reliability of broadband service.[393] Treasury considered multiple alternatives when selecting this standard. The threshold for the interim final rule allowed benefits to accrue in a more targeted manner to the approximately 9 percent of the country with access to speeds under the 25/3 Mbps threshold.[394] However, since SLFRF funds are distributed to tens of thousands of governments across the country with a variety of broadband needs, Treasury believes that allowing recipients greater flexibility to determine locations to serve in their jurisdictions—including considering affordability and competition barriers—will lead to greater long-term public benefit. Further, given that many federal broadband grant programs are focused solely on unserved and underserved areas, Treasury believes that the final rule's flexibility enables these funds to fill an important role in the overall federal broadband landscape.

In the final rule, Treasury also requires that broadband projects must meet a standard of reliably delivering at least 100 Mbps download speeds and upload speeds, or in cases where it is not practicable to do so, reliably delivering at least 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed while being scalable to 100 Mbps upload and download speeds. Treasury expects that this threshold will yield long-term benefits and allow networks to meet both pandemic-related and future needs. The Federal Communications Commission (FCC) estimates that currently a household with two to three remote learners using the internet simultaneously needs a connection supporting 100 Mbps download speeds.[395] While a lower threshold may have resulted in lower near-term costs to build, it would have potentially constrained future utility from the infrastructure by producing infrastructure that would more quickly—potentially in the near-term—become obsolete and no longer meet household needs, potentially requiring sooner replacement and generally decreasing the return on investment. As

[393] Further, the final rule encourages, but does not require, that recipients pursue broadband infrastructure projects in locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed.

[394] Data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Federal Communications Commission, Fixed Broadband Deployment, *https://broadbandmap.fcc.gov/#/* (last visited May 9, 2021).

[395] *See* Federal Communications Commission, Broadband Speed Guide, available at *https://www.fcc.gov/consumers/guides/broadband-speed-guide* (last visited October 28, 2021).

such, projects meeting a lower threshold could not be considered ''necessary'' investments in broadband infrastructure, so Treasury has retained the threshold from the interim final rule.

Further, the final rule adds a requirement that recipients address the affordability needs of low-income consumers in accessing broadband networks funded by SLFRF, either by requiring service providers that provide service to households to either participate in the FCC's Affordable Connectivity Program (ACP), or a broad-based affordability program with commensurate benefits. Treasury believes that this requirement will increase the number of customers that are able to take advantage of broadband infrastructure funded by SLFRF, increasing the effectiveness of funds in connecting households and businesses to high-speed internet that is critical to work, health, and education. There is a potential that this requirement may marginally increase project costs for recipients and providers, but this impact is uncertain, given the varying business models and pricing structures of broadband projects and providers.

Labor Standards

In this Supplementary Information for the final rule, Treasury encourages recipients to ensure that capital expenditures to respond to the public health and negative economic impacts of the pandemic and water, sewer, and broadband projects use strong labor standards, including, for example, project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury believes that its encouragement of labor standards carries benefits because it will ensure that workers have access to strong employment opportunities associated with infrastructure projects, which will in turn aid the economic recovery. Treasury believes that infrastructure projects may also benefit from stronger labor standards due to the potential of these standards to ensure a stronger skilled labor supply and minimize labor disputes and workplace injuries, which can result in costly disruptions to projects. Treasury assesses that these benefits will increase the economy and efficiency of infrastructure projects undertaken through SLFRF and will outweigh the potential for a marginal increase in labor costs.

Splitting Payments to Recipients

Treasury is required by statute to deliver funds to local governments in two payments separated by at least twelve months, and the interim final rule provided for split payments to a majority of states as well. As discussed above, splitting payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of states with significant remaining elevation in the unemployment rate could face heightened additional near term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of state governments, Treasury has provided funds in one payment. Treasury believes that this approach strikes an appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific states. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.

Reaching Underserved Communities

Finally, the final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically underserved and have experienced disproportionate impacts of the COVID–19 crisis. Targeting relief is in line with Executive Order 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' which laid out an Administration-wide priority to support ''equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.'' To this end, the final rule enumerates a list of services that may be provided using SLFRF funds in disproportionately impacted communities, including low-income areas, to address the more severe impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use SLFRF funds to restore state and local workforces, where women and people of color are disproportionately represented; and requires that broadband infrastructure projects participate in programs to support affordability of broadband service. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs

This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer SLFRF funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires states to allocate SLFRF funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through states. Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that many recipients receive direct or indirect funding from federal government programs and that many have familiarity with how to administer and report on federal funds or grant funding provided by other entities. In particular, states, territories, and large localities will have received funds from the Coronavirus Relief Fund (CRF) and Treasury expects them to rely heavily on established processes developed through that program or other prior grant funding, mitigating burden on these governments. Treasury has enhanced the level of recipient reporting as compared to the CRF, incorporating feedback from the Government Accountability Office and others that additions would improve the oversight of recipients' use of funds. To balance the oversight benefits with the costs of added reporting burdens, Treasury has incorporated other mechanisms to mitigate burden. For example, Treasury is ''tiering'' reporting requirements so that recipients that receive relatively lesser amounts of SLFRF funds are required to submit less frequent reports than recipients receiving greater amounts of funds. Treasury is noting administrative costs as a generally allowable use of SLFRF funds, which defrays administrative expenses to recipients that may be needed to comply with reporting requirements. Treasury has also provided options for recipients to use eligibility thresholds they are already familiar with during administration of SLFRF funds, which will enable recipients to avoid the costs of setting up new programs and reporting mechanisms to meet reporting and compliance requirements. For example, Treasury has permitted recipients to use ''categorical eligibility'' when delivering assistance to particular groups, such as impacted or disproportionately impacted households.

In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—states, cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Furthermore, Treasury has made clear in guidance that SLFRF funds may be used to cover certain expenses related to administering programs established using SLFRF funds.[396]

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications within the meaning of the Executive Order and does not impose substantial, direct compliance costs on state, local, and Tribal governments or preempt state law within the meaning of the Executive Order. The compliance costs are imposed on state, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected state, local, and Tribal government officials and associations in the process of developing the interim final rule and this final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* generally requires public notice and an opportunity for comment before a rule becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply ''to the extent that there is involved . . . a matter relating to agency . . . grants.'' The APA also provides an exception to ordinary notice-and-comment procedures ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The interim final rule was issued without prior notice and comment procedures because it implemented statutory conditions on the eligible uses of SLFRF funds, and addressed the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses to help address the economic and public health emergency. See the **SUPPLEMENTARY INFORMATION** section of the May 17, 2021 interim final rule for the applicability of the requirements of 5 U.S.C. 553. In addition, under the exception discussed in that section for matters relating to agency grants, the requirements of 5 U.S.C. 553 also do not apply to this final rule. After careful consideration of the comments received, this final rule adopts the May 17, 2021 interim final rule with the revisions discussed in this **SUPPLEMENTARY INFORMATION.**

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule generally may take effect no earlier than 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3).

Paperwork Reduction Act

The information collections associated with the SLFRF program have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA) and assigned control number 1505–0271. Under the PRA, an agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below.

Reporting	Number respondents	Number responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondents ($48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes)	1,262.5	$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes)	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes)	2,525	123,220
Tribal Employment Information Form	584	1	584	.75 (45 minutes)	438	21,374
Request for Extension Form	96	1	96	1	96	4,685
Annual Recovery Plan Performance Report	430	1	430	100	43,000	2,098,400
NEU Distribution Template	55	2	110	10	1,100	53,680
Non-UGLG Distribution Template	55	2	110	5	550	26,840
Transfer Forms	1,500	1	1,500	1	1,500	73,200
Project and Expenditure Report	37,000	1	37,000	5	185,000	9,028,000
Total	54,870		54,980		236,735	11,552,619

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at *https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm* (visited March 28, 2020). Base wage of $33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of $48.80.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA or any other law are also exempt from the RFA

[396] *See* Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, 10.2, as of July 19, 2021; *https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf.*

requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Because this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

Rule Text

List of Subjects in 31 CFR Part 35

Executive compensation, State and Local Governments, Tribal Governments, Public health emergency.

For the reasons stated in the preamble, the United States Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

■ 1. Revise Subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

35.1 Purpose.
35.2 Applicability.
35.3 Definitions.
35.4 Reservation of authority, reporting.
35.5 Use of funds.
35.6 Eligible uses.
35.7 Pensions.
35.8 Tax.
35.9. Compliance with applicable laws.
35.10. Recoupment.
35.11 Payments to States.
35.12. Distributions to nonentitlement units of local government and units of general local government.

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f).

§ 35.1 Purpose.

This part implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This part applies to states, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Capital expenditures has the same meaning given in 2 CFR 200.1.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a state or territory, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State or territory in which all funds received by the State or territory from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and lasting until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or childcare; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID–19 mitigation and containment; work in a mortuary; and work in critical clinical research, development, and testing necessary for COVID–19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional non-public sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, territory, or Tribal government, workers in any additional non-public sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government.

Essential work means work that:

(1) Is not performed while teleworking from a residence; and

(2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions and proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue also includes revenue from liquor stores that are owned and operated by state and local governments. General revenue does not include revenues from utilities, except recipients may choose to include revenue from utilities that are part of their own government as general revenue provided the recipient does so consistently over the remainder of the period of performance. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Low-income household means a household with:

(1) Income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the poverty guidelines published most recently by the Department of Health and Human Services; or

(2) Income at or below 40 percent of the Area Median Income for its county and size of household based on data published most recently by the Department of Housing and Urban Development.

Micro-business means a small business that has five or fewer employees, one or more of whom owns the small business.

Moderate-income household means a household with:

(1) Income at or below 300 percent of the Federal Poverty Guidelines for the size of its household based on poverty guidelines published most recently by the Department of Health and Human Services; or

(2) Income at or below 65 percent of the Area Median Income for its county and size of household based on data published most recently by the Department of Housing and Urban Development.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States for that reporting year.

Nonentitlement unit of local government means a ''city,'' as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) or 501(c)(19) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Period of performance means the time period described in § 35.5 during which a recipient may obligate and expend funds in accordance with sections 602(c)(1) and 603(c)(1) of the Social Security Act and this subpart.

Premium pay means an amount of up to $13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID–19 public health emergency. Such amount may not exceed $25,000 in total over the period of performance with respect to any single eligible worker. Premium pay may be awarded to non-hourly and part-time eligible workers performing essential work. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to $13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to $13 per hour that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the worker's current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees or, if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Title I eligible schools means schools eligible to receive services under section 1113 of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6313), including schools served under section 1113(b)(1)(C) of that Act.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U–3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this part shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this part, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the period of performance, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024. A recipient must also return funds obligated by December 31, 2024 but not expended by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (f) of this section.

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts if the use meets the criteria provided in paragraph (b)(1) of this section or is enumerated in paragraph (b)(3) of this section; provided that, in the case of a use of funds for a capital expenditure under paragraphs (b)(1) or (b)(3) of this section, the use of funds must also meet the criteria provided in paragraph (b)(4) of this section. Treasury may also articulate additional eligible programs, services, or capital expenditures from time to time that satisfy the eligibility criteria of this paragraph (b), which shall be eligible under this paragraph (b).

(1) *Identifying eligible responses to the public health emergency or its negative economic impacts.* (i) A program, service, or capital expenditure is eligible under this paragraph (b)(1) if a recipient identifies a harm or impact to a beneficiary or class of beneficiaries caused or exacerbated by the public health emergency or its negative economic impacts and the program, service, or capital expenditure responds to such harm.

(ii) A program, service, or capital expenditure responds to a harm or impact experienced by an identified beneficiary or class of beneficiaries if it is reasonably designed to benefit the beneficiary or class of beneficiaries that experienced the harm or impact and is related and reasonably proportional to the extent and type of harm or impact experienced.

(2) *Identified harms: Presumptions of impacted and disproportionately impacted beneficiaries.* A recipient may rely on the following presumptions to identify beneficiaries presumptively impacted or disproportionately impacted by the public health emergency or its negative economic impacts for the purpose of providing a response under paragraph (b)(1) or (b)(3) of this section:

(i) Households or populations that experienced unemployment; experienced increased food or housing insecurity; qualify for the Children's Health Insurance Program (42 U.S.C. 1397aa *et seq.*), Childcare Subsidies through the Child Care and Development Fund Program (42 U.S.C. 9857 *et seq.* and 42 U.S.C. 618), or Medicaid (42 U.S.C. 1396 *et seq.*); if funds are to be used for affordable housing programs, qualify for the National Housing Trust Fund (12 U.S.C. 4568) or the Home Investment Partnerships Program (42 U.S.C. 12721 *et seq.*); if funds are to be used to address impacts of lost instructional time for students in kindergarten through twelfth grade, any student who did not have access to in-person instruction for a significant period of time; and low- and moderate-income households and populations are presumed to be impacted by the public health emergency or its negative economic impacts;

(ii) The general public is presumed to be impacted by the public health emergency for the purposes of providing the uses set forth in subparagraphs (b)(3)(i)(A) and (b)(3)(i)(C); and

(iii) The following households, communities, small businesses, and nonprofit organizations are presumed to be disproportionately impacted by the public health emergency or its negative economic impacts:

(A) Households and populations residing in a qualified census tract;

households and populations receiving services provided by Tribal governments; households and populations residing in the territories; households and populations receiving services provided by territorial governments; low-income households and populations; households that qualify for Temporary Assistance for Needy Families (42 U.S.C. 601 *et seq.*), the Supplemental Nutrition Assistance Program (7 U.S.C. 2011 *et seq.*), Free and Reduced Price School Lunch and/or Breakfast programs (42 U.S.C. 1751 *et seq.* and 42 U.S.C. 1773), Medicare Part D Low-income Subsidies (42 U.S.C. 1395w–114), Supplemental Security Income (42 U.S.C. 1381 *et seq.*), Head Start (42 U.S.C. 9831 *et seq.*), Early Head Start (42 U.S.C. 9831 *et seq.*), the Special Supplemental Nutrition Program for Women, Infants, and Children (42 U.S.C. 1786), Section 8 Vouchers (42 U.S.C. 1437f), the Low-Income Home Energy Assistance Program (42 U.S.C. 8621 *et seq.*), Pell Grants (20 U.S.C. 1070a), and, if SLFRF funds are to be used for services to address educational disparities, Title I eligible schools;

(B) Small businesses operating in a qualified census tract, operated by Tribal governments or on Tribal lands, or operating in the territories; and

(C) Nonprofit organizations operating in a qualified census tract, operated by Tribal governments or on Tribal lands, or operating in the territories.

(3) *Enumerated eligible uses: Responses presumed reasonably proportional.* A recipient may use funds to respond to the public health emergency or its negative economic impacts on a beneficiary or class of beneficiaries for one or more of the following purposes unless such use is grossly disproportionate to the harm caused or exacerbated by the public health emergency or its negative economic impacts:

(i) Responding to the public health impacts of the public health emergency for purposes including:

(A) COVID–19 mitigation and prevention in a manner that is consistent with recommendations and guidance from the Centers for Disease Control and Prevention, including vaccination programs and incentives; testing programs; contact tracing; isolation and quarantine; mitigation and prevention practices in congregate settings; acquisition and distribution of medical equipment for prevention and treatment of COVID–19, including personal protective equipment; COVID–19 prevention and treatment expenses for public hospitals or health care facilities, including temporary medical facilities; establishing or enhancing public health data systems; installation and improvement of ventilation systems in congregate settings, health facilities, or other public facilities; and assistance to small businesses, nonprofits, or impacted industries to implement mitigation measures;

(B) Medical expenses related to testing and treating COVID–19 that are provided in a manner consistent with recommendations and guidance from the Centers for Disease Control and Prevention, including emergency medical response expenses, treatment of long-term symptoms or effects of COVID–19, and costs to medical providers or to individuals for testing or treating COVID–19;

(C) Behavioral health care, including prevention, treatment, emergency or first-responder programs, harm reduction, supports for long-term recovery, and behavioral health facilities and equipment; and

(D) Preventing and responding to increased violence resulting from the public health emergency, including community violence intervention programs, or responding to increased gun violence resulting from the public health emergency, including payroll and covered benefits associated with community policing strategies; enforcement efforts to reduce gun violence; and investing in technology and equipment;

(ii) Responding to the negative economic impacts of the public health emergency for purposes including:

(A) Assistance to households and individuals, including:

(1) Assistance for food; emergency housing needs; burials, home repairs, or weatherization; internet access or digital literacy; cash assistance; and assistance accessing public benefits;

(2) Paid sick, medical, or family leave programs, or assistance to expand access to health insurance;

(3) Childcare, early learning services, home visiting, or assistance for child welfare-involved families or foster youth;

(4) Programs to address the impacts of lost instructional time for students in kindergarten through twelfth grade;

(5) Development, repair, and operation of affordable housing and services or programs to increase long-term housing security;

(6) Financial services that facilitate the delivery of Federal, State, or local benefits for unbanked and underbanked individuals;

(7) Benefits for the surviving family members of individuals who have died from COVID–19, including cash assistance to surviving spouses or dependents of individuals who died of COVID–19;

(8) Assistance for individuals who want and are available for work, including those who are unemployed, have looked for work sometime in the past 12 months, who are employed part time but who want and are available for full-time work, or who are employed but seeking a position with greater opportunities for economic advancement;

(9) Facilities and equipment related to the provision of services to households provided in subparagraphs (b)(3)(ii)(A)(1)–(8);

(10) The following expenses related to Unemployment Trust Funds:

(i) Contributions to a recipient Unemployment Trust Fund and repayment of principal amounts due on advances received under Title XII of the Social Security Act (42 U.S.C. 1321) up to an amount equal to the difference between the balance in the recipient's Unemployment Trust Fund as of January 27, 2020 and the balance of such account as of May 17, 2021 plus the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021; provided that if a recipient repays principal on Title XII advances or makes a contribution to an Unemployment Trust Fund after April 1, 2022, such recipient shall not reduce average weekly benefit amounts or maximum benefit entitlements prior to December 31, 2024; and

(ii) Any interest due on such advances received under Title XII of the Social Security Act (42 U.S.C. 1321); and

(11) A program, service, capital expenditure, or other assistance that is provided to a disproportionately impacted household, population, or community, including:

(i) Services to address health disparities of the disproportionately impacted household, population, or community;

(ii) Housing vouchers and relocation assistance;

(iii) Investments in communities to promote improved health outcomes and public safety such as parks, recreation facilities, and programs that increase access to healthy foods;

(iv) Capital expenditures and other services to address vacant or abandoned properties;

(v) Services to address educational disparities; and

(vi) Facilities and equipment related to the provision of these services to the disproportionately impacted household, population, or community.

(B) Assistance to small businesses, including:

(1) Programs, services, or capital expenditures that respond to the negative economic impacts of the COVID–19 public health emergency, including loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, or providing technical assistance; and

(2) A program, service, capital expenditure, or other assistance that responds to disproportionately impacted small businesses, including rehabilitation of commercial properties; storefront and façade improvements; technical assistance, business incubators, and grants for start-ups or expansion costs for small businesses; and programs or services to support micro-businesses;

(C) Assistance to nonprofit organizations including programs, services, or capital expenditures, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance;

(D) Assistance to tourism, travel, hospitality, and other impacted industries for programs, services, or capital expenditures, including support for payroll costs and covered benefits for employees, compensating returning employees, support for operations and maintenance of existing equipment and facilities, and technical assistance; and

(E) Expenses to support public sector capacity and workforce, including:

(1) Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID–19 public health emergency;

(2) Payroll, covered benefit, and other costs associated with programs or services to support the public sector workforce and with the recipient:

(i) Hiring or rehiring staff to fill budgeted full-time equivalent positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021; or

(ii) Increasing the number of its budgeted full-time equivalent employees by up to the difference between the number of its budgeted full-time equivalent employees on January 27, 2020, multiplied by 1.075, and the number of its budgeted full-time equivalent employees on March 3, 2021, provided that funds shall only be used for additional budgeted full-time equivalent employees above the recipient's number of budgeted full-time equivalent employees as of March 3, 2021;

(3) Costs to improve the design and execution of programs responding to the COVID–19 pandemic and to administer or improve the efficacy of programs addressing the public health emergency or its negative economic impacts; and

(4) Costs associated with addressing administrative needs of recipient governments that were caused or exacerbated by the pandemic.

(4) *Capital expenditures.* A recipient, other than a Tribal government, must prepare a written justification for certain capital expenditures according to Table 1 to paragraph (b)(4) of this section. Such written justification must include the following elements:

(i) Describe the harm or need to be addressed;

(ii) Explain why a capital expenditure is appropriate; and

(iii) Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.

TABLE 1 TO PARAGRAPH (b)(4)

If a project has total expected capital expenditures of	and the use is enumerated in (b)(3), then	and the use is not enumerated in (b)(3), then
Less than $1 million	No Written Justification required	No Written Justification required.
Greater than or equal to $1 million, but less than $10 million.	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury.	Written Justification required and recipients must submit as part of regular reporting to Treasury.
$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury.	

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers that have eligible workers who perform essential work, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID–19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID–19 public health emergency if:

(1) The eligible worker's total wages and remuneration, including the premium pay, is less than or equal to 150 percent of the greater of such eligible worker's residing State's or county's average annual wage for all occupations as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics;

(2) The eligible worker is not exempt from the Fair Labor Standards Act overtime provisions (29 U.S.C. 207); or

(3) The recipient has submitted to the Secretary a written justification that explains how providing premium pay to the eligible worker is responsive to the eligible worker performing essential work during the COVID–19 public health emergency (such as a description of the eligible workers' duties, health, or financial risks faced due to COVID–19, and why the recipient determined that the premium pay was responsive despite the worker's higher income).

(d) *Providing government services.* A recipient may use funds for the provision of government services to the extent of the reduction in the recipient's general revenue due to the public health emergency, calculated according to this paragraph (d). A recipient must make a one-time election to calculate the amount of the reduction in the recipient's general revenue due to the public health emergency according to either paragraph (d)(1) or (d)(2) of this section:

(1) *Standard allowance.* The reduction in the recipient's general revenue due to the public health emergency over the period of performance will be deemed to be ten million dollars; or

(2) *Formula.* The reduction in the recipient's general revenue due to the public health emergency over the period of performance equals the sum of the reduction in revenue, calculated as of each date identified in paragraph (d)(2)(i) of this section and according to the formula in paragraph (d)(2)(ii) of this section:

(i) A recipient must make a one-time election to calculate the reduction in its general revenue using information as of either:

(A) December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023; or

(B) The last day of each of the recipient's fiscal years ending in 2020, 2021, 2022, and 2023.

(ii) A reduction in a recipient's general revenue for each date identified in paragraph (d)(2)(i) of this section equals:

Max {*[Base Year Revenue* * (1 + *Growth Adjustment)^(*n_t*/12)] − Actual General Revenue;* 0}

Where:

(A) Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID–19 public health emergency;

(B) Growth Adjustment is equal to the greater of 5.2 percent (or 0.052) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency;

(C) n equals the number of months elapsed from the end of the base year to the calculation date;

(D) Subscript t denotes the specific calculation date; and

(E) Actual General Revenue is a recipient's actual general revenue collected during the 12-month period ending on each calculation date identified in paragraph (d)(2)(i) of this section, except:

(1) For purposes of all calculation dates on or after April 1, 2022, in the case of any change made after January 6, 2022 to any law, regulation, or administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase and that the recipient assesses has had the effect of decreasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must add to actual general revenue the amount of such decrease in tax revenue;

(2) For purposes of any calculation date on or after April 1, 2022, in the case of any change made after January 6, 2022 to any law, regulation, or administrative interpretation that increases any tax (by providing for an increase in a rate, the reduction of a rebate, a deduction, or a credit, or otherwise) or accelerates the imposition of any tax or tax increase and that the recipient assesses has had the effect of increasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must subtract from actual general revenue the amount of such increase in tax revenue;

(3) If the recipient makes a one-time election to adjust general revenue to reflect tax changes made during the period beginning on January 27, 2020 and ending on January 6, 2022, for purposes of each calculation date identified in paragraph (d)(2)(i) of this section:

(i) In the case of any change made during such prior period to any law, regulation, or administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase and that the recipient assesses has had the effect of decreasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must add to actual general revenue the amount of such decrease in tax revenue; and

(ii) In the case of any change made during such prior period to any law, regulation, or administrative interpretation that increases any tax (by providing for an increase in a rate, the reduction of a rebate, a deduction, or a credit, or otherwise) or accelerates the imposition of any tax or tax increase and that the recipient assesses has had the effect of increasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must subtract from actual general revenue the amount of such increase in tax revenue; and

(4) With respect to any calculation date during the period beginning on January 6, 2022 and ending on March 31, 2022, if the recipient makes the election in paragraph (d)(3) of this section, the recipient must also make the adjustments referenced in paragraph (d)(3) of this section with respect to any such changes in law, regulation, or administrative interpretation during the period beginning on January 6, 2022 and ending on such calculation date.

(e) *Making necessary investments in water, sewer, and broadband infrastructure.* A recipient may use funds to make the following investments in water, sewer, and broadband infrastructure.

(1) *Water and sewer investments*—(i) *Clean Water State Revolving Fund projects.* Projects or activities of the type that meet the eligibility requirements of section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c));

(ii) *Additional stormwater projects.* Projects to manage, reduce, treat, or recapture stormwater or subsurface drainage water regardless of whether such projects would improve water quality if such projects would otherwise meet the eligibility requirements of section 603(c)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)(5));

(iii) *Drinking Water State Revolving Fund projects.* Projects or activities of the type that meet the eligibility requirements of section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) as implemented by the regulations adopted by the Environmental Protection Agency (EPA) under 40 CFR 35.3520, provided that:

(A) The recipient is not required to comply with the limitation under 40 CFR 35.3520(c)(2) to acquisitions of land from willing sellers or the prohibition under 40 CFR 35.3520(e)(6) on uses of funds for certain Tribal projects; and

(B) In the case of lead service line replacement projects, the recipient must replace the full length of the service line and may not replace only a partial portion of the service line.

(iv) *Additional lead remediation and household water quality testing.* Projects or activities to address lead in drinking water or provide household water quality testing that are within the scope of the programs the EPA is authorized to establish under sections 1459A(b)(2), 1459B(b)(1), 1464(d)(2), and 1465 of the Safe Drinking Water Act (42 U.S.C. 300j–19a(b)(2), 300j–19b(b)(1), 300j–24(d)(2), and 300j–25), provided that:

(A) In the case of lead service line replacement projects, the recipient must replace the full length of the service line and may not replace only a partial portion of the service line; and

(B) In the case of projects within the scope of the program the EPA is authorized to establish under section 1459B(b)(1) of the Safe Drinking Water Act, the recipient may determine the income eligibility of homeowners served by lead service line replacement projects in its discretion.

(v) *Drinking water projects to support increased population.* Projects of the type that meet the eligibility requirements of 40 CFR 35.3520 other than the requirement of subparagraph

(b)(1) of such regulation to address present or prevent future violations of health-based drinking water standards, if the following conditions are met:

(A) The project is needed to support increased population, with need assessed as of the time the project is undertaken;

(B) The project is designed to support no more than a reasonable level of projected increased need, whether due to population growth or otherwise;

(C) The project is a cost-effective means for achieving the desired level of service; and

(D) The project is projected to continue to provide an adequate level of drinking water over its estimated useful life.

(vi) *Dams and reservoirs.* Rehabilitation of dams and reservoirs if the following conditions are met:

(A) The project meets the requirements of 40 CFR 35.3520 other than the following requirements:

(1) The prohibition on the rehabilitation of dams and reservoirs in 40 CFR 35.3520(e)(1) and (3); and

(2) The requirement in 40 CFR 35.3520(b)(1) that the project is needed to address present or prevent future violations of health-based drinking water standards, provided that if the dam or reservoir project does not meet this requirement, the project must be needed to support increased population, with need assessed as of the time the project is undertaken, and the project must be projected to continue to provide an adequate level of drinking water over its estimated useful life;

(B) The primary purpose of the dam or reservoir is for drinking water supply;

(C) The project is needed for the provision of drinking water supply, with need assessed as of the time the project is initiated;

(D) The project is designed to support no more than a reasonable level of projected increased need, whether due to population growth or otherwise; and

(E) The project is a cost-effective means for achieving the desired level of service.

(vii) *Private wells.* Rehabilitation of private wells, testing initiatives to identify contaminants in private wells, and treatment activities and remediation projects that address contamination in private wells, if the project meets the requirements of 40 CFR 35.3520 other than the limitation to certain eligible systems under 40 CFR 35.3520(a).

(2) *Broadband investments*—(i) *General.* Broadband infrastructure if the following conditions are met:

(A) The broadband infrastructure is designed to provide service to households and businesses with an identified need, as determined by the recipient, for such infrastructure;

(B) The broadband infrastructure is designed to, upon completion:

(*1*) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(*2*) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service reliably meeting or exceeding symmetrical 100 Mbps download speed and upload speeds:

(i) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(ii) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed; and

(C) The service provider for a completed broadband infrastructure investment project that provides service to households is required, for as long as the SLFRF-funded broadband infrastructure is in use, by the recipient to:

(*1*) Participate in the Federal Communications Commission's Affordable Connectivity Program (ACP) through the lifetime of the ACP; or

(*2*) Otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP through the lifetime of the ACP.

(ii) *Cybersecurity infrastructure investments.* Cybersecurity infrastructure investments that are designed to improve the reliability and resiliency of new and existing broadband infrastructure. Such investments may include the addition or modernization of network security hardware and software tools designed to strengthen cybersecurity for the end-users of these networks.

(f) *Meeting the non-federal matching requirements for Bureau of Reclamation projects.* A recipient may use funds to meet the non-federal matching requirements of any authorized Bureau of Reclamation project.

§ 35.7 Pensions.

A recipient (other than a Tribal government) may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in

violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii) of this section.

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations*—(1) *In general.* Any amount used in violation of § 35.5, 35.6, or 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, the Secretary will calculate any amounts subject to recoupment resulting from a violation of § 35.5, 35.6 or 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* The Secretary will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Initial notice.* If the Secretary calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient an initial written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless the Secretary extends or accelerates the time period, within 60 calendar days of receipt of an initial notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to the Secretary requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to the Secretary a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless the Secretary extends or accelerates the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section or the expiration of the period for requesting reconsideration provided under paragraph (d), the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided. A recipient must invoke and exhaust the procedures available under this subpart prior to seeking judicial review of a decision under § 35.10.

(f) *Repayment of funds.* Unless the Secretary extends or accelerates the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by the Secretary:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

(g) *Other remedial actions.* Prior to seeking recoupment or taking other appropriate action pursuant to paragraph (c), (d), (e), or (f) of this section, the Secretary may notify the recipient of potential violations and provide the recipient an opportunity for informal consultation and remediation.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until at least May 10, 2022 and not more than twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and

(2) Any reports required to be filed by that date pursuant to this part that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from the Secretary pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of local government in such State or Territory in accordance with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. For purposes of this section 35.12, a nonentitlement unit of local government's most recent budget shall mean the nonentitlement unit of local government's total annual budget, including both operating and capital expenditure budgets, in effect as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of

January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this section 35.12.

(c) *Units of general local government.* Each State or Territory that receives a payment from the Secretary pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

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Chief Recovery Officer.

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Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule

U.S. DEPARTMENT OF THE TREASURY

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The Overview of the Final Rule provides a summary of major provisions of the final rule for informational purposes and is intended as a brief, simplified user guide to the final rule provisions.

The descriptions provided in this document summarize key provisions of the final rule but are non-exhaustive, do not describe all terms and conditions associated with the use of SLFRF, and do not describe all requirements that may apply to this funding. Any SLFRF funds received are also subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which incorporate the provisions of the final rule and the guidance that implements this program.

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Introduction

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF), a part of the American Rescue Plan, delivers $350 billion to state, local, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency. The program ensures that governments have the resources needed to:

- Fight the pandemic and support families and businesses struggling with its public health and economic impacts,
- Maintain vital public services, even amid declines in revenue, and
- Build a strong, resilient, and equitable recovery by making investments that support long-term growth and opportunity.

EARLY PROGRAM IMPLEMENTATION

In May 2021, Treasury published the Interim final rule (IFR) describing eligible and ineligible uses of funds (as well as other program provisions), sought feedback from the public on these program rules, and began to distribute funds. The IFR went immediately into effect in May, and since then, governments have used SLFRF funds to meet their immediate pandemic response needs and begin building a strong and equitable recovery, such as through providing vaccine incentives, development of affordable housing, and construction of infrastructure to deliver safe and reliable water.

As governments began to deploy this funding in their communities, Treasury carefully considered the feedback provided through its public comment process and other forums. Treasury received over 1,500 comments, participated in hundreds of meetings, and received correspondence from a wide range of governments and other stakeholders.

KEY CHANGES AND CLARIFICATIONS IN THE FINAL RULE

The final rule delivers broader flexibility and greater simplicity in the program, responsive to feedback in the comment process. Among other clarifications and changes, the final rule provides the features below.

Replacing Lost Public Sector Revenue

The final rule offers a standard allowance for revenue loss of up to $10 million, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation. Recipients that select the standard allowance may use that amount – in many cases their full award – for government services, with streamlined reporting requirements.

Public Health and Economic Impacts

In addition to programs and services, the final rule clarifies that recipients can use funds for capital expenditures that support an eligible COVID-19 public health or economic response. For example, recipients may build certain affordable housing, childcare facilities, schools, hospitals, and other projects consistent with final rule requirements.

In addition, the final rule provides an expanded set of households and communities that are presumed to be "impacted" and "disproportionately impacted" by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. Further, the final rule provides a broader set of uses available for these communities as part of COVID-19 public health and economic response, including making affordable housing, childcare, early learning, and services to address learning loss during the pandemic eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

Further, the final rule allows for a broader set of uses to restore and support government employment, including hiring above a recipient's pre-pandemic baseline, providing funds to employees that experienced pay cuts or furloughs, avoiding layoffs, and providing retention incentives.

Premium Pay

The final rule delivers more streamlined options to provide premium pay, by broadening the share of eligible workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline workers performing essential work.

Water, Sewer & Broadband Infrastructure

The final rule significantly broadens eligible broadband infrastructure investments to address challenges with broadband access, affordability, and reliability, and adds additional eligible water and sewer infrastructure investments, including a broader range of lead remediation and stormwater management projects.

FINAL RULE EFFECTIVE DATE

The final rule takes effect on April 1, 2022. Until that time, the interim final rule remains in effect; funds used consistently with the IFR while it is in effect are in compliance with the SLFRF program.

However, recipients can choose to take advantage of the final rule's flexibilities and simplifications now, even ahead of the effective date. Treasury will not take action to enforce the interim final rule to the extent that a use of funds is consistent with the terms of the final rule, regardless of when the SLFRF funds were used. Recipients may consult the *Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule*, which can be found on Treasury's website, for more information on compliance with the interim final rule and the final rule.

Overview of the Program

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program provides substantial flexibility for each jurisdiction to meet local needs within the four separate eligible use categories. This Overview of the Final Rule addresses the four eligible use categories ordered from the broadest and most flexible to the most specific.

Recipients may use SLFRF funds to:

- **Replace lost public sector revenue**, using this funding to provide government services up to the amount of revenue loss due to the pandemic.
    - Recipients may determine their revenue loss by choosing between two options:
        - A standard allowance of up to $10 million in aggregate, not to exceed their award amount, during the program;
        - Calculating their jurisdiction's specific revenue loss each year using Treasury's formula, which compares actual revenue to a counterfactual trend.
    - Recipients may use funds up to the amount of revenue loss for government services; generally, services traditionally provided by recipient governments are government services, unless Treasury has stated otherwise.
- **Support the COVID-19 public health and economic response** by addressing COVID-19 and its impact on public health as well as addressing economic harms to households, small businesses, nonprofits, impacted industries, and the public sector.
    - Recipients can use funds for programs, services, or capital expenditures that respond to the public health and negative economic impacts of the pandemic.
    - To provide simple and clear eligible uses of funds, Treasury provides a list of enumerated uses that recipients can provide to households, populations, or classes (i.e., groups) that experienced pandemic impacts.
    - Public health eligible uses include COVID-19 mitigation and prevention, medical expenses, behavioral healthcare, and preventing and responding to violence.
    - Eligible uses to respond to negative economic impacts are organized by the type of beneficiary: assistance to households, small businesses, and nonprofits.
        - Each category includes assistance for "impacted" and "disproportionately impacted" classes: impacted classes experienced the general, broad-based impacts of the pandemic, while disproportionately impacted classes faced meaningfully more severe impacts, often due to preexisting disparities.
        - To simplify administration, the final rule presumes that some populations and groups were impacted or disproportionately impacted and are eligible for responsive services.

    - Eligible uses for assistance to impacted households include aid for re-employment, job training, food, rent, mortgages, utilities, affordable housing development, childcare, early education, addressing learning loss, and many more uses.
    - Eligible uses for assistance to impacted small businesses or nonprofits include loans or grants to mitigate financial hardship, technical assistance for small businesses, and many more uses.
  - Recipients can also provide assistance to impacted industries like travel, tourism, and hospitality that faced substantial pandemic impacts, or address impacts to the public sector, for example by re-hiring public sector workers cut during the crisis.
  - Recipients providing funds for enumerated uses to populations and groups that Treasury has presumed eligible are clearly operating consistently with the final rule. Recipients can also identify (1) other populations or groups, beyond those presumed eligible, that experienced pandemic impacts or disproportionate impacts and (2) other programs, services, or capital expenditures, beyond those enumerated, to respond to those impacts.
- **Provide premium pay for eligible workers performing essential work**, offering additional support to those who have and will bear the greatest health risks because of their service in critical sectors.
  - Recipients may provide premium pay to eligible workers – generally those working in-person in key economic sectors – who are below a wage threshold or non-exempt from the Fair Labor Standards Act overtime provisions, or if the recipient submits justification that the premium pay is responsive to workers performing essential work.
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet.
  - Recipients may fund a broad range of water and sewer projects, including those eligible under the EPA's Clean Water State Revolving Fund, EPA's Drinking Water State Revolving Fund, and certain additional projects, including a wide set of lead remediation, stormwater infrastructure, and aid for private wells and septic units.
  - Recipients may fund high-speed broadband infrastructure in areas of need that the recipient identifies, such as areas without access to adequate speeds, affordable options, or where connections are inconsistent or unreliable; completed projects must participate in a low-income subsidy program.

While recipients have considerable flexibility to use funds to address the diverse needs of their communities, some restrictions on use apply across all eligible use categories. These include:

- **For states and territories:** No offsets of a reduction in net tax revenue resulting from a change in state or territory law.

- **For all recipients except for Tribal governments:** No extraordinary contributions to a pension fund for the purpose of reducing an accrued, unfunded liability.

- **For all recipients:** No payments for debt service and replenishments of rainy day funds; no satisfaction of settlements and judgments; no uses that contravene or violate the American Rescue Plan Act, Uniform Guidance conflicts of interest requirements, and other federal, state, and local laws and regulations.

Under the SLFRF program, funds must be used for costs incurred on or after March 3, 2021. Further, funds must be obligated by December 31, 2024, and expended by December 31, 2026. This time period, during which recipients can expend SLFRF funds, is the "period of performance."

In addition to SLFRF, the American Rescue Plan includes other sources of funding for state and local governments, including the Coronavirus Capital Projects Fund to fund critical capital investments including broadband infrastructure; the Homeowner Assistance Fund to provide relief for our country's most vulnerable homeowners; the Emergency Rental Assistance Program to assist households that are unable to pay rent or utilities; and the State Small Business Credit Initiative to fund small business credit expansion initiatives. Eligible recipients are encouraged to visit the Treasury website for more information.

Replacing Lost Public Sector Revenue

The Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency. Specifically, SLFRF funding may be used to pay for "government services" in an amount equal to the revenue loss experienced by the recipient due to the COVID-19 public health emergency.

Government services generally include any service traditionally provided by a government, including construction of roads and other infrastructure, provision of public safety and other services, and health and educational services. Funds spent under government services are subject to streamlined reporting and compliance requirements.

In order to use funds under government services, recipients should first determine revenue loss. They may, then, spend up to that amount on general government services.

DETERMINING REVENUE LOSS

Recipients have two options for how to determine their amount of revenue loss. Recipients must choose one of the two options and cannot switch between these approaches after an election is made.

1. **Recipients may elect a "standard allowance" of $10 million to spend on government services through the period of performance.**

   Under this option, which is newly offered in the final rule Treasury presumes that up to $10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund "government services." The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss, particularly for SLFRF's smallest recipients.

   All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula below, including those with total allocations of $10 million or less. Electing the standard allowance does not increase or decrease a recipient's total allocation.

2. **Recipients may calculate their actual revenue loss according to the formula articulated in the final rule.**

   Under this option, recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. Treasury has also provided several adjustments to the definition of general revenue in the final rule.

   To calculate revenue loss at each of these dates, recipients must follow a four-step process:

a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue.*

b. Estimate *counterfactual revenue*, which is equal to the following formula, where *n* is the number of months elapsed since the end of the base year to the calculation date:

$$base\ year\ revenue\ \times (1 + growth\ adjustment)^{\frac{n}{12}}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient's average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

c. Identify *actual revenue*, which equals revenues collected over the twelve months immediately preceding the calculation date.

Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added or subtracted to the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022.

Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

d. Revenue loss for the calculation date is equal to *counterfactual revenue* minus *actual revenue* (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss on for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section.

SPENDING ON GOVERNMENT SERVICES

Recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the above approach. **Government services generally include *any service* traditionally provided by a government**, unless Treasury has stated otherwise**.** Here are some common examples, although this list is not exhaustive:

- ✓ Construction of schools and hospitals
- ✓ Road building and maintenance, and other infrastructure
- ✓ Health services
- ✓ General government administration, staff, and administrative facilities
- ✓ Environmental remediation
- ✓ Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section and apply to all uses of funds, apply to government services as well.

Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.[1]

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or "classes" of beneficiaries that experienced pandemic impacts and provide services to those classes.

[1] However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.

Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	• Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group) • Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class	• Types of responses can include a program, service, or capital expenditure • Response should be related and reasonably proportional to the harm • Response should also be reasonably designed to benefit impacted individual or class
Simplifying Presumptions	• Final Rule presumes certain populations and classes are impacted and disproportionately impacted	• Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.[2] Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on "Framework for Eligible Uses Beyond Those Enumerated."

[2] For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between "beneficiaries" and "sub-recipients." Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.

RESPONDING TO THE PUBLIC HEALTH EMERGENCY

While the country has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign, the disease still poses a grave threat to Americans' health and the economy. Providing state, local, and Tribal governments the resources needed to fight the COVID-19 pandemic is a core goal of the Coronavirus State and Local Fiscal Recovery Funds, as well as addressing the other ways that the pandemic has impacted public health. Treasury has identified several public health impacts of the pandemic and enumerated uses of funds to respond to impacted populations.

- **COVID-19 mitigation and prevention.** The pandemic has broadly impacted Americans and recipients can provide services to prevent and mitigate COVID-19 to the general public or to small businesses, nonprofits, and impacted industries in general. Enumerated eligible uses include:

  - ✓ Vaccination programs, including vaccine incentives and vaccine sites
  - ✓ Testing programs, equipment and sites
  - ✓ Monitoring, contact tracing & public health surveillance (e.g., monitoring for variants)
  - ✓ Public communication efforts
  - ✓ Public health data systems
  - ✓ COVID-19 prevention and treatment equipment, such as ventilators and ambulances
  - ✓ Medical and PPE/protective supplies
  - ✓ Support for isolation or quarantine
  - ✓ Ventilation system installation and improvement
  - ✓ Technical assistance on mitigation of COVID-19 threats to public health and safety
  - ✓ Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
  - ✓ Support for prevention, mitigation, or other services in congregate living facilities, public facilities, and schools
  - ✓ Support for prevention and mitigation strategies in small businesses, nonprofits, and impacted industries
  - ✓ Medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., ICUs, emergency rooms)
  - ✓ Temporary medical facilities and other measures to increase COVID-19 treatment capacity
  - ✓ Emergency operations centers & emergency response equipment (e.g., emergency response radio systems)
  - ✓ Public telemedicine capabilities for COVID-19 related treatment

- **Medical expenses.** Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:
  - ✓ Unreimbursed expenses for medical care for COVID-19 testing or treatment, such as uncompensated care costs for medical providers or out-of-pocket costs for individuals
  - ✓ Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
  - ✓ Emergency medical response expenses
  - ✓ Treatment of long-term symptoms or effects of COVID-19

- **Behavioral health care, such as mental health treatment, substance use treatment, and other behavioral health services.** Treasury recognizes that the pandemic has broadly impacted Americans' behavioral health and recipients can provide these services to the general public to respond. Enumerated eligible uses include:
  - ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
  - ✓ Enhanced behavioral health services in schools
  - ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
  - ✓ Support for equitable access to reduce disparities in access to high-quality treatment
  - ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
  - ✓ Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction, and recovery
  - ✓ Behavioral health facilities & equipment

- **Preventing and responding to violence.** Recognizing that violence – and especially gun violence – has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:
  - ✓ Referrals to trauma recovery services for victims of crime
  - ✓ Community violence intervention programs, including:
    - Evidence-based practices like focused deterrence, with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance
  - ✓ In communities experiencing increased gun violence due to the pandemic:
    - Law enforcement officers focused on advancing community policing
    - Enforcement efforts to reduce gun violence, including prosecution
    - Technology & equipment to support law enforcement response

RESPONDING TO NEGATIVE ECONOMIC IMPACTS

The pandemic caused severe economic damage and, while the economy is on track to a strong recovery, much work remains to continue building a robust, resilient, and equitable economy in the wake of the crisis and to ensure that the benefits of this recovery reach all Americans. While the pandemic impacted millions of American households and businesses, some of its most severe impacts fell on low-income and underserved communities, where pre-existing disparities amplified the impact of the pandemic and where the most work remains to reach a full recovery.

The final rule recognizes that the pandemic caused broad-based impacts that affected many communities, households, and small businesses across the country; for example, many workers faced unemployment and many small businesses saw declines in revenue. The final rule describes these as "impacted" households, communities, small businesses, and nonprofits.

At the same time, the pandemic caused disproportionate impacts, or more severe impacts, in certain communities. For example, low-income and underserved communities have faced more severe health and economic outcomes like higher rates of COVID-19 mortality and unemployment, often because pre-existing disparities exacerbated the impact of the pandemic. The final rule describes these as "disproportionately impacted" households, communities, small businesses, and nonprofits.

To simplify administration of the program, the final rule presumes that certain populations were "impacted" and "disproportionately impacted" by the pandemic; these populations are presumed to be eligible for services that respond to the impact they experienced. The final rule also enumerates a non-exhaustive list of eligible uses that are recognized as responsive to the impacts or disproportionate impacts of COVID-19. Recipients providing enumerated uses to populations presumed eligible are clearly operating consistently with the final rule.

As discussed further in the section Framework for Eligible Uses Beyond Those Enumerated, recipients can also identify other pandemic impacts, impacted or disproportionately impacted populations or classes, and responses.

However, note that the final rule maintains that general infrastructure projects, including roads, streets, and surface transportation infrastructure, would generally not be eligible under this eligible use category, unless the project responded to a specific pandemic public health need or a specific negative economic impact. Similarly, general economic development or workforce development – activities that do not respond to negative economic impacts of the pandemic but rather seek to more generally enhance the jurisdiction's business climate – would generally not be eligible under this eligible use category.

Assistance to Households

Impacted Households and Communities

Treasury presumes the following households and communities are impacted by the pandemic:

- ✓ Low- or-moderate income households or communities
- ✓ Households that experienced unemployment
- ✓ Households that experienced increased food or housing insecurity
- ✓ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
- ✓ *When providing affordable housing programs*: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ✓ *When providing services to address lost instructional time in K-12 schools*: any student that lost access to in-person instruction for a significant period of time

Low- or moderate-income households and communities are those with (i) income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65 percent of the area median income for the county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines are higher than the area's median income and using the Federal Poverty Guidelines would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the response they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 300 percent of the Federal Poverty Guidelines for a household of three is $65,880 per year.[3] In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is impacted by the pandemic and eligible for services to respond. Additionally, by following the steps detailed in the section Framework for Eligible Uses Beyond Those Enumerated, recipients may designate additional households as impacted or disproportionately impacted beyond these presumptions, and may also pursue projects not listed below in response to these impacts consistent with Treasury's standards.

[3] For recipients in Alaska, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is $82,350 per year. For recipients in Hawaii, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is $75,780 per year.

Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to impacts of the pandemic on households and communities:

- ✓ Food assistance & food banks
- ✓ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ✓ Health insurance coverage expansion
- ✓ Benefits for surviving family members of individuals who have died from COVID-19
- ✓ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly-employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ✓ Financial services for the unbanked and underbanked
- ✓ Burials, home repair & home weatherization
- ✓ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ✓ Cash assistance
- ✓ Paid sick, medical, and family leave programs
- ✓ Assistance in accessing and applying for public benefits or services
- ✓ Childcare and early learning services, home visiting programs, services for child welfare-involved families and foster youth & childcare facilities
- ✓ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ✓ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing
- ✓ Certain contributions to an Unemployment Insurance Trust Fund[4]

[4] Recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. Additionally, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance. Recipients that deposit SLFRF funds into an unemployment insurance trust fund, or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).

Disproportionately Impacted Households and Communities

Treasury presumes the following households and communities are disproportionately impacted by the pandemic:

- ✓ Low -income households and communities
- ✓ Households residing in Qualified Census Tracts
- ✓ Households that qualify for certain federal benefits[5]
- ✓ Households receiving services provided by Tribal governments
- ✓ Households residing in the U.S. territories or receiving services from these governments

Low-income households and communities are those with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the most recently published poverty guidelines or (ii) income at or below 40 percent of area median income for its county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines level is higher than the area median income level and using this level would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the service they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $40,626 per year.[6] In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is disproportionately impacted by the pandemic and eligible for services to respond.

[5] These programs are Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.

[6] For recipients in Alaska, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $50,783 per year. For recipients in Hawaii, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $46,731 per year

Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to disproportionate impacts of the pandemic on households and communities:

- ✓ Pay for community health workers to help households access health & social services
- ✓ Remediation of lead paint or other lead hazards
- ✓ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ✓ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ✓ Investments in neighborhoods to promote improved health outcomes
- ✓ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing[7]
- ✓ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ✓ Schools and other educational equipment & facilities

[7] Please see the final rule for further details and conditions applicable to this eligible use. This includes Treasury's presumption that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing is ineligible for support with SLFRF funds.

Assistance to Small Businesses

Small businesses have faced widespread challenges due to the pandemic, including periods of shutdown, declines in revenue, or increased costs. The final rule provides many tools for recipients to respond to the impacts of the pandemic on small businesses, or disproportionate impacts on businesses where pre-existing disparities like lack of access to capital compounded the pandemic's effects.

Small businesses eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "small business," specifically:

1. Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and
2. Are a small business concern as defined in section 3 of the Small Business Act[8] (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).

Impacted Small Businesses

Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue or gross receipts
- ✓ Financial insecurity
- ✓ Increased costs
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ✓ Technical assistance, counseling, or other services to support business planning

Disproportionately Impacted Small Businesses

Treasury presumes that the following small businesses are disproportionately impacted by the pandemic:

[8] 15 U.S.C. 632.

- ✓ Small businesses operating in Qualified Census Tracts
- ✓ Small businesses operated by Tribal governments or on Tribal lands
- ✓ Small businesses operating in the U.S. territories

Assistance to disproportionately impacted small businesses includes the following enumerated uses, which have been expanded under the final rule:

- ✓ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ✓ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ✓ Support for microbusinesses, including financial, childcare, and transportation costs

Assistance to Nonprofits

Nonprofits have faced significant challenges due to the pandemic's increased demand for services and changing operational needs, as well as declines in revenue sources such as donations and fees. Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit"—specifically those that are 501(c)(3) or 501(c)(19) tax-exempt organizations.

Impacted Nonprofits

Recipients can identify nonprofits impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue (e.g., from donations and fees)
- ✓ Financial insecurity
- ✓ Increased costs (e.g., uncompensated increases in service need)
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to nonprofits that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship
- ✓ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Disproportionately Impacted Nonprofits

Treasury presumes that the following nonprofits are disproportionately impacted by the pandemic:

- ✓ Nonprofits operating in Qualified Census Tracts
- ✓ Nonprofits operated by Tribal governments or on Tribal lands
- ✓ Nonprofits operating in the U.S. territories

Recipients may identify appropriate responses that are related and reasonably proportional to addressing these disproportionate impacts.

Aid to Impacted Industries

Recipients may use SLFRF funding to provide aid to industries impacted by the COVID-19 pandemic. Recipients should first designate an impacted industry and then provide aid to address the impacted industry's negative economic impact.

This sub-category of eligible uses does not separately identify disproportionate impacts and corresponding responsive services.

1. **Designating an impacted industry.** There are two main ways an industry can be designated as "impacted."

    1. If the industry is in the travel, tourism, or hospitality sectors (including Tribal development districts), the industry is impacted.

    2. If the industry is outside the travel, tourism, or hospitality sectors, the industry is impacted if:

        a. The industry experienced at least 8 percent employment loss from pre-pandemic levels,[9] or

        b. The industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries as of the date of the final rule, based on the totality of economic indicators or qualitative data (if quantitative data is unavailable), and if the impacts were generally due to the COVID-19 public health emergency.

    Recipients have flexibility to define industries broadly or narrowly, but Treasury encourages recipients to define narrow and discrete industries eligible for aid. State and territory recipients also have flexibility to define the industries with greater geographic precision; for example, a state may identify a particular industry in a certain region of a state as impacted.

2. **Providing eligible aid to the impacted industry.** Aid may only be provided to support businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, aid should be generally broadly available to all businesses within the impacted industry to avoid potential conflicts of interest, and Treasury encourages aid to be first used for operational expenses, such as payroll, before being used on other types of costs.

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[9] Specifically, a recipient should compare the percent change in the number of employees of the recipient's identified industry and the national Leisure & Hospitality sector in the three months before the pandemic's most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021). For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (e.g., a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.

Treasury recognizes the enumerated projects below as eligible responses to impacted industries.

- ✓ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ✓ Technical assistance, counseling, or other services to support business planning
- ✓ COVID-19 mitigation and infection prevention measures (see section Public Health)

As with all eligible uses, recipients may pursue a project not listed above by undergoing the steps outlined in the section Framework for Eligible Uses Beyond Those Enumerated.

PUBLIC SECTOR CAPACITY

Recipients may use SLFRF funding to restore and bolster public sector capacity, which supports government's ability to deliver critical COVID-19 services. There are three main categories of eligible uses to bolster public sector capacity and workforce: Public Safety, Public Health, and Human Services Staff; Government Employment and Rehiring Public Sector Staff; and Effective Service Delivery.

Public Safety, Public Health, and Human Services Staff

SLFRF funding may be used for payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee's time spent responding to COVID-19. Recipients should follow the steps below.

1. **Identify eligible public safety, public health, and human services staff.** Public safety staff include:

   - ✓ Police officers (including state police officers)
   - ✓ Sheriffs and deputy sheriffs
   - ✓ Firefighters
   - ✓ Emergency medical responders
   - ✓ Correctional and detention officers
   - ✓ Dispatchers and supervisor personnel that directly support public safety staff

   Public health staff include:

   - ✓ Employees involved in providing medical and other physical or mental health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions
   - ✓ Laboratory technicians, medical examiners, morgue staff, and other support services essential for patient care
   - ✓ Employees of public health departments directly engaged in public health matters and related supervisory personnel

   Human services staff include:

   - ✓ Employees providing or administering social services and public benefits
   - ✓ Child welfare services employees
   - ✓ Child, elder, or family care employees

2. **Assess portion of time spent on COVID-19 response for eligible staff.**

   Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.

   For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the

employee, or his or her operating unit or division, is "primarily dedicated" to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division's time is dedicated to responding to COVID-19.

Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours.

3. **Use SLFRF funding for payroll and covered benefits for the portion of eligible staff time spent on COVID-19 response.** SLFRF funding may be used for payroll and covered benefits for the portion of the employees' time spent on COVID-19 response, as calculated above, through the period of performance.

Government Employment and Rehiring Public Sector Staff

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

- **Restoring pre-pandemic employment.** Recipients have two options to restore pre-pandemic employment, depending on the recipient's needs.

  - *If the recipient simply wants to hire back employees for pre-pandemic positions:* Recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.

  - *If the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions:* Recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Specifically, recipients should undergo the following steps:

    a. Identify the recipient's budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.
    b. Multiply the pre-pandemic baseline by 1.075. This is called the *adjusted pre-pandemic baseline*.
    c. Identify the recipient's budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude the number of FTEs dedicated to responding to the COVID-19 public health emergency. This is called the *actual number of FTEs*.
    d. Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be covered by SLFRF funds. Recipients do not have to hire for the same roles that existed pre-pandemic.

Recipients may use SLFRF funds to cover payroll and covered benefits through the period of performance; these employees must have begun their employment on or after March 3, 2021. Recipients may only use SLFRF funds for additional FTEs hired over the March 3, 2021 level (i.e., the *actual number of FTEs*).

- **Supporting and retaining public sector workers.** Recipients can also use funds in other ways that support the public sector workforce.[10] These include:
    - **Providing additional funding for employees who experienced pay reductions or were furloughed** since the onset of the pandemic, up to the difference in the employee's pay, taking into account unemployment benefits received.
    - **Maintaining current compensation levels to prevent layoffs.** SLFRF funds may be used to maintain current compensation levels, with adjustments for inflation, in order to prevent layoffs that would otherwise be necessary.
    - **Providing worker retention incentives, including reasonable increases in compensation** to persuade employees to remain with the employer as compared to other employment options. Retention incentives must be entirely additive to an employee's regular compensation, narrowly tailored to need, and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Treasury presumes that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as other requirements are met.
- **Covering administrative costs associated with administering the hiring, support, and retention programs above.**

Effective Service Delivery

SLFRF funding may be used to improve the efficacy of public health and economic programs through tools like program evaluation, data, and outreach, as well as to address administrative needs caused or exacerbated by the pandemic. Eligible uses include:

- **Supporting program evaluation, data, and outreach through:**

[10] Recipients should be able to substantiate that these uses of funds are substantially due to the public health emergency or its negative economic impacts (e.g., fiscal pressures on state and local budgets) and respond to its impacts. See the final rule for details on these uses.

- ✓ Program evaluation and evidence resources
- ✓ Data analysis resources to gather, assess, share, and use data
- ✓ Technology infrastructure to improve access to and the user experience of government IT systems, as well as technology improvements to increase public access and delivery of government programs and services
- ✓ Community outreach and engagement activities
- ✓ Capacity building resources to support using data and evidence, including hiring staff, consultants, or technical assistance support

- **Addressing administrative needs, including:**
  - ✓ Administrative costs for programs responding to the public health emergency and its economic impacts, including non-SLFRF and non-federally funded programs
  - ✓ Address administrative needs caused or exacerbated by the pandemic, including addressing backlogs caused by shutdowns, increased repair or maintenance needs, and technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, data and case management systems)

CAPITAL EXPENDITURES

As described above, the final rule clarifies that recipients may use funds for programs, services, and capital expenditures that respond to the public health and negative economic impacts of the pandemic. Any use of funds in this category for a capital expenditure must comply with the capital expenditure requirements, in addition to other standards for uses of funds.

Capital expenditures are subject to the same eligibility standard as other eligible uses to respond to the pandemic's public health and economic impacts; specifically, they must be related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class.

For ease of administration, the final rule identifies enumerated types of capital expenditures that Treasury has identified as responding to the pandemic's impacts; these are listed in the applicable sub-category of eligible uses (e.g., public health, assistance to households, etc.). Recipients may also identify other responsive capital expenditures. Similar to other eligible uses in the SLFRF program, no pre-approval is required for capital expenditures.

To guide recipients' analysis of whether a capital expenditure meets the eligibility standard, recipients (with the exception of Tribal governments) must complete and meet the requirements of a written justification for capital expenditures equal to or greater than $1 million. For large-scale capital expenditures, which have high costs and may require an extended length of time to complete, as well as most capital expenditures for non-enumerated uses of funds, Treasury requires recipients to submit their written justification as part of regular reporting. Specifically:

<table>
<tr><th>If a project has total capital expenditures of</th><th>and the use is enumerated by Treasury as eligible, then</th><th>and the use is beyond those enumerated by Treasury as eligible, then</th></tr>
<tr><td>Less than $1 million</td><td>No Written Justification required</td><td>No Written Justification required</td></tr>
<tr><td>Greater than or equal to $1 million, but less than $10 million</td><td>Written Justification required but recipients are not required to submit as part of regular reporting to Treasury</td><td rowspan="2">Written Justification required and recipients must submit as part of regular reporting to Treasury</td></tr>
<tr><td>$10 million or more</td><td>Written Justification required and recipients must submit as part of regular reporting to Treasury</td></tr>
</table>

A Written Justification includes:

- *Description of the harm or need to be addressed.* Recipients should provide a description of the specific harm or need to be addressed and why the harm was exacerbated or caused by the public health emergency. Recipients may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.

- *Explanation of why a capital expenditure is appropriate.* For example, recipients should include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.
- *Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior.* Recipients should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two alternative capital expenditures.

Where relevant, recipients should consider the alternatives of improving existing capital assets already owned or leasing other capital assets.

Treasury presumes that the following capital projects are generally ineligible:

- Construction of new correctional facilities as a response to an increase in rate of crime
- Construction of new congregate facilities to decrease spread of COVID-19 in the facility
- Construction of convention centers, stadiums, or other large capital projects intended for general economic development or to aid impacted industries

In undertaking capital expenditures, Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

FRAMEWORK FOR ELIGIBLE USES BEYOND THOSE ENUMERATED

As described above, recipients have broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients should undergo the following steps to decide whether their project is eligible:

Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	• Can identify impact to a specific household, business or nonprofit or to a class of households, businesses or nonprofits (i.e., group) • Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class	• Types of responses can include a program, service, or capital expenditure • Response should be related and reasonably proportional to the harm • Response should also be reasonably designed to benefit impacted individual or class

1. **Identify a COVID-19 public health or negative economic impact on an individual or a class.** Recipients should identify an individual or class that is "impacted" or "disproportionately impacted" by the COVID-19 public health emergency or its negative economic impacts as well as the specific impact itself.

    - "Impacted" entities are those impacted by the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency. For example, an individual who lost their job or a small business that saw lower revenue during a period of closure would both have experienced impacts of the pandemic.

    - "Disproportionately impacted" entities are those that experienced disproportionate public health or economic outcomes from the pandemic; Treasury recognizes that pre-existing disparities, in many cases, amplified the impacts of the pandemic, causing more severe impacts in underserved communities. For example, a household living in a neighborhood with limited access to medical care and healthy foods may have faced health disparities before the pandemic, like a higher rate of chronic health conditions, that contributed to more severe health outcomes during the COVID-19 pandemic.

    The recipient may choose to identify these impacts at either the individual level or at a class level. If the recipient is identifying impacts at the individual level, they should retain documentation supporting the impact the individual experienced (e.g., documentation of lost revenues from a small business). Such documentation can be streamlined in many cases (e.g., self-attestation that a household requires food assistance).

    Recipients also have broad flexibility to identify a "class" – or a group of households, small businesses, or nonprofits – that experienced an impact. In these cases, the recipients should

first identify the class and the impact that it faced. Then, recipients only need to document that the individuals served fall within that class; recipients do not need to document a specific impact to each individual served. For example, a recipient could identify that restaurants in the downtown area faced substantial declines in revenue due to decreased foot traffic from workers; the recipient could develop a program to respond to the impact on that class and only needs to document that the businesses being served are restaurants in the downtown area.

Recipients should keep the following considerations in mind when designating a class:

- **There should be a relationship between the definition of the class and the proposed response.** Larger and less-specific classes are less likely to have experienced similar harms, which may make it more difficult to design a response that appropriately responds to those harms.
- **Classes may be determined on a population basis or on a geographic basis**, and the response should be appropriately matched. For example, a response might be designed to provide childcare to single parents, regardless of which neighborhood they live in, or a response might provide a park to improve the health of a disproportionately impacted neighborhood.
- **Recipients may designate classes that experienced disproportionate impact**, by assessing the impacts of the pandemic and finding that some populations experienced meaningfully more severe impacts than the general public. To determine these disproportionate impacts, recipients:
    - May designate classes based on academic research or government research publications (such as the citations provided in the supplementary information in the final rule), through analysis of their own data, or through analysis of other existing data sources.
    - May also consider qualitative research and sources to augment their analysis, or when quantitative data is not readily available. Such sources might include resident interviews or feedback from relevant state and local agencies, such as public health departments or social services departments.
    - Should consider the quality of the research, data, and applicability of analysis to their determination in all cases.
- **Some of the enumerated uses may also be appropriate responses to the impacts experienced by other classes of beneficiaries**. It is permissible for recipients to provide these services to other classes, so long as the recipient determines that the response is also appropriate for those groups.
- **Recipients may designate a class based on income level, including at levels higher than the final rule definition of "low- and moderate-income."** For example, a recipient may identify that households in their community with incomes above the final rule threshold for low-income nevertheless experienced disproportionate impacts from the pandemic and provide responsive services.

2. **Design a response that addresses or responds to the impact.** Programs, services, and other interventions must be reasonably designed to benefit the individual or class that experienced

the impact. They must also be related and reasonably proportional to the extent and type of impact experienced. For example, uses that bear no relation or are grossly disproportionate to the type or extent of the impact would not be eligible.

"Reasonably proportional" refers to the scale of the response compared to the scale of the harm, as well as the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide a very small amount of aid to a group that experienced severe harm and a much larger amount to a group that experienced relatively little harm. Recipients should consider relevant factors about the harm identified and the response to evaluate whether the response is reasonably proportional. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

For disproportionately impacted communities, recipients may design interventions that address broader pre-existing disparities that contributed to more severe health and economic outcomes during the pandemic, such as disproportionate gaps in access to health care or pre-existing disparities in educational outcomes that have been exacerbated by the pandemic.

Premium Pay

The Coronavirus State and Local Fiscal Recovery Funds may be used to provide premium pay to eligible workers performing essential work during the pandemic. Premium pay may be awarded to eligible workers up to $13 per hour. Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives. Premium pay may not exceed $25,000 for any single worker during the program.

Recipients should undergo the following steps to provide premium pay to eligible workers.

1. **Identify an "eligible" worker.** Eligible workers include workers "needed to maintain continuity of operations of essential critical infrastructure sectors." These sectors and occupations are eligible:

   - ✓ Health care
   - ✓ Emergency response
   - ✓ Sanitation, disinfection & cleaning
   - ✓ Maintenance
   - ✓ Grocery stores, restaurants, food production, and food delivery
   - ✓ Pharmacy
   - ✓ Biomedical research
   - ✓ Behavioral health
   - ✓ Medical testing and diagnostics
   - ✓ Home and community-based health care or assistance with activities of daily living
   - ✓ Family or child care
   - ✓ Social services
   - ✓ Public health
   - ✓ Mortuary
   - ✓ Critical clinical research, development, and testing necessary for COVID-19 response
   - ✓ State, local, or Tribal government workforce
   - ✓ Workers providing vital services to Tribes
   - ✓ Educational, school nutrition, and other work required to operate a school facility
   - ✓ Laundry
   - ✓ Elections
   - ✓ Solid waste or hazardous materials management, response, and cleanup
   - ✓ Work requiring physical interaction with patients
   - ✓ Dental care
   - ✓ Transportation and warehousing
   - ✓ Hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment

   Beyond this list, the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical so long as doing so is necessary to protecting the health and wellbeing of the residents of such jurisdictions.

2. **Verify that the eligible worker performs "essential work,"** meaning work that:

   - Is not performed while teleworking from a residence; and
   - Involves either:
     a. regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
     b. regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work.

3. **Confirm that the premium pay "responds to" workers performing essential work during the COVID-19 public health emergency.** Under the final rule, which broadened the share of eligible workers who can receive premium pay without a written justification, recipients may meet this requirement in one of three ways:

    - Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis; or

    - Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; or

    - If a worker does not meet either of the above requirements, the recipient must submit written justification to Treasury detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency. This may include a description of the essential worker's duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.

Premium pay may be awarded in installments or lump sums (e.g., monthly, quarterly, etc.) and may be awarded to hourly, part-time, or salaried or non-hourly workers. Premium pay must be paid in addition to wages already received and may be paid retrospectively. A recipient may not use SLFRF to merely reimburse itself for premium pay or hazard pay already received by the worker, and premium pay may not be paid to volunteers.

Water & Sewer Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in water and sewer infrastructure. State, local, and Tribal governments have a tremendous need to address the consequences of deferred maintenance in drinking water systems and removal, management, and treatment of sewage and stormwater, along with additional resiliency measures needed to adapt to climate change.

Recipients may undertake the eligible projects below:

PROJECTS ELIGIBLE UNDER EPA'S CLEAN WATER STATE REVOLVING FUND (CWSRF)

Eligible projects under the CWSRF, and the final rule, include:

- ✓ Construction of publicly owned treatment works
- ✓ Projects pursuant to implementation of a nonpoint source pollution management program established under the Clean Water Act (CWA)
- ✓ Decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage
- ✓ Management and treatment of stormwater or subsurface drainage water
- ✓ Water conservation, efficiency, or reuse measures
- ✓ Development and implementation of a conservation and management plan under the CWA
- ✓ Watershed projects meeting the criteria set forth in the CWA
- ✓ Energy consumption reduction for publicly owned treatment works
- ✓ Reuse or recycling of wastewater, stormwater, or subsurface drainage water
- ✓ Security of publicly owned treatment works

Treasury encourages recipients to review the EPA handbook for the CWSRF for a full list of eligibilities.

PROJECTS ELIGIBLE UNDER EPA'S DRINKING WATER STATE REVOLVING FUND (DWSRF)

Eligible drinking water projects under the DWSRF, and the final rule, include:

- ✓ Facilities to improve drinking water quality
- ✓ Transmission and distribution, including improvements of water pressure or prevention of contamination in infrastructure and lead service line replacements
- ✓ New sources to replace contaminated drinking water or increase drought resilience, including aquifer storage and recovery system for water storage
- ✓ Green infrastructure, including green roofs, rainwater harvesting collection, permeable pavement
- ✓ Storage of drinking water, such as to prevent contaminants or equalize water demands
- ✓ Purchase of water systems and interconnection of systems
- ✓ New community water systems

Treasury encourages recipients to review the EPA handbook for the DWSRF for a full list of eligibilities.

ADDITIONAL ELIGIBLE PROJECTS

With broadened eligibility under the final rule, SLFRF funds may be used to fund additional types of projects— such as additional stormwater infrastructure, residential wells, lead remediation, and certain rehabilitations of dams and reservoirs — beyond the CWSRF and DWSRF, if they are found to be "necessary" according to the definition provided in the final rule and outlined below.

- ✓ Culvert repair, resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure
- ✓ Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination
- ✓ Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water
- ✓ Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, such as lead testing, installation of corrosion control treatment, lead service line replacement, as well as water quality testing, compliance monitoring, and remediation activities, including replacement of internal plumbing and faucets and fixtures in schools and childcare facilities

A "necessary" investment in infrastructure must be:

(1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
(2) a cost-effective means for meeting that need, taking into account available alternatives, and
(3) for investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimated useful life.

Please note that DWSRF and CWSRF-eligible projects are generally presumed to be necessary investments. Additional eligible projects generally must be responsive to an identified need to achieve or maintain an adequate minimum level of service. Recipients are only required to assess cost-effectiveness of projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs. Recipients should review the supplementary information to the final rule for more details on requirements applicable to each type of investment.

APPLICABLE STANDARDS & REQUIREMENTS

Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

Broadband Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in broadband infrastructure, which has been shown to be critical for work, education, healthcare, and civic participation during the public health emergency. The final rule broadens the set of eligible broadband infrastructure investments that recipients may undertake.

Recipients may pursue investments in broadband infrastructure meeting technical standards detailed below, as well as an expanded set of cybersecurity investments.

BROADBAND INFRASTRUCTURE INVESTMENTS

Recipients should adhere to the following requirements when designing a broadband infrastructure project:

1. **Identify an eligible area for investment.** Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100/20 Mbps broadband service (meaning service that reliably provides 100 Mbps download speed and 20 Mbps upload speed through a wireline connection), but are broadly able to invest in projects designed to provide service to locations with an identified need for additional broadband investment. Recipients have broad flexibility to define need in their community. Examples of need could include:

   - ✓ Lack of access to a reliable high-speed broadband connection
   - ✓ Lack of affordable broadband
   - ✓ Lack of reliable service

   If recipients are considering deploying broadband to locations where there are existing and enforceable federal or state funding commitments for reliable service of at least 100/20 Mbps, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams.

2. **Design project to meet high-speed technical standards.** Recipients are required to design projects to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100/20 Mbps and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds.

   Treasury encourages recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to focus on projects that will achieve last-mile connections. Further, Treasury encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and co-operatives.

3. **Require enrollment in a low-income subsidy program.** Recipients must require the service provider for a broadband project that provides service to households to either:

   - ✓ Participate in the FCC's Affordable Connectivity Program (ACP)
   - ✓ Provide access to a broad-based affordability program to low-income consumers that provides benefits commensurate to ACP

   Treasury encourages broadband services to also include at least one low-cost option offered without data usage caps at speeds sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients are also encouraged to consult with the community on affordability needs.

CYBERSECURITY INVESTMENTS

SLFRF may be used for modernization of cybersecurity for existing and new broadband infrastructure, regardless of their speed delivery standards. This includes modernization of hardware and software.

APPLICABLE STANDARDS & REQUIREMENTS

Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

Restrictions on Use

While recipients have considerable flexibility to use Coronavirus State and Local Fiscal Recovery Funds to address the diverse needs of their communities, some restrictions on use of funds apply.

OFFSET A REDUCTION IN NET TAX REVENUE

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the funds provided have been spent.** If a state or territory cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than SLFRF, such as by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the Treasury.

DEPOSITS INTO PENSION FUNDS

- **No recipients except Tribal governments may use this funding to make a deposit to a pension fund.** Treasury defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions connected to an eligible use of funds (e.g., for public health and safety staff). Examples of extraordinary payments include ones that:

  - × Reduce a liability incurred prior to the start of the COVID-19 public health emergency and occur outside the recipient's regular timing for making the payment
  - × Occur at the regular time for pension contributions but is larger than a regular payment would have been

ADDITIONAL RESTRICTIONS AND REQUIREMENTS

Additional restrictions and requirements that apply across all eligible use categories include:

- **No debt service or replenishing financial reserves.** Since SLFRF funds are intended to be used prospectively, recipients may not use SLFRF funds for debt service or replenishing financial reserves (e.g., rainy day funds).

- **No satisfaction of settlements and judgments.** Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding is itself not an eligible use. However, if a settlement requires the recipient to provide services or incur other costs that are an eligible use of SLFRF funds, SLFRF may be used for those costs.

- **Additional general restrictions.** SLFRF funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute (e.g., uses of funds that

undermine COVID-19 mitigation practices in line with CDC guidance and recommendations) and may not be used in violation of the Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance. Other applicable laws and regulations, outside of SLFRF program requirements, may also apply (e.g., laws around procurement, contracting, conflicts-of-interest, environmental standards, or civil rights).

Program Administration

The Coronavirus State and Local Fiscal Recovery Funds final rule details a number of administrative processes and requirements, including on distribution of funds, timeline for use of funds, transfer of funds, treatment of loans, use of funds to meet non-federal match or cost-share requirements, administrative expenses, reporting on use of funds, and remediation and recoupment of funds used for ineligible purposes. This section provides a summary for the most frequently asked questions.

TIMELINE FOR USE OF FUNDS

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

TRANSFERS

Recipients may undertake projects on their own or through subrecipients, which carry out eligible uses on behalf of a recipient, including pooling funds with other recipients or blending and braiding SLFRF funds with other sources of funds. Localities may also transfer their funds to the state through section 603(c)(4), which will decrease the locality's award and increase the state award amounts.

LOANS

Recipients may generally use SLFRF funds to provide loans for uses that are otherwise eligible, although there are special rules about how recipients should track program income depending on the length of the loan. Recipients should consult the final rule if they seek to utilize these provisions.

NON-FEDERAL MATCH OR COST-SHARE REQUIREMENTS

Funds available under the "revenue loss" eligible use category (sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act) generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. However, note that SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and CHIP programs because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

SLFRF funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. As an example, the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of authorized Bureau of Reclamation projects and certain broadband deployment projects. Recipients should consult the final rule for further details if they seek to utilize SLFRF funds as a match for these projects.

ADMINISTRATIVE EXPENSES

SLFRF funds may be used for direct and indirect administrative expenses involved in administering the program. For details on permissible direct and indirect administrative costs, recipients should refer to Treasury's Compliance and Reporting Guidance. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

REPORTING, COMPLIANCE & RECOUPMENT

Recipients are required to comply with Treasury's Compliance and Reporting Guidance, which includes submitting mandatory periodic reports to Treasury.

Funds used in violation of the final rule are subject to remediation and recoupment. As outlined in the final rule, Treasury may identify funds used in violation through reporting or other sources. Recipients will be provided with an initial written notice of recoupment with an opportunity to submit a request for reconsideration before Treasury provides a final notice of recoupment. If the recipient receives an initial notice of recoupment and does not submit a request for reconsideration, the initial notice will be deemed the final notice. Treasury may pursue other forms of remediation and monitoring in conjunction with, or as an alternative to, recoupment.

REVISIONS TO THE OVERVIEW OF THE FINAL RULE:

- January 18, 2022 (p. 4, p. 16): Clarification that the revenue loss standard allowance is "up to" $10 million under the Replacing Lost Public Sector Revenue eligible use category; addition of further information on the eligibility of general infrastructure, general economic development, and worker development projects under the Public Health and Negative Economic Impacts eligible use category.

CC Regular Session **5. 7.**

Meeting Date: 03/22/2022

By: Bruce Westby, Engineering/Public Works

Information

Title

Adopt Resolution #22-057 Approving Joint Funding Agreement with United States Geological Survey

Purpose/Background:

Purpose:

The purpose of this case is to approve a Joint Funding Agreement with the United States Geological Survey for Federal Fiscal Year 2022-2026.

Background:

Attached is a draft fixed-cost Joint Funding Agreement between the United States Geological Survey (USGS) and the City of Ramsey for Federal Fiscal Year 2022-2026 to allow for ongoing operation and maintenance of Mississippi River streamgage #05283500 located at Highway 169 in Champlin, from October 1, 2021 through September 30, 2026.

The previous funding agreement was in effect from August 1, 2017 through September 30, 2021. Attached is a copy of the previous agreement. Though City signatures are not included, no changes were made to the agreement before it was executed. A copy of the fully executed agreement was not available at the time this case was prepared.

Based on the attached draft fixed-cost Joint Funding Agreement, the City of Ramsey will be responsible for contributing a total of $9,196 during the 5-year term of the agreement. Though the USGS is not obligated to contribute any cash per the agreement, the USGS will contribute indirectly through their work on regional and national programs that benefit local and regional agencies, such as the National Streamflow Information Program (NSIP).

According to their website at https://www.usgs.gov/centers/utah-water-science-center/science/streamflow-information-program, the USGS operates and maintains a national network of over 8,000 streamgages to provide long-term, accurate, and unbiased streamflow information (often called discharge) to meet the multiple needs of users. Streamflow information is fundamental to national and local economic well-being, protection of life and property, and efficient and effective management of water resources. Long-term streamflow information is critical for use in water management, computation of flood and drought flows for water infrastructure, and analysis of climate-related trends. The USGS operates the national streamgaging network in partnership with more than 850 federal, state, tribal, regional, and local agencies.

The NSIP was formed in 2002 in response to Congressional and stakeholder concerns about the ongoing decrease in the number of active USGS streamgages, the inability of the USGS to fund high-priority streamgages when faced with reduced partner funds, and the increased demand for streamflow information via the Internet beginning in the late 1980s.

The NSIP had five major goals:

1. Develop, maintain, and fully fund an enhanced, stable baseline streamgaging network that meets Federal needs for streamflow information, including the need for long-term datasets. This baseline network is supplemented by streamgages funded by partnerships to meet state, regional, and local needs.

2. Improve the timeliness, reliability, and convenience of streamflow information delivery to users. This includes robust and redundant data delivery systems that ensure continued availability of data during catastrophic events and provide improved storage, retrieval, and data analysis abilities.

3. Make regional assessments of existing streamflow information on an ongoing basis to identify trends and to estimate streamflow at locations without streamgages. These trend analyses can help to identify the effects of land-use, water-use, and climatic changes.

4. Improve the understanding of floods and droughts through additional measurements and analyses.

5. Perform and fund research and development activities to advance equipment technologies and measurement and analysis techniques for greater accuracy and lower cost.

Attached is an informational brochure titled “The USGS National Streamflow Information Program and the Importance of Preserving Long-Term Streamgages”. The brochure provides an overview of the National Streamflow Information Program, as well as the importance and impact of maintaining streamgages long-term.

In 2019, the NSIP became the Groundwater and Streamflow Information Program (GWSIP).

City of Ramsey Staff use streamgage #05283500 to monitor water levels in the Mississippi River, which is particularly useful when water levels are high during which times Staff often receive calls from owners of property that front the Mississippi river. Data from this streamgage can be viewed online in real time at https://waterdata.usgs.gov/monitoring-location/05283500/#parameterCode=00065&period=P7D.

Other local cities that maintain Joint Funding Agreements with USGS for Mississippi River streamgages include Anoka, Brooklyn Park, Champlin, Coon Rapids and Dayton. Each of these cities contribute a pro-rata share of the costs to operate and maintain streamgages that provide benefit to their cities.

Funding Source:

Annual funding will continue to come from the Storm Water Fund.

Recommendation:

Staff recommends adopting Resolution #22-057 approving the Joint Funding Agreement with United States Geological Survey due to the benefit the City of Ramsey receives from being able to access ongoing, real time data from this and other streamgages.

Action:

Adopt Resolution #22-057 approving Joint Funding Agreement with United States Geological Survey.

Attachments

Previous USGS JFA
ACTION: Resolution 22-057
ACTION: USGS JFA FFY2022-2026
USGS Brochure

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:26 PM
Form Started By: Bruce Westby		Started On: 02/17/2022 04:22 PM
Final Approval Date: 03/17/2022		

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Minnesota Water Science Center
2280 Woodale Drive
Mounds View, MN 55112

August 1, 2017

Kurt Ulrich
City Administrator
City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

Dear Mr. Ulrich,

Enclosed is the Joint Funding Agreement for the operations and maintenance of the streamgage at the Mississippi River at Champlin, MN, for the period August 1, 2017 through September 30, 2021 in the amount of $8,577 cash from your agency. U.S. Geological Survey contributions for this agreement are $0 for a combined total of $8,577. Please sign and return one fully-executed original to Lisa L Syde-Hagen at the address above or email to lsyde-hagen@usgs.gov.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement by **August 1, 2017**. If, for any reason, the agreement cannot be signed and returned by the date shown above, please contact James Fallon by phone number (763) 783-3255 or email jfallon@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Angela Hughes at phone number (763) 783-3123 or email at amhughes@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

James Fallon
Acting for Center Director

Enc.: 17EMMNNQ0001300

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 17EMMNNQ0001300
Customer#: 600000
Project #: NQ009AF, 00100/XY
TIN #: 41-0910467
USGS DUNS #: 091721100

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of the October 1, 2016, by the U.S. GEOLOGICAL SURVEY, Minnesota Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of Ramsey, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation the operation and maintenance of the streamgage at Mississippi River at Champlin, Minnesota", herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $0 by the party of the first part during the period August 1, 2017 to September 30, 2021

(b) $8,577.00 by the party of the second part during the period August 1, 2017 to September 30, 2021

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of : $5,383

Description of the USGS regional/national program: USGS Nat'l Streamflow Information Program

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request; be furnished by the party of the first part; at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties.

9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered annually. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.).

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 17EMMNNQ0001300
Customer#: 600000
Project #: NQ009AF, 00100/XY
TIN #: 41-0910467
USGS DUNS #: 091721100

USGS Technical Point of Contact

Name: James Fallon
Address: 2280 Woodale Drive
Mounds View, MN 55112-4900
Telephone: (763) 783-3255
Fax:
Email: jfallon@usgs.gov

Customer Technical Point of Contact

Name: Kurtis Ulrich
City Administrator
Address: 7550 Sunwood Drive, NW
Ramsey, MN 55303
Telephone: (763) 433-9845
Fax:
Email: kulrich@ci.ramsey.mn.us

USGS Billing Point of Contact

Name: Angela Hughes
Admin. Operations Asst.
Address: 2280 Woodale Drive
Mounds View, MN 55112
Telephone: (763) 783-3123
Fax: (763) 783-3103
Email: amhughes@usgs.gov

Customer Billing Point of Contact

Name: Kurtis Ulrich
City Administrator
Address: 7550 Sunwood Drive, NW
Ramsey, MN 55303
Telephone: (763) 433-9845
Fax:
Email:

U.S. Geological Survey
United States
Department of Interior

Signature

By_____ Date: Aug 01, 2017
Name: James Fallon
Title: Acting for Center Director

City of Ramsey

Signatures

By_____ Date: _____
Name:
Title:

By_____ Date: _____
Name:
Title:

By_____ Date: _____
Name:
Title:

Funding for streamgaging operation and maintenance at the Mississippi River at Champlin for Federal FY 2017-21									
Fiscal Year	Total Funding for gage	USGS Matching Funds	City of Champlin	City of Brooklyn Park	City of Anoka	City of Coon Rapids	City of Dayton	City of Ramsey	Comments
2017	32,300	32,300	0	0	0	0	0	0	USGS Streamflow Information Program funds used to purchase and install gage. These funds not shown in funding agreements
2017	4,142	1,000	1,000	175	650	650	333	333	Operation and maintenance costs, prorated for last 2 months of Federal Fiscal Year 2017. To simplify agreements, USGS Cooperative Matching Funds will be part of agreement with Champlin.
2018	20,000	1,150	6,000	1,050	3,900	3,900	2,000	2,000	Full annual operational cost
2019	20,400	1,173	6,120	1,071	3,978	3,978	2,040	2,040	Assume 2% inflation in out-years
2020	20,808	1,196	6,242	1,092	4,058	4,058	2,081	2,081	Assume 2% inflation in out-years
2021	21,224	1,220	6,367	1,114	4,139	4,139	2,122	2,122	Assume 2% inflation in out-years
Total Program	118,874	38,040	25,730	4,503	16,724	16,724	8,577	8,577	Total, 2017-21

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-057

RESOLUTION APPROVING JOINT FUNDING AGREEMENT WITH UNITED STATES GEOLOGICAL SURVEY

WHEREAS, the previous Joint Funding Agreement between the City of Ramsey and the United State Geological Survey assigning responsibilities for ongoing operation and maintenance of Mississippi River streamgage #05283500 was in effect from August 1, 2017 through September 30, 2021; and

WHEREAS, the City of Ramsey uses data from streamgage #05283500, as well as data from other streamgages in the area, to monitor water levels in the Mississippi River; and

WHEREAS, due to the benefit the City of Ramsey receives from being able to access ongoing, real time data from this and other streamgages the City wishes to enter into a new Joint Funding Agreement with the United States Geological Survey for Federal Fiscal Year 2022-2026.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That the Ramsey City Council hereby directs the City Administrator to execute the Joint Funding Agreement for streamgage #05283500 with the United States Geological Survey for Federal Fiscal Year 2022-2026 for and on behalf of the City of Ramsey.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Upper Midwest Water Science Center

Minnesota Office
2280 Woodale Drive
Mounds View, MN 55112
763.783.3100

Wisconsin Office
1 Gif f ord Pinchot Drive
Middleton, WI 53562
608.828.9901

Michigan Office
5840 Enterprise Drive
Lansing, MI 48911
517.887.8903

February 4, 2022

Kurt Ulrich
City Administrator
City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

Dear Mr. Ulrich,

Enclosed is the Joint Funding Agreement for the operations and maintenance of the streamgage at the Mississippi River at Champlin, MN, for the period October 1, 2021 through September 30, 2026 in the amount of $9,196 cash from your agency. U.S. Geological Survey contributions for this agreement are $0 for a combined total of $9,196. Please sign and return one fully-executed original to Lisa L Syde-Hagen to email; lsyde-hagen@usgs.gov.

This is a fixed cost agreement to be billed annually via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Angela Hughes at email at amhughes@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

JOHN WALKER

Digitally signed by JOHN WALKER
Date: 2022.02.04 16:50:09 -06'00'

John F. Walker
Center Director

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 22NKJFA214
Customer#: 6000006026
Project #: NK00LZN, 001MN/XY
TIN #: 41-0910467
USGS DUNS #: 091721100

Fixed Cost Agreement YES[X] NO[ ]

THIS AGREEMENT is entered into as of the October 1, 2016, by the U.S. GEOLOGICAL SURVEY, UMid Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of Ramsey, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation the operation and maintenance of the streamgage at Mississippi River at Champlin, Minnesota", herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00

(a) $0 by the party of the first part during the period October 1, 2021 to September 30, 2026

(b) $9,196.00 by the party of the second part during the period October 1, 2021 to September 30, 2026

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of :

Description of the USGS regional/national program: USGS Nat'l Streamflow Information Program

(d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties

(e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request; be furnished by the party of the first part; at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties.

9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered annually. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.).

Form 9-1366
(April 2015)

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resource Investigations

Agreement#: 22NKJFA214
Customer#: 6000006026
Project #: NK00LZN, 001MN/XY
TIN #: 41-0910467
USGS DUNS #: 091721100

USGS Technical Point of Contact

Name: James Fallon
Address: 2280 Woodale Drive
Mounds View, MN 55112-4900
Telephone: (763) 783-3255
Fax:
Email: jfallon@usgs.gov

Customer Technical Point of Contact

Name: Kurtis Ulrich
City Administrator
Address: 7550 Sunwood Drive, NW
Ramsey, MN 55303
Telephone: (763) 433-9845
Fax:
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Telephone: (763) 433-9845
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U.S. Geological Survey
United States
Department of Interior

Signature

JOHN WALKER
Digitally signed by JOHN WALKER
Date: 2022.02.04 16:51:56 -06'00'

By_____ **Date:** _____
Name: John F. Walker
Title: Center Director

City of Ramsey

Signatures

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:

By_____ **Date:** _____
Name:
Title:



The USGS National Streamflow Information Program and the Importance of Preserving Long-Term Streamgages

Long-term streamflow information is critical for use in several water-related areas that are important to humans and wildlife, including water management, computation of flood and drought flows for water infrastructure, and analysis of climate-related trends. Specific uses are many and diverse and range from informing water rights across state and international boundaries to designing dams and bridges.

USGS Streamgaging Network

The U.S. Geological Survey (USGS) operates and maintains a national streamgage network of more than 8,000 streamgages (2013) to provide long-term, accurate, and unbiased streamflow information to meet the multiple needs of many diverse users. Streamflow information is fundamental to national and local economic well-being, protection of life and property, and efficient and effective management of water resources.

The USGS operates the streamgaging network in partnership with more than 850 Federal, state, tribal, regional, and local agencies. The streamflow information from this network, both historic and real-time, is used for many purposes that benefit everyone in our society, although many are unaware of its existence, uses, or value. Uses of USGS streamgage information include water-availability assessments; water compacts and decrees; engineering design of reservoirs, bridges, roads, culverts, and water-treatment plants; operation of reservoirs for power production and other uses; analysis of changes in streamflow due to climatic, land-use, and water-use changes; forecasting of streamflows, including flood forecasting; support of water-quality programs; providing adequate flows for fish and other organisms; and ensuring recreation safety and enjoyment. Most USGS streamgages provide streamflow information for more than one use. As an example of its widespread use, more than 50 different organizations in Maryland actively use USGS streamflow information, including the Federal Emergency Management Agency, U.S. Fish and Wildlife Service, Maryland State Highway Administration, Maryland Department of the Environment, county and city departments of public works, and private engineering companies (Hester and others, 2006a).

USGS National Streamflow Information Program

The National Streamflow Information Program (NSIP) was started in 2002 in response to Congressional and stakeholder concerns about the ongoing decrease in the number of active USGS streamgages (particularly streamgages with long periods of record), the inability of the USGS to fund high-priority streamgages when faced with reduced partner funds, and the increased demand for streamflow information via the Internet beginning in the late 1980s. The NSIP has five major goals:

1. Develop, maintain, and fully fund an enhanced, stable baseline streamgaging network that meets Federal needs for streamflow information, including the need for long-term datasets. This baseline network is supplemented by streamgages funded by partnerships to meet state, regional, and local needs.
2. Improve the timeliness, reliability, and convenience of streamflow information delivery to users. This includes robust and redundant data delivery systems that ensure continued availability of data during catastrophic events and provide improved storage, retrieval, and data analysis abilities.
3. Make regional assessments of existing streamflow information on an ongoing basis to identify trends and to estimate streamflow at locations without streamgages. These trend analyses can help to identify the effects of land-use, water-use, and climatic changes.
4. Improve the understanding of floods and droughts through additional measurements and analyses.
5. Perform and fund research and development activities to advance equipment technologies and measurement and analysis techniques for greater accuracy and lower cost.



Photograph credit: Bradley H. Udall

Figure 1. Lake Powell and Glen Canyon Dam on the Colorado River, July 21, 2004, 119 feet below full level.

Importance of Long-Term Streamgages

Long-term streamflow information is critical for several types of studies that benefit people and wildlife. These uses are described in more detail in the following "Water Management," "Design Flood Flows," and "Climate-Related Trends" sections.

Water Management

Consistent, long-term streamflow data are important for allocating water according to agreements among water rights holders, including interstate and international agreements (Hester and others, 2006a). As an example, 30 million people in the arid southwestern United States depend on Colorado River water for home use, agriculture, industry, and recreation (Jacobs, 2011). The history of streamflow and water rights on the Colorado River shows how long-term data are needed to understand long-term streamflow variability. It is now known that the 1922 Colorado River Compact, which governs water allocations between the upper and lower Colorado watersheds, was based on a short period of relatively high streamflows (National Research Council, 2007). Figure 1 shows the low water level in Lake Powell on the Colorado River in 2004 that was caused by five consecutive years of below average inflows (Fulp, 2005).

Protection of environmental resources has become a major objective for water managers, including providing adequate flows for fish and other aquatic organisms (Hester and others, 2006a). Long-term streamflow information is needed to understand the variability of streamflows, particularly low streamflows, and how managed flows may differ from natural flows.

Design Flood Flows

Designers of bridges, culverts, dams, floodplain structures, and other important infrastructure need to compute the size of flood flows (such as the 1-percent annual exceedance probability flood, which is also known as the 100-year flood) that will affect those structures. Long-term streamflow records using consistent measurement techniques provide a high degree of confidence in the calculation of these design flood flows (Hester and others, 2006a), minimizing the safety risks of under design and the costs of over design.

Reservoirs across the United States are important for water supply, flood protection, hydropower, and other uses (Hester and others, 2006a). Streamflow data are needed to properly size reservoirs; long-term data are needed to determine the size and variability of flood flows into the reservoir, as well as the amount of water during very dry or wet periods.

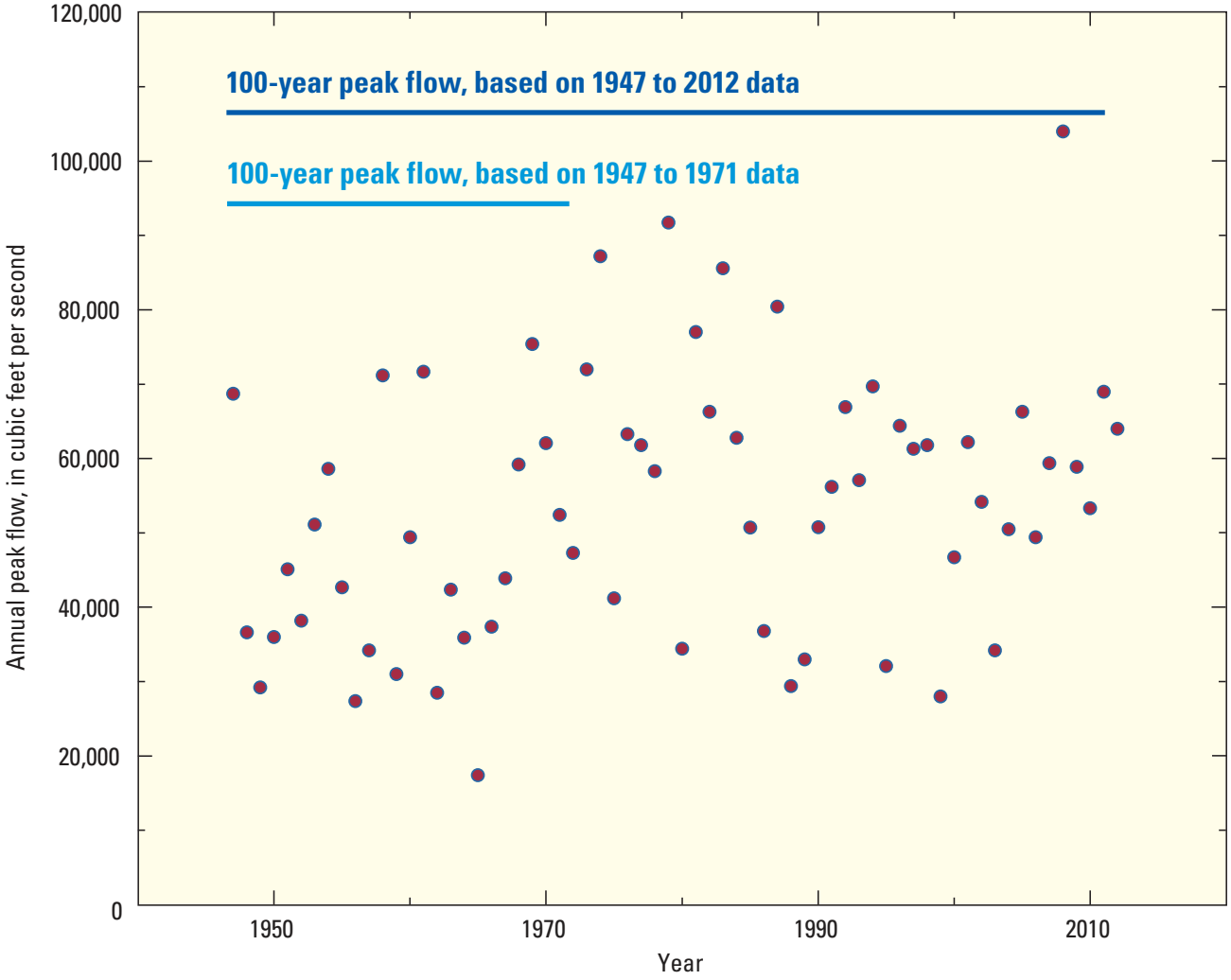


Figure 2. Annual peak flows for St. John River at Dickey, Maine, and 100-year peak flows based on data from selected periods.

A reservoir design that must rely on short-term data may be over or under designed. For example, the Folsom Dam and Reservoir was constructed in the 1950s on the American River east of Sacramento, California. Its size was based on streamflow data from about 1905 to 1940. Recent flood studies using more years of data indicate that the reservoir is undersized for the desired level of flood protection; costs to retrofit the dam are about $1 billion (Hester and others, 2006b).

Design flood flows in the United States are usually calculated with statistical methods that use annual peak streamflows (Interagency Advisory Committee on Water Data, 1982). If the design flood flows are based on relatively short periods of annual peak flows, they may not be representative of conditions experienced over longer periods. Multi-decadal ocean temperature variability (as represented by the Pacific Decadal Oscillation and the Atlantic Multidecadal Oscillation) has influenced streamflows in parts of the United States (Tootle and others, 2005). An example of the potential difference between design flood flows (calculated using Interagency Advisory Committee on Water Data (1982) guidelines) for a shorter period and for a longer period is shown in figure 2. The 100-year peak flow based on 66 years of data (1947–2012) is 14 percent higher than the 100-year peak flow based on the first 25 years of data (1947 to 1971).



Figure 3. Location of streamgages in North America with at least 40 years of data that are suitable for analysis of climate-related trends.

Climate-Related Trends

Streamflow changes over long periods of time can be important to many water users. With trends based on streamflow records of a few decades or less, it can be very difficult to tell whether streamflows will continue to change in the same direction or revert to earlier flow amounts. Climate-related streamflow changes over time also can be conflated with changes resulting from reservoir regulation or watershed land-use change (such as urbanization). The effects of precipitation and temperature changes on streamflows are better studied by using data from long-record streamgages that are least disturbed by land-use change, regulation, or other direct human watershed changes; streamgages in various countries have been designated for this purpose (Whitfield and others, 2012; Burn and others, 2012). In the United States, the most recent evaluation of least-disturbed streamgages was completed in 2011 (Lins, 2012). More than 300 of these least-disturbed long-record streamgages in the continental United States are supported by the NSIP to promote stable long-term funding for these gages (fig. 3).

Many studies have used least-disturbed streamgages in the United States to analyze climate-related trends in streamflows. For example, low streamflows have generally increased in the north-central and northeastern United States in the past 70 years; low flows have decreased in parts of the western and southeastern United States (U.S. Environmental Protection Agency, 2012). Changes over time in annual high streamflows have not been as regionally cohesive; increases occurred in some relatively small regions and decreases in others (U.S. Environmental Protection Agency, 2012). Annual winter-spring runoff in areas with substantial winter snowpack—which can be important for water supply and flood risk—occurred earlier in the second half of the 20th century for many watersheds in the western and eastern United States (McCabe and Clark, 2005; Hodgkins and Dudley, 2006).

Acknowledgments

Paul Whitfield, University of Saskatchewan, and Donald Burn, University of Waterloo, Ontario, Canada, provided the information on Environment Canada Reference Hydrometric Basin Network streamgages. David Stewart, U.S. Geological Survey (USGS), provided information on USGS National Streamflow Information Program streamgages. Luke Sturtevant, USGS, provided geographic information system support.

References Cited

Burn, D.H., Hannaford, J., Hodgkins, G.A., Whitfield, P.H., Thorne, R., and Marsh, T., 2012, Reference hydrologic networks II. Using reference hydrologic networks to assess climate-driven changes in streamflow: Hydrologic Sciences Journal, v. 57, 14 p.

Fulp, T., 2005, How low can it go?: Southwest Hydrology, March/April 2005, 3 p.

Hester, G., Carsell, K., and Ford, D., 2006a, Benefits of USGS streamgaging program: National Hydrologic Warning Council, March 7, 2006, 17 p.

Hester, G., Ford, D., Carsell, K., Vertucci, C., and Stallings, E.A., 2006b, Flood management benefits of USGS streamgaging program: National Hydrologic Warning Council, October 19, 2006, 48 p.

Hodgkins, G.A., and Dudley, R.W., 2006, Changes in the timing of winter–spring streamflows in eastern North America, 1913–2002: Geophysical Research Letters, v. 33, L06402, doi:10.1029/2005GL025593.

Interagency Advisory Committee on Water Data, 1982, Guidelines for determining flood flow frequency–Bulletin 17B of the Hydrology Subcommittee: U.S. Geological Survey, Office of Water-Data Coordination, 183 p.

Jacobs, J., 2011, The sustainability of water resources in the Colorado River Basin: The Bridge—Linking Engineering and Society, National Academy of Engineering, v. 41, p. 6–12.

Lins, H.F., 2012, USGS Hydro-Climatic Data Network 2009 (HCDN-2009): U.S. Geological Survey Fact Sheet 2012–3047, 4 p.

McCabe, G.J., and Clark, M.P., 2005, Trends and variability in snowmelt runoff in the western United States: Journal of Hydrometeorology, v. 6, p. 476–482.

National Research Council, 2007, Colorado River Basin water management: Evaluating and adjusting to hydroclimatic variability: National Academies Report in Brief, February 2007, 4 p.

Tootle, G.A., Piechota, T.C., and Singh, A., 2005, Coupled oceanic-atmospheric variability and U.S. streamflow: Water Resources Research, v. 41, W12408, doi:10.1029/2005WR004381.

U.S. Environmental Protection Agency, 2012, Climate change indicators in the United States, 2012: U.S. Environmental Protection Agency, accessed December 23, 2013 at *http://www.epa.gov/climatechange/science/indicators/society-eco/streamflow.html*.

Whitfield, P.H., Burn, D.H., Hannaford, J., Higgins, H., Hodgkins, G.A., Marsh, T., and Looser, U., 2012, Reference hydrologic networks I. The status and potential future directions of national reference hydrologic networks for detecting trends: Hydrological Sciences Journal, v. 57, 18 p.

By Glenn A. Hodgkins, J. Michael Norris, and Robert M. Lent

Prepared by the Pembroke Publishing Service Center.

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Or visit our NSIP site at *http://water.usgs.gov/nsip/*

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CC Regular Session **5. 8.**

Meeting Date: 03/22/2022

By: Chris Anderson, Community Development

Information

Title

Adopt Resolution #22-065 Authorizing Staff to Apply for Water Efficiency Grant Funds through the Metropolitan Council for 2022-2024

Purpose/Background:

In 2019, the City of Ramsey applied for a Water Efficiency Grant through the Metropolitan Council and was awarded $28,000. The grant funds have been used to provide rebates to residential and commercial/HOA property owners that replace water using devices (initially, toilets and irrigation controllers, recently expanded to include washing machines) with WaterSense or ENERGY STAR® rated devices.

The Metropolitan Council has announced that it is once again offering a Water Efficiency Grant. Applications are due by March 31, 2022 and grant recipients will be announced by April 29, 2022. The grant program will run from July 1, 2022 through June 30, 2024.

Observations/Alternatives:

The current grant program runs through June 30, 2022. If the City were to apply for the next round of funding and was successful, there would be a seamless transition from the current grant cycle to the new grant cycle. The Metropolitan Council has upped their contribution to program costs from 75% to 80%, which means the City's required matching component is reduced from 25% to 20%. Not only has the Metropolitan Council's contribution increased, but they have also expanded the eligible products/devices list to include ENERGY STAR® rated dishwashers (in addition to ENERGY STAR® rated washing machines and WaterSense labeled toilets and irrigation controllers and sprinkler bodies). The minimum grant amount is $5,000 and the maximum amount is $50,000.

Grant criteria remain the same: rebate applicants must be a municipal water customer; rebates are only applicable to replacement devices (does not cover new construction/development); and at least a portion of the cost must be paid by the property owner (Ramsey accomplished this by having property owners be responsible for the sales tax). The deadline for submitting an application is March 31, 2022. Grant recipients will be notified no later than April 29, 2022 and would need to enter into a grant agreement with Metropolitan Council (similar to current grant program).

Through the current grant program and participation by residents, it is estimated that there's been water savings of approximately 2,200,000 gallons. This is based on the estimated average annual water savings of replacing older, inefficient devices with grant eligible products, the total number of participants (to date, 84 residents and 1 HOA), and the devices that have been replaced.

The City still has a little less than $13,000 in grant funds available through June 30, 2022. It is a bit surprising that there has not been greater demand for the program. However, Staff still sees this program as a great opportunity for all municipal water customers in the community. Staff has utilized the website, newsletter, social media, and the dynamic display sign on Highway 10 to promote the rebate program. The Metropolitan Council is creating a ShareFile that will allow communities to share and access marketing pieces related to this program. Staff will explore what other communities have done to promote their programs and also consider other social media platforms, such as Nextdoor (other communities have indicated they've had success with that).

Staff would recommend some program modifications (from current rebate program) that might help increase

participation. First, do not limit which devices/products are eligible for rebates. Whatever devices are eligible per the grant program guidelines should be part of the City's program. Secondly, consider an increase for the total cap per property (currently, these are set at $500 for residential properties and $1,400 for commercial and Home Owners Association properties). Third, the City can and should take advantage of this program for some of the public buildings and grounds (the City can apply for rebates for device replacement).

Funding Source:

Funding for the Water Efficiency Grant Program would consist of three sources: Grant award from the Metropolitan Council (assuming Ramsey was a grant recipient), the City's required 20% match would come from the City's Water Fund, and any rebate participant would cover the sales tax on the purchase of the device (thus satisfying the requirement for the rebate participant to have a financial contribution in the program) plus any amount that exceeds the per device cap.

Recommendation:

The Environmental Policy Board reviewed this opportunity at their February 28, 2022 meeting and recommended the City apply for grant funds for the 2022-2024 funding cycle.

Action:

Motion to adopt Resolution #22-065 authorizing Staff to prepare and submit an application to the Metropolitan Council Environmental Services for water efficiency grant funding for 2022-2024.

Attachments

Summary of Current Grant Cycle
2022-2024 Grant Program Guidelines
Resolution #22-065

Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	03/15/2022 05:52 PM
Kurt Ulrich	Kurt Ulrich	03/16/2022 10:50 AM
Form Started By: Chris Anderson		Started On: 03/09/2022 09:30 AM
Final Approval Date: 03/16/2022		

1st Quarter Totals 2022	4 Residents / 0 HOA		$ 1,530.14	$ 382.54	$ 1,147.61	103,400
4th Quarter Totals 2021	5 Residents / 0 HOA		$ 1,123.20	$ 280.80	$ 842.40	81,600
3rd Quarter Totals 2021	13 Residents / 1 HOA		$ 3,561.84	$ 890.46	$ 2,671.38	1,023,800
2nd Quarter Totals 2021	19 Residents		$ 3,536.46	$ 884.12	$ 2,652.35	286,000
1st Quarter Totals 2021	4 Residents	* means rebate max	$ 1,379.00	$ 344.75	$ 1,034.25	88,200
4th Quarter Totals 2020	10 Residents		$ 2,164.98	$ 541.25	$ 1,623.74	156,600
3rd Quarter Totals 2020	7 Residents		$ 1,987.39	$ 496.85	$ 1,490.54	141,600
2nd Quarter Totals 2020	22 Residents		$ 4,896.48	$ 1,224.12	$ 3,672.36	430,400
1st Quarter Totals 2020	0 Residents		$ -	$ -	$ -	0

		$28,000 Grant Rebate Remaining Avail.	Total Rebate or Grant	Municipality Contribution:	Eligible Grant Amount	Estimated Annual Water Saved (Gallons):
Total to date	84 Individual Households - 1 HOA	**$ 12,865.37**	$ 20,179.49	$ 5,044.88	$ 15,134.62	2,311,600

Metropolitan Council
Water Efficiency Grant Program

Overview

The Metropolitan Council (Council) will implement a water efficiency grant program effective July 1, 2022 to June 30, 2024. Grants will be awarded on a competitive basis to municipalities that are served by a municipal water system.

The Council will provide 80% of the program cost; the municipality must provide the remaining 20%. Municipalities will use the combined Council and municipality funds to run their own grant or rebate programs.

Grants will be made available in amounts with a minimum of $5,000 and a maximum of $50,000. Grantees will be required to provide estimated water savings achieved through this program for Clean Water, Land & Legacy Amendment reporting purposes.

Legislative Directive - Minnesota 2021 Session Law

> $625,000 the first year and $625,000 the second year are for the water demand reduction grant program to encourage municipalities in the metropolitan area to implement measures to reduce water demand to ensure the reliability and protection of drinking water supplies. Fiscal year 2022 appropriations are available until June 30, 2023, and fiscal year 2023 appropriations are available until June 30, 2024.

Grant Program Goal

The goal of the water efficiency grant program is to support technical and behavioral changes that improve municipal water use efficiency in the seven-county metropolitan area.

Critical Points to Remember

- The applying municipality must be served by a municipal public water supply system
- New construction and new developments are not eligible
- A portion of each eligible activity's cost must be paid by the property owner
- Funds are for rebates or grants only; consulting and city staff time are ineligible
- Grant recipients must display the Clean Water, Land and Legacy Amendment logo and the Metropolitan Council logo on program-related web pages and paper communications

Grant Program Structure: Administration and Funding

The Water Efficiency Grant Program will be administered by Metropolitan Council Environmental Services (MCES) and will be funded with $1,000,000 appropriated by the 2021 Minnesota Legislature. Grant applications will be reviewed and ranked by the MCES Water Supply Planning Unit staff. The remaining $250,000 of this funding has been allocated to a different municipal water efficiency grant project.

Grants are only for water efficiency programs offering rebates or grants to property owners who are customers of the municipal water supply system and who replace specified water using devices with approved devices that use substantially less water.

Grants will be awarded to municipalities in amounts ranging from $5,000 to $50,000 for providing rebates or grants to property owners. Municipalities will be responsible for the design and operation of their rebate or grant program and its details. Grant payments to the municipality will be for 80% of approved program amounts. The municipality must provide the remaining 20% of the granted/rebated amount to the property owner. Municipality rebates or grants are eligible for reimbursement on device replacements conducted July 1, 2022 through June 30, 2024.

Here is an example of the grant funding design:

Metropolitan Council Grant Amount	$16,000 (80% of total)
Municipality Match	$4,000 (20% of total)
Municipality Grant/Rebate Program Total	$20,000 (100% of total)

Eligibility

This grant program is limited to municipalities in the seven-county metropolitan area.

Municipalities eligible per above must apply to participate and, if approved, sign a standard Council Grant Agreement, before any eligible rebates or grants can be submitted for reimbursement. Agreements shall require that municipalities:

- Entirely pass through grants received (as is being done by MCES)
- Verify purchase of devices to receive grants
- Retain records and cooperate with any audits
- Conduct all communications with property owners and ensure all written communications to property owners include both the Clean Water, Land and Legacy Amendment and the Metropolitan Council's logo
- Provide quantitative information for state reporting purposes

Eligible water efficiency devices consist of the following:

- Toilet replacement with a US EPA WaterSense labeled toilet
- Irrigation controller replacement with a US EPA WaterSense labeled controller, either weather-based or soil moisture-based
- Clothes washing machine replacement with a US DOE Energy Star labeled clothes washing machine
- Irrigation spray sprinkler body replacement with a US EPA WaterSense labeled spray sprinkler body
- Irrigation system audit by an Irrigation Professional certified by a US EPA WaterSense program
- Residential dishwasher replacement with a US DOE Energy Star labeled residential dishwasher

Expenses eligible for reimbursement are the out-of-pocket cost of the device and its installation only, not to include any owner labor costs. In addition, new construction and new developments are ineligible, as this program is intended as a current infrastructure replacement program.

Application Process

- Applicants must be served by a municipal public water supply system
- Municipalities will submit MCES supplied application form by March 31, 2022. Required information includes:
    - the municipality's rebate or grant program design and work plan
    - proposed examples of communications to property owners
    - requested total grant amount
    - estimated annual amount of water saved by the applying municipality

- Application form is available at: https://metrocouncil.org/Wastewater-Water/Funding-Finance/Available-Funding-Grants.aspx
- Submit competed application to: brian.davis@metc.state.mn.us
- Metropolitan Council will notify municipalities of grant awards and provide grant agreements by April 29, 2022.

Proposal Selection Criteria

In the event that funds requested exceed funds available, the following criteria will be used to determine the amount granted to a given municipality:

- Municipalities with identified water supply issues in Master Water Supply Plan Community Profiles or Local Water Supply Plans
- Municipalities' ratio of peak monthly water use to winter monthly water use
- Municipalities' average residential per capita water use
- The order in which applications are received and until grant funds are completely committed

Funding Process and Reporting Requirements

- Utilizing forms provided by MCES, the following information must be reported on a quarterly basis:
    - Number, type and amount of rebates or grants provided to property owners, along with each property address
    - Estimated annual gallons of water saved per device installation
    - Municipality matching funds disbursed
    - Number of unmet funding requests from property owners, if any
- Upon review and confirmation of the above information, MCES will process a grant payment in the amount of 80% of approved total rebates or grants for the reporting period.
- MCES will provide confirmation of grant balances available upon request and reserves the right to amend grant agreements, in collaboration with grantee municipality, if quarterly reporting indicates rebate or grant programs will not fully utilize grant awards within the grant period.

Qualified Activities

- Residential dishwasher replacement with a US DOE Energy Star labeled residential dishwasher: https://www.energystar.gov/products/dishwashers

- Toilet replacement with a US EPA WaterSense labeled toilet: https://lookforwatersense.epa.gov/products/Product-Search-Results-Toilets.html

- Irrigation controller replacement with a US EPA WaterSense labeled controller, either weather-based or soil moisture-based: https://lookforwatersense.epa.gov/products/Product-Search-Results-IrrigationController.html https://lookforwatersense.epa.gov/products/Product-Search-Results-SoilMoistureBasedIrrigationController.html

- Clothes washing machine replacement with a US DOE Energy Star labeled clothes washing machine: https://www.energystar.gov/productfinder/product/certified-clothes-washers/results

- Irrigation spray sprinkler body replacement with a US EPA WaterSense labeled spray sprinkler body: https://lookforwatersense.epa.gov/products/Product-Search-Results-Sprinkler.html

- Irrigation system audit by an Irrigation Professionals certified by a US EPA WaterSense program: https://lookforwatersense.epa.gov/pros/

Reporting Example

							Calculated Totals:			
Property Street Address and Zip Code	**(Select) Property Type:**	**(Select) Water Device Replaced:**	**Cost per Device ($):**	**# of Devices:**	**Rebate or Grant per Device ($)**	**Est. Annual Water (Gallons) Saved Per Device:**	**Total Rebate or Grant**	**Municipality Contribution:**	**Eligible Grant Amount**	**Estimated Annual Water Saved (Gallons):**
2094 Proviso Avenue	Residential	Clothes Washer	$800.00	1	$200.00	5,000	$200.00	$40.00	$160.00	5,000
3452 Enola Drive	Residential	Irrigation Controller	$250.00	1	$150.00	20,000	$150.00	$30.00	$120.00	20,000
994 Argentine Place	Residential	Irrigation Controller	$200.00	1	$150.00	20,000	$150.00	$30.00	$120.00	20,000
5377 Shoreham Way	Residential	Toilet	$350.00	1	$125.00	7,000	$125.00	$25.00	$100.00	7,000

Councilmember_____introduced the following resolution and moved for its adoption:

RESOLUTION #22-065

RESOLUTION AUTHORIZING STAFF TO APPLY FOR WATER EFFICIENCY GRANT FUNDS THROUGH THE METROPOLITAN COUNCIL FOR 2022-2024 CYCLE

WHEREAS, the City of Ramsey owns and maintains a municipal water supply system, which is essential to the quality of life, health and welfare of City residents and businesses; and

WHEREAS, the City of Ramsey currently relies on groundwater as the sole source of its municipal water supply system; and

WHEREAS, the City of Ramsey is planning to construct two new municipal water supply system groundwater wells to accommodate planned growth in the next ten years; and

WHEREAS, Minnesota Statutes 473.1565 directs the Metropolitan Council to undertake planning activities that emphasize conservation, inter-jurisdictional cooperation, and long-term sustainability; and

WHEREAS, the Metropolitan Council received an allocation of $1,250,000 from the Clean Water, Land, & Legacy Amendment Fund to assist local units of government by helping property owners pay for water saving audits and/or more water efficient appliances to conserve water; and

WHEREAS, the primary objective of the Water Efficiency Grant Program is to assist local units of government to conserve water to ensure long-term groundwater sustainability; and

WHEREAS, this grant program is consistent with the goals and objectives of the City's Strategic Action Plan; and

WHEREAS, the City has the capability to adequately fund its local cost share for this grant program through the water enterprise fund; and

WHEREAS, the City of Ramsey is currently administering a Water Efficiency Grant Program providing rebates for WaterSense® labeled irrigation controllers and/or irrigation audits, WaterSense® labeled toilets, and Energy Star® rated clothes washing machines; and

WHEREAS, the current grant cycle runs through June 30, 2022; and

WHEREAS, the upcoming Water Efficiency Grant Program cycle will run from July 1, 2022 through June 30, 2024; and

WHEREAS, the minimum grant amount is $5,000 and the maximum grant amount is $50,000; and

WHEREAS, the deadline to submit an application for the 2022-2024 grant cycle is March 31, 2022; and

WHEREAS, grant recipients will be notified by the Metropolitan Council no later than April 29, 2022; and

WHEREAS, the City of Ramsey's Environmental Policy Board (EPB) reviewed this grant opportunity and recommended applying for the 2022-2024 round of funding.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That the Ramsey City Council hereby authorizes Staff to apply for Water Efficiency Grant funds for the 2022-2024 cycle in an amount not to exceed $50,000.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

CC Regular Session **5. 9.**

Meeting Date: 03/22/2022

By: Chris Anderson, Community Development

Information

Title

Adopt Resolution #22-068 Proclaiming April 29, 2022 as Arbor Day and the Month of May as Arbor Month

Purpose/Background:

The City of Ramsey has been recognized as a Tree City USA for thirty (30) consecutive years (up through and including 2021 activities). One of the standards necessary to obtain this designation is the adoption of an Arbor Day proclamation. At its root, Arbor Day is a day to encourage and celebrate the planting of trees. In Minnesota, Arbor Day is officially observed on the last Friday of April, which this year, is April 29. The State of Minnesota also recognizes the month of May as Arbor Month. The attached resolution serves as the City's official observance of Arbor Day on April 29, 2022 and also recognizes May as Arbor Month.

Funding Source:

This case is being handled as part of staff's regular duties.

Recommendation:

Staff recommends adopting Resolution #21-068 proclaiming April 29, 2022 as Arbor Day and the month of May as Arbor Month.

Action:

Motion to adopt Resolution #21-068 proclaiming April 29, 2022 as Arbor Day and the month of May as Arbor Month.

Attachments

Resolution #22-068

Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	03/15/2022 05:53 PM
Kurt Ulrich	Kurt Ulrich	03/16/2022 10:58 AM
Form Started By: Chris Anderson		Started On: 03/14/2022 09:33 AM
Final Approval Date: 03/16/2022		

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-068

RESOLUTION PROCLAIMING APRIL 29, 2022 AS ARBOR DAY AND THE MONTH OF MAY, 2022, AS ARBOR MONTH

WHEREAS, trees are an increasingly vital resource in Minnesota today and enrich our lives by purifying air, soil and water; and

WHEREAS, trees help conserve and protect soil from erosive forces, moderate temperatures, reduce stormwater runoff, and provide habitat for life of all kinds; and

WHEREAS, many species of trees and shrubs provide critical, early spring food for pollinators; and

WHEREAS, trees provide beautiful recreational settings and promote personal, community, and ecosystem health; and

WHEREAS, trees increase property values, enhance the economic vitality of business areas, create jobs through forest products, and are a renewable resource; and

WHEREAS, activities such as construction damage, regional and distant source pollution, as well as certain diseases and pests, threaten our trees, creating the need for concerted, adaptive, and collaborative action by locally planting, nurturing and protecting trees for the benefit of citizenry, economy, and ecology; and

WHEREAS, the City of Ramsey has been recognized for 30 consecutive years (through 2021), as a Tree City USA.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) That the Ramsey City Council hereby proclaims April 29, 2022 as Arbor Day.

2) That the Ramsey City Council hereby proclaims the month of May as Arbor Month.

3) That the Ramsey City Council urges all citizens to plant trees as part of Ramsey's living history, to participate in disease and pest control programs that will ensure an enduring tree canopy, and collaborate with partners and volunteers to develop and implement policies to plant, nurture, protect, and steward our natural diversity.

4) That the Ramsey City Council encourages efforts to maintain our historic sites with significant tree species, enhance species diversity to buffer against disease and/or pest outbreaks, promote replanting of native species and strategically locate plantings for energy savings.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

CC Regular Session **5. 10.**

Meeting Date: 03/22/2022

By: Chris Anderson, Community Development

Information

Title

Adopt Resolution #22-069 Accepting Additional Drainage and Utility Easement Over a Portion of 15153 Vicuna St NW15153 Vicuna St NW; Case of Preserve at Northfork LLC

Purpose/Background:

During review of a Building Permit Application for a new home to be constructed at 15153 Vicuna Street NW (the "Subject Property"), it was discovered that there was a watermain line at the edge of the standard four (4) foot drainage and utility easement. If there's ever a need to conduct maintenance, the excavation to access the pipe would need to extend beyond this standard easement. Thus, a larger drainage and utility easement is necessary. Preserve at Northfork LLC (the "Developer") has had an exhibit prepared to grant the City a fifteen (15) foot wide drainage and utility easement (the "Easement") along the southern lot line of the Subject Property.

After reviewing the Certificate of Survey for the proposed home, Staff has confirmed there will not be any encroachment into this new easement.

Observations/Alternatives:

The property to the south abutting 15153 Vicuna Street already has an existing 17-foot drainage and utility easement along their shared property line that will accommodate maintenance of the watermain and sanitary sewer lines.

Funding Source:

This case is being handled as part of Staff's regular duties. The City will be responsible for the cost of recording the additional drainage and utility easement.

Recommendation:

Staff recommends accepting the fifteen (15) foot drainage and utility easement over a portion of the Subject Property.

Action:

Motion to adopt Resolution #22-069 accepting a fifteen (15) foot wide drainage and utility easement over a portion of the Subject Property.

Attachments

Site Location Map

Preserve at Northfork Second Addition Plat Showing 4 Foot Easement

Easement Exhibit

Certificate of Survey of Proposed Home (No Encroachment in Easement)

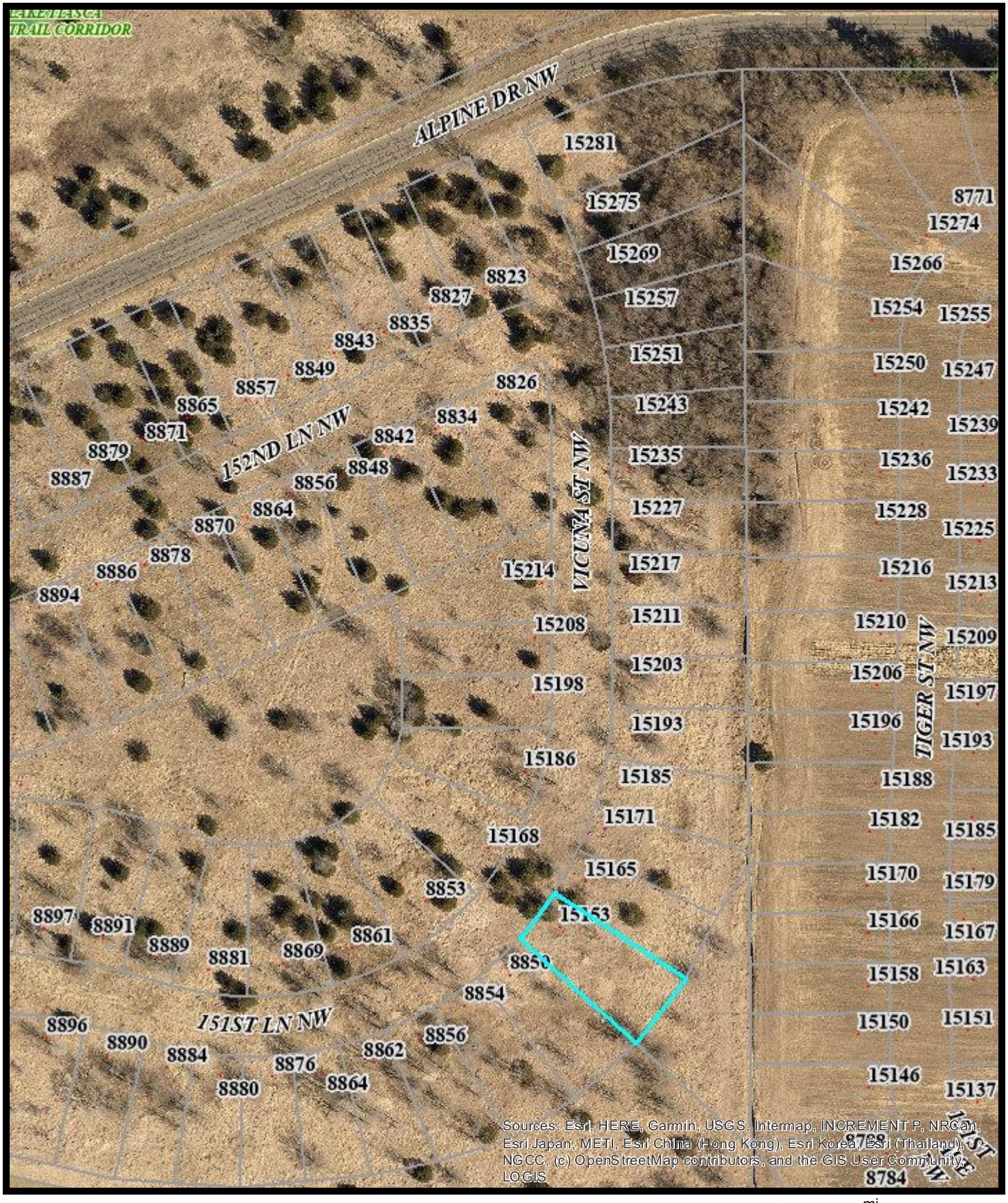
Resolution #22-069: Accepting Drainage and Utility Easement

Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	03/15/2022 05:55 PM
Bruce Westby	Bruce Westby	03/17/2022 01:10 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:55 PM
Form Started By: Chris Anderson		Started On: 03/14/2022 10:49 AM
Final Approval Date: 03/17/2022		

Site Location Map

15153 Vicuna Street



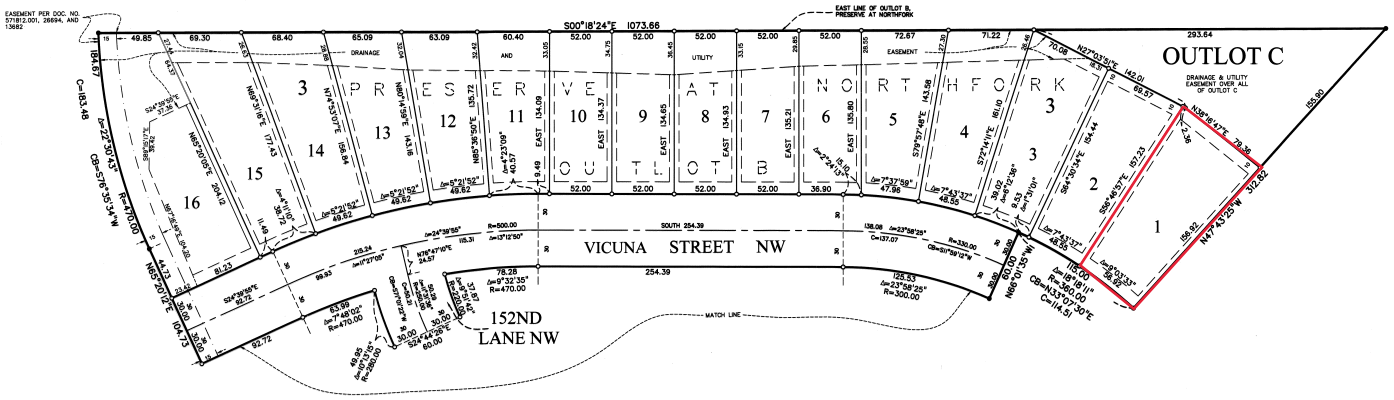
Print Date: March 14, 2022

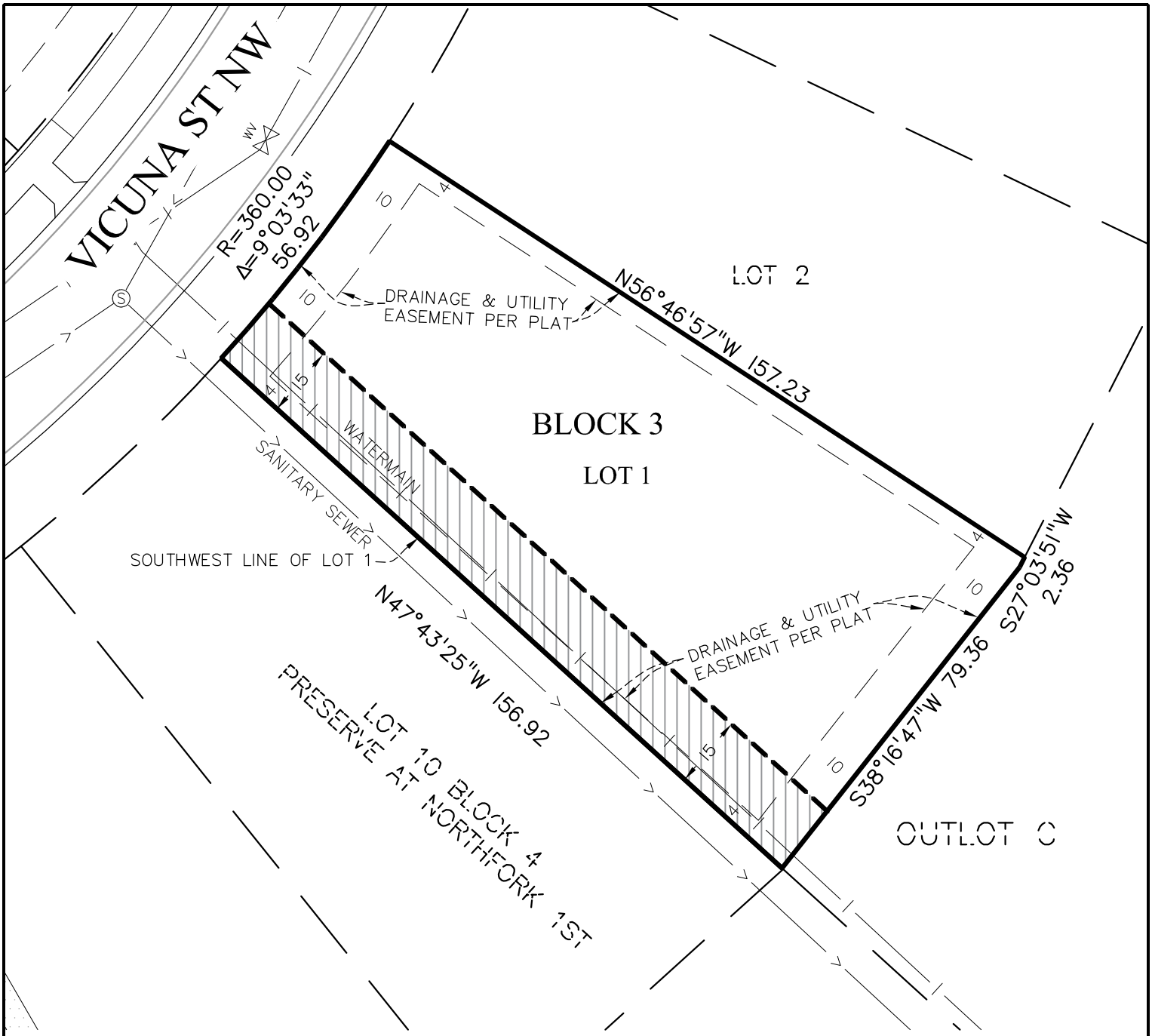
OFFICIAL PLAT

INSET B

PRESERVE AT NORTHFORK SECOND ADDITION

CITY OF RAMSEY
COUNTY OF ANOKA
SEC.19, TWP.32, RGE.25


EASEMENT PER DOC. NO. 571812.001, 26694, AND 13682
S00°18'24"E 1073.66
EAST LINE OF OUTLOT B, PRESERVE AT NORTHFORK
OUTLOT C
DRAINAGE & UTILITY EASEMENT OVER ALL OF OUTLOT C
PRESERVE AT NORTHFORK
OUTLOT B
VICUNA STREET NW
SOUTH 254.39
254.39
152ND LANE NW
MATCH LINE
DRAINAGE AND UTILITY
EASEMENT
UTILITY
AND
293.64
155.80
312.82
118.00
R=180.00'
CB=N43°07'30"E
C=114.21
N47°43'25"W
N85°50'35"W
60.00
R=330.00
R=300.00
R=470.00
R=500.00
R=180.00
R=30.00
R=60.00
R=200.00
R=300.00
R=470.00
R=30.00
R=30.00
R=30



EASEMENT DESCRIPTION

A drainage and utility easement over, under, and across the southwesterly 15.00 feet of Lot 1, Block 3, PRESERVE AT NORTHFORK SECOND ADDITION, according to recorded plat thereof, Anoka County, as measured at right angles to the southwest line of said Lot 1.

Proposed Easement Area

NORTH

30 15 0 15 30 60

SCALE IN FEET

Easement Area: 2,351 s.f.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 3rd day of March, 2022.

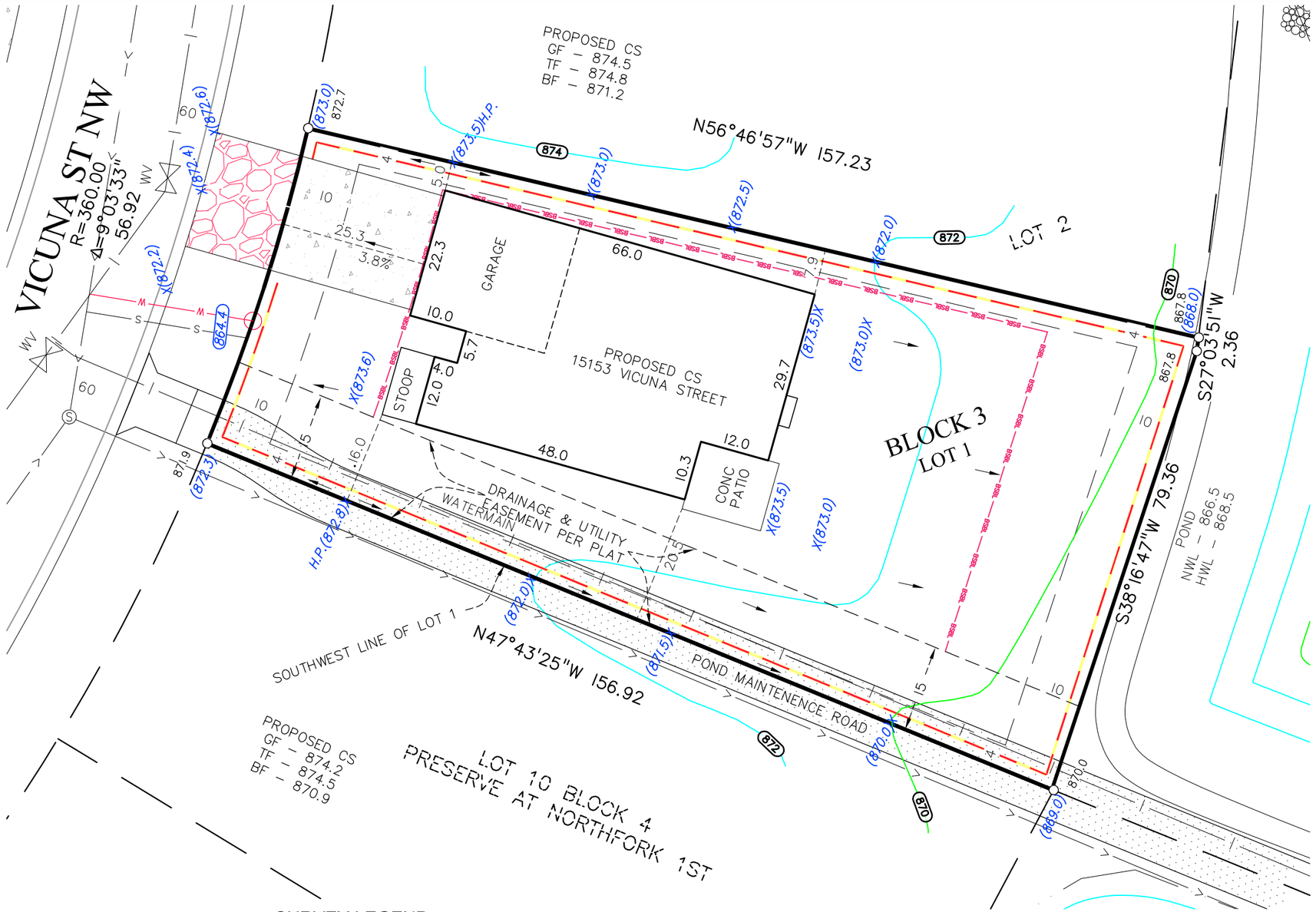
SATHRE-BERGQUIST, INC.

Daniel L. Schmidt, PLS Minnesota License No. 26147
schmidt@sathre.com

SATHRE-BERGQUIST, INC.
14000 25TH AVENUE NORTH, SUITE 120
PLYMOUTH MN 55447 (952) 476-6000
WWW.SATHRE.COM

Easement Exhibit
Prepared For
City of Ramsey

Date: 3-3-22	Revision Date:
Prepared By: EMW	Check By: DLS
Layout Sheet: EE SAN	1
Project Number:	1



SURVEY LEGEND

STORM DRAIN	972.5 GROUND ELEVATION	EXISITNG TREE	CONCRETE CURB
CATCH BASIN	(972.5) PROPOSED ELEVATION	PROPOSED TREE	SANITARY SEWER
GATE VALVE	WETLAND BUFFER POST	PROPOSED TREE	STORM SEWER
HYDRANT	H HAND HOLE	BITUMINOUS	WATERMAIN
IRON PIPE SET	E ELECTRIC TRANSFORMER	CONCRETE	PROPOSED SILT FENCE
IRON PIPE FOUND	T TELEPHONE PEDESTAL	CONTOUR PROPOSED	DRAIN TILE
SANITARY MANHOLE	U UTILITY PEDESTAL	CONTOUR EXISTING	FENCE
SP DENOTES SUMP PUMP	000.0 SEWER SERVICE ELEVATION	DRAINAGE ARROW	BSBL BUILDING SETBACK LINE
			POND MAINTENENCE ROAD

Property Description: Lot 1, Block 3, THE PRESERVE AT NORTHFORK 2ND, according to the recorded plat thereof, Anoka County, Minnesota.

1. Address: 15153 Vicuna Street, Ramsey, Minnesota 55303
2. We have shown the location of utilities on the surveyed property by observed evidence only and by available plans. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercise before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002. The contractor shall determine the exact location of any and all existing utilities before commencing work and is responsible for any and all damages arising out of his failure to exactly locate and preserve any and all existing utilities.
3. Must maintain a minimum 2% slope gradient to accommodate positive drainage.
4. All set offset irons are measured to hundredths of a foot and can be used as benchmarks.
5. The proposed driveway shown is conceptual only and does not purport to show exactly how the driveway shall be built.
6. A title opinion was not furnished to the surveyor as part of this survey. Only easements per the recorded plat are shown unless otherwise denoted hereon.
7. Proposed grades shown adjacent to building foundation refers to top of black dirt.
8. Verify sanitary service invert prior to any concrete work.
9. House not staked at the time of certification. Improvements to the grading are per construction plan.

Development Plan Data - CS

Garage Floor Elevation	= 873.9
Top of Foundation Elevation	= 874.2
Basement Floor Elevation	= 871.0

Proposed Elevations

Proposed Garage Floor Elevation	= 873.9
Proposed Top of Foundation Elevation	= 874.2
Proposed Basement Floor Elevation	= 871.0

Setbacks

Min. Street Setback = 25'
Min. Side Setback = 5'
Min. Rear Setback = 25 '

Hardcover

Lot Area	=	S.F.
House Area	=	S.F.
Driveway Area	=	S.F.
Stoop Area	=	S.F.
Deck Area	=	S.F.
Total Area	=	S.F.
Coverage =	%	

NORTH

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN HEREON FROM RECORDED PLAT AND LABELED AS SHOWN

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 3rd day of March, 2022.

Daniel L. Schmidt

Daniel L. Schmidt, PLS Minnesota License No. 26147
schmidt@sathre.com

JOB #: 50615-095	REVISIONS
FIELD CREW:	
DRAWN BY: WJC	
CHECKED BY: DLS	
DATE: 03/01/2022	

SATHRE-BERGQUIST, INC.
14000 25TH AVENUE NORTH, SUITE 120
PLYMOUTH MN 55447 (952) 476-6000
WWW.SATHRE.COM

CERTIFICATE OF SURVEY
PREPARED FOR
LEWIS CUSTOM HOMES

Section 13 - Township 30 - Range 24

20 10 0 10 20 40
SCALE IN FEET

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-069

RESOLUTION ACCEPTING A DRAINAGE AND UTILTY EASEMENT OVER A PORTION OF THE PROPERTY LOCATED AT 15153 VICUNA STREET NW

WHEREAS, there is a watermain line about four (4) feet north of the southern lot line of the property generally known as 15153 Vicuna Street NW, Ramsey, Minnesota, and legally described as:

Lot 1, Block 3, Preserve at Northfork Second Addition, Anoka County, Minnesota

(the 'Subject Property'); and

WHEREAS, Preserve at Northfork, LLC, the owner of the Subject Property and hereinafter referred to as "Developer", has prepared an Easement Exhibit to grant the City a drainage and utility easement (the "Easement") that is fifteen (15) feet wide along the southern lot line of the Subject Property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That the Ramsey City Council hereby accepts the Easement from the Developer as shown in the attached Exhibit.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

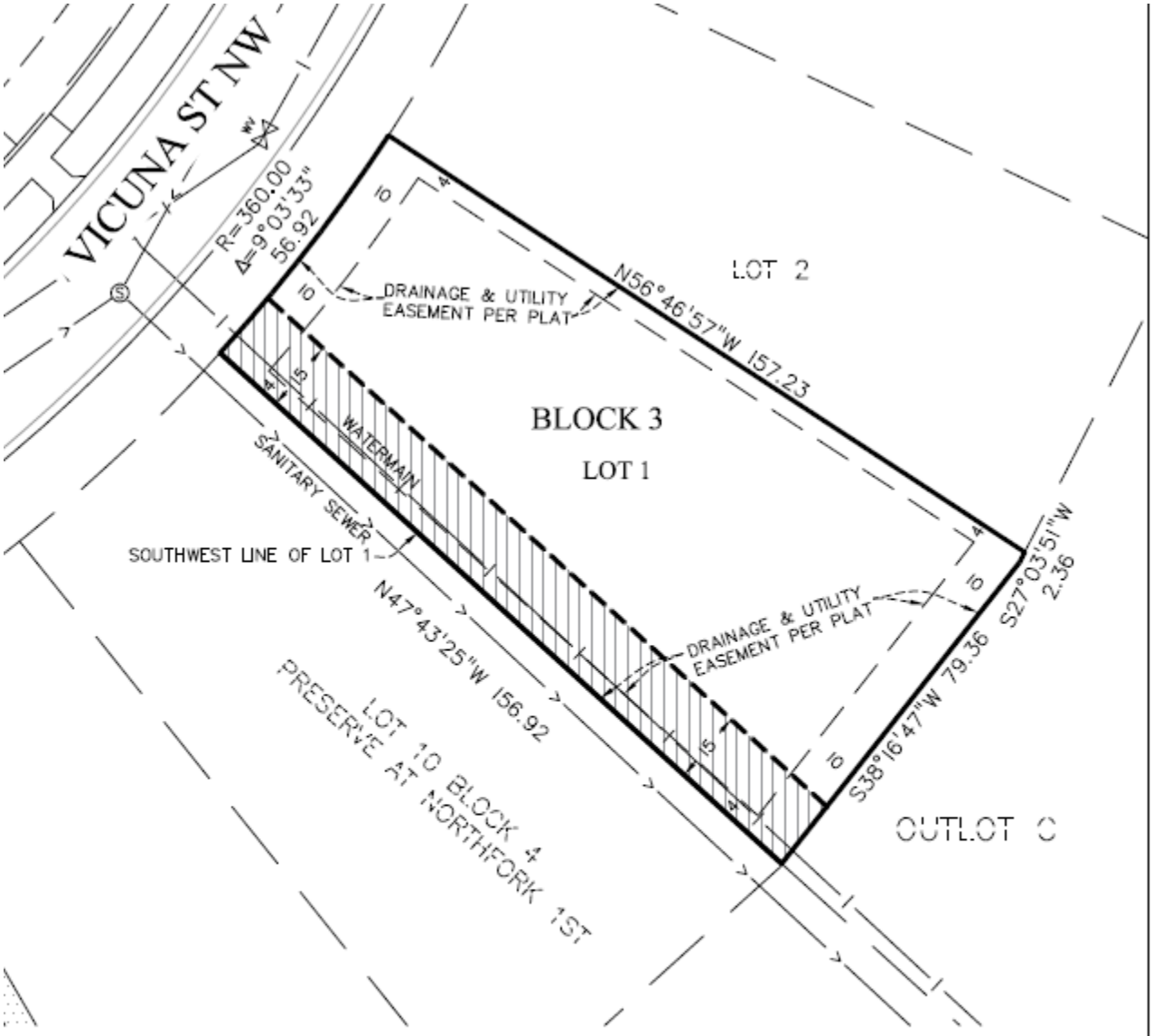
whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT



EASEMENT DESCRIPTION

A drainage and utility easement over, under, and across the southwesterly 15.00 feet of Lot 1, Block 3, PRESERVE AT NORTHFORK SECOND ADDITION, according to recorded plat thereof, Anoka County, as measured at right angles to the southwest line of said Lot 1.

Proposed Easement Area

Easement Area: 2,351 s.f.

CC Regular Session **5. 11.**

Meeting Date: 03/22/2022

By: Chris Anderson, Community Development

Information

Title

Adopt Resolution #22-070 Approving an Amendment to the Development Agreement for Site Improvements at 7912 Sunwood Drive NW (Project No. 22-101); Case of Northstar Marketplace Station LLC

Purpose/Background:

On February 22, 2022, the City Council approved a Site Plan and Development Agreement for a new, multi-tenant retail building at 7912 Sunwood Drive NW (the "Subject Property"). Northstar Marketplace Station LLC (the "Developer") subsequently contacted City Staff with a concern regarding Section 1, Paragraph 7 (Required Improvements Completion Date). The Developer's concern with the timing of completion is directly correlated with material shortages and supply chain delays, which have impacted some of their other recent projects. The Developer requested an amendment to this paragraph of the Development Agreement to allow at least an additional six (6) months.

The material shortages and supply line delays are an unfortunate reality currently and are beyond the control of the Developer. The Developer wants to avoid having their General Contractor pulled off the site (if needed materials were not available) only to have to remobilize at a later date). Thus, Staff has revised Section 1, Paragraph 7 of the Development Agreement to reflect a required completion date of February 22, 2024 (this provides 12 additional months to complete site improvements).

Funding Source:

The Developer is responsible for all costs associated with this project.

Recommendation:

Staff recommends adopting Resolution #22-070 approving an amendment to the Development Agreement for site improvements at 7912 Sunwood Drive NW to provide a completion date of February 22, 2024 for all required improvements.

Action:

Motion to adopt Resolution #22-070 approving an amendment to the Development Agreement for site improvements at 7912 Sunwood Drive NW to provide a completion date of February 22, 2024 for all required improvements.

Attachments

Site Location Map

Amended Development Agreement

Resolution #22-070: Amending Required Improvements Completion Date

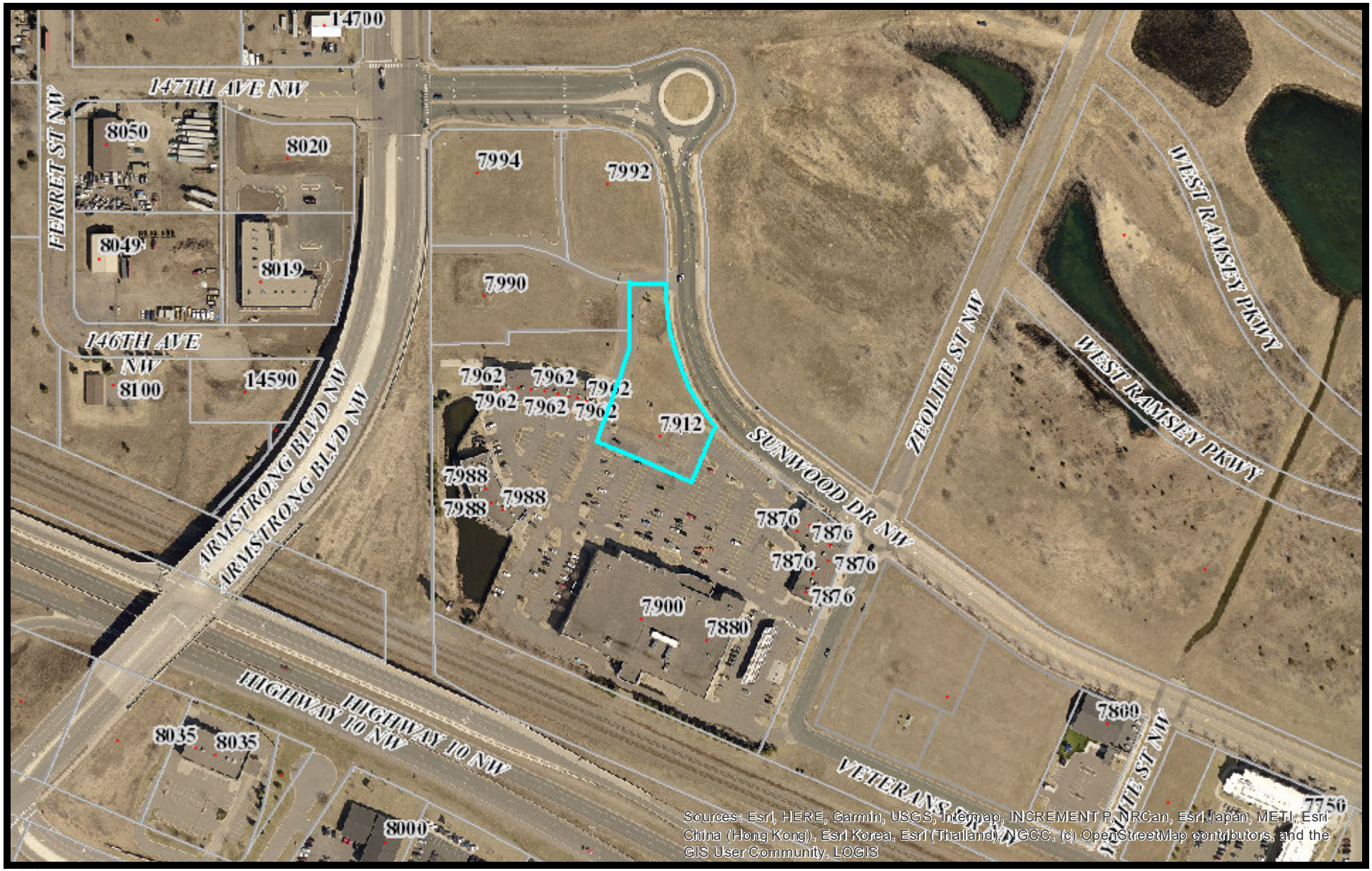
Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	03/15/2022 05:58 PM
Kurt Ulrich	Kurt Ulrich	03/16/2022 11:06 AM

Form Started By: Chris Anderson Started On: 03/14/2022 11:55 AM
Final Approval Date: 03/16/2022

Site Location Map

7912 Sunwood Drive NW



1/4/2022 3:47:06 PM

0 0.035 0.07 0.105 0.14 mi

NORTHSTAR MARKETPLACE STATION LLC
DEVELOPMENT AGREEMENT
CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA

This Agreement (hereinafter the "Agreement") is dated as of this Click or tap here to enter text.day of Click or tap here to enter text., Click or tap here to enter text. and is by and between the City of Ramsey, a Minnesota municipal corporation (the "**CITY**") and Northstar Marketplace Station LLC, a Limited Liability Company (Foreign) under the laws of Delaware, whose address is 11501 Northlake Drive, Cincinnati, Ohio 45249 (the "**PERMITTEE**").

Recitals

A. The **PERMITTEE** is the owner of land generally known as 7912 Sunwood Drive NW and legally described as Lot 2, Block 1 COR TWO NORTHSTAR (the "Subject Property").

B. On February 22, 2022, the **CITY** approved, with contingencies, the final site plan for Northstar Marketplace Station LLC on the **Subject Property**.

C. The **PERMITTEE** intends to cause the Required Improvements to the **Subject Property** to be constructed without financial participation by the **CITY.**

Agreement

SECTION I
REQUIRED IMPROVEMENTS AND FINANCIAL RESPONSIBILITIES

1. **City Code Compliance.** The **CITY** approves the site plan (the "Site Plan") conditioned on the **PERMITTEE** developing the **Subject Property** in accordance with the applicable provisions of City Code**.**

2. **Conformance with the Plans**. The **Subject Property** shall be developed in accordance with the plans (the "Plans") prepared by Westwood Professional Services, Inc., dated December 22, 2021 and revised _____. The **Plans** remain subject to: (a) City Staff's review and approval of the **Plans** to, among other things, confirm that the revisions requested in the **CITY's** review have been made; and (b) such further revisions as the **PERMITTEE** may propose and the **CITY** approves. The **Plans** shall not be attached to this **Agreement**, but are in the **CITY's** files.

3. **Incorporation of All City Code Requirements**. That the recitals above and the applicable provisions of the City Charter, Subdivision Code, Zoning Code and Public Improvement Code of the **CITY**, as amended to date hereof, are incorporated herein by reference.

4. **State Building Code Compliance**. The structure(s) shall be constructed in accordance with the requirements of the Building Code.

5. **Fire Lanes.** Fire lanes shall be maintained on the **Subject Property**. The exact locations of these items on the **Subject Property** shall be as directed by the Fire Chief. The **PERMITTEE** herein agrees to post "No Parking" signs along private streets in accordance with City Code requirements and in conjunction with the instructions of the Fire Chief.

6. **Required Improvements.** The **PERMITTEE** shall construct and install the following site improvements on the **Subject Property** in accordance with the specifications and location as shown on the **Plans.** The Required Improvements are as follows:

   a. Sanitary Sewer
   b. Water
   c. Storm drainage facilities
   d. Stormwater Maintenance
   e. Parking lot
   f. Concrete curb and gutter
   g. Lot grading
   h. Landscaping
   i. Installation and removal of temporary erosion control measures.
   j. Temporary and permanent erosion control.

   ("Required Improvements)"

   The **PERMITTEE** agrees to construct the **Required Improvements** according to the terms and conditions of this **Agreement**, in accordance with the **Plans**, and in compliance with Staff Review Comments.

7. **Required Improvements Completion Date**. The **Required Improvements** shall be completed on or before February 22, 2024.

8. **Required Improvements Financial Guarantee**. In order to ensure the installation of the **Required Improvements** in accordance with **CITY** specifications and in a timely manner, the **PERMITTEE** shall be required to deposit with the **CITY** a cash escrow or an irrevocable letter of credit, approved as to form by the **CITY**, in the amount of **Three Hundred Eighteen Thousand Four Hundred Thirty One Dollars and No Cents** (**$318,431.00**), which is 125% of the **CITY's** estimated cost of the **Required Improvements**. Prior to the issuance of the building permit, all financial guarantees must be provided as required herein.

   Upon completion of the construction of the **Required Improvements** and written acceptance by the **CITY**, the financial guarantee shall be returned to the **PERMITTEE** and the **PERMITTEE** shall be required to provide the landscaping maintenance guarantee described in Section III Paragraph 12 of this **Agreement**. The determination of completion of the construction of the **Required Improvements** shall be made by the **CITY**. In the event the **PERMITTEE** fails to construct and install the **Required Improvements** as required herein, the City Council may order the completion of the **Required Improvements** with **CITY** day labor and/or by letting contracts for said completion and draw upon the escrow for payment. Only the City Council shall have the authority to direct completion of the **Required Improvements** and withdraw from the escrow account. The **PERMITTEE** hereby grants permission and a license to the **CITY** and/or its contractors and assigns to enter upon the **Subject Property** for the purpose of completing the construction and installation of the **Required Improvements** in the event of the **PERMITTEE's** default.

9. **Inspection Fees.** The **PERMITTEE** shall be responsible for all inspection costs incurred by the **CITY** related to the installation of **Required Improvements**. The **PERMITTEE** shall make a cash deposit into the appropriate escrow account at the **CITY** and the **CITY** shall have the authority to draw upon these funds for the purpose of compensating for inspection services. The amount of

the deposit shall be equal to five percent (5%) of the estimated cost of the **Required Improvements**, which equates to **Twelve Thousand Seven Hundred Thirty Seven Dollars and No Cents** (**$12,737.00**) (5% x $254,745.00). Upon completion of the **Required Improvements** to the satisfaction of the City, any surplus balance remaining in the **CITY's** escrow account shall be refunded to the **PERMITTEE**.

10. **Development Fees.** All applicable development fees were satisfied at the time of platting of the **Subject Property**.

SECTION II
PERMITS AND OCCUPANCY

11. **Requirements for Building Permit.**

    a. No building permit shall be issued until the **PERMITTEE** has: (a) installed a Class 5 driving surface to within 300 feet of the structure; (b) provided the **CITY** Building Official with a Certificate of Survey; c.) the financial guarantee described in Section I Paragraph 8 to the **CITY**; d.) obtained all necessary permits from the Lower Rum River Watershed Management Organization and has provided a copy of such permit to the **CITY;** and

    b. No occupancy permit shall be issued until the **PERMITTEE** has: (a) constructed vehicular access to the lot, including the installation of at least one layer of bituminous surfacing; (b) constructed all utilities and storm water facilities this **Agreement** requires to serve the lot and such utilities and storm water facilities are in place, operational and accepted by the **CITY**; (c) for lots that have a slope of less than 2%, provided the **CITY** with a certificate of grading, prepared by a licensed (State of Minnesota) professional land surveyor, certifying that the flattest grade on the lot is 1% or greater; and (d) installed and planted the sod and landscaping that are required.

SECTION III
LANDSCAPING

12. **Maintenance Guarantee for Landscaping**. It is herein agreed that the **PERMITTEE** shall provide a maintenance guarantee to ensure the survival of the plantings. Said maintenance guarantee shall consist of cash or an irrevocable letter of credit, approved as to form by the **CITY**, in the amount of One Thousand Nine Hundred Fifty Seven Dollars and No Cents (**1,957.00)** [# plantings (9 trees and 51 shrubs) x cost/planting ($300/tree and $75/shrub) x 30% average non-survival rate], which shall be in effect for a two (2) year period commencing on the date of the **CITY's** written acceptance of said plantings as part of the **Required Improvements**.

    At the end of the two (2) year period, the **PERMITTEE** shall contact the **CITY** to schedule a final inspection of the landscaping. The determination that all plantings that have been planted in accordance with the **Plans** have either survived or have been replaced shall be made by the Community Development Department. Upon approval of the final landscape inspection by the **CITY,** the maintenance guarantee shall be returned to the **PERMITTEE**. In the event the **PERMITTEE** fails to maintain the required plantings for a two (2) year period, the City Council may order the replacement of plantings with **CITY** day labor and/or by letting contracts and draw upon the escrow for payment. Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the escrow account. The **PERMITTEE** hereby grants permission and a license to the **CITY** and/or its contractors and assigns to enter upon the **Subject Property** for the purpose of replacing plantings in the event of the **PERMITTEE** default.

SECTION IV
GENERAL

13. **Boulevard and Area Restoration**. The **PERMITTEE** shall be responsible for restoring all areas disturbed by the development grading operation in accordance with the approved erosion and sediment control plan. The **PERMITTEE** shall also be responsible for the cost of cleaning any soil, earth or debris from the wetlands within and adjacent to the **Subject Property** resulting from grading performed in the development of the land.

14. **Construction Site Maintenance**. The **PERMITTEE** shall adhere to all **CITY** ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc.

15. **Construction, Hours and Entrance Signs**. The **CITY** restricts construction and delivery hours to Monday through Saturday 7:00 a.m. to 10:00 p.m. The **PERMITTEE** is required to provide a sign at each entrance point stating delivery and construction operation hours. Said signs are not to exceed eighty (80) square feet in size and must be clearly visible at all times during the construction period.

16. **Estimated Cost**. It is understood and agreed that cost amounts set forth in this **Agreement** as **Required Improvements**, unless specified as fixed amounts, are estimated. The **PERMITTEE** agrees to pay the entire cost of said improvements including interest, engineering and legal charges.

17. **Site Plan Approval Expenses**. The **PERMITTEE** agrees that it will pay to the **CITY** all **CITY** expenses incurred in the approval of the **Site Plan**, including, but not limited to administration expenses, engineering and legal fees. Said expenses shall be paid within fifteen (15) days of billing by the **CITY** and outstanding billings shall be paid prior to issuance of the building permit. Any expenses incurred after the release of the building permit shall also be paid within said fifteen (15) day billing period. Failure to pay the **CITY's** expenses within the fifteen (15) day billing period will permit the **CITY** to draw upon any of the escrows required by this contract for payment.

18. **Reimbursement to the City**. The **PERMITTEE** agrees to reimburse the **CITY** for all costs incurred by the **CITY** in defense or enforcement of this **Agreement**, or any portion thereof, including court costs and reasonable engineering and attorney's fees.

19. **Invalidity of Any Section**. If any portion, section, subsection, sentence, clause, paragraph or phrase of this **Agreement** is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect or void any of the other provisions of this **Agreement**.

20. **Proof of Authority**. When the **PERMITTEE** is a corporation, the **CITY** requires proof of authority by the corporation to execute this **Agreement**. This proof of authority may be satisfied by providing the **CITY** with a certified copy of minutes of the corporate Board of Directors granting such authority.

21. **Violation of This Permit**. If the **PERMITTEE** fails to perform any of the terms of this **Agreement** in the manner required by the **CITY**, the **CITY** shall be entitled to recover, from the **PERMITTEE** or the issuer of **PERMITTEE** financial guarantee, the full amount of any and all financial guarantees. Breach of any of the terms of this **Agreement** by the **PERMITTEE** shall also be grounds for denial of Building Permit or issuance of Certificate of Occupancy.

22. **Certificate of Occupancy**. The term "Certificate of Occupancy" as used in this **Agreement** shall be defined as a document issued by the **CITY's** Building Official, which authorizes the structure to be used for its intended purposes.

23. **Agreement Binding on Successors and Assigns**. The **PERMITTEE** agrees that this **Agreement** shall be binding upon its successors and assigns.

24. **Notices**. Required notices shall be in writing, and shall be either hand delivered to the Parties, its employees or agents, or mailed to them by certified or registered mail at the following address:

TO PERMITTE:
Northstar Marketplace Station LLC
Attn: Joe Schlosser
11501 Northlake Drive
Cincinnati, OH 45249

TO THE CITY:
City of Ramsey
Attn: Community Development Director
7550 Sunwood Drive NW
Ramsey, MN 55303

[The remainder of this page is intentionally left blank.]

THE PERMITTEE:

Northstar Marketplace Station LLC

By:_____, Joe Schlosser
Its: Senior Vice President, Portfolio Management

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Joe Schlosser, the Senior Vice President, Portfolio Management, of Northstar Marketplace Station LLC, a Limited Liability Company (Foreign), under the laws of the State of Delaware on behalf of the corporation.

_____
Notary Public

DRAFT

THE CITY:

CITY OF RAMSEY

By:_____
Its: Mayor

By:_____
Its: City Administrator

STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

The forgoing instrument was acknowledged before me on this_____ day of_____ _____, by Mark E. Kuzma and Kurtis G. Ulrich, the Mayor and the City Administrator of the City of Ramsey, a charter city and municipal corporation organized under the laws of the state of Minnesota on behalf of the City.

_____

Notary Public

This document drafted by:
City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

This document reviewed by:
HKB Law, P.A.
4501 Allendale Dr.
St. Paul, MN 55127

DRAFT

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-070

A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR NORTHSTAR STATION MARKETPLACE LLC

RECITALS

1. Northstar Station Marketplace LLC, hereinafter referred to as the "Permittee" has properly applied for Site Plan approval for a new, multi-tenant retail building on the property generally known as 7912 Sunwood Dr NW and legally described as follows:

   LOT 2, BLOCK 1 COR TWO NORTHSTAR, Anoka County, Minnesota

   ("Subject Property")

2. That the Permittee is the fee owner of the Subject Property.

3. That the Permittee appeared before the Planning Commission for a public hearing for a variance to the build-to standard on January 27, 2022 and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.

4. That the Subject Property is zoned COR, which is a mixed-use zoning designation and guided as such in the 2040 Comprehensive Plan.

5. That per the City's COR Design Guidelines, any trash enclosure that is not designed internal to the building, as is proposed with this project, must be specifically approved by the City.

6. That the Planning Commission reviewed the Site Plan on January 27th, 2022, and recommended approval.

7. That the City Council reviewed and approved the Site Plan and Development Agreement on February 22, 2022.

8. That the Permittee contacted the City on March 11, 2022 requesting an amendment to the Development Agreement relating to the timing for completion of required improvements due to ongoing concerns with material shortages and supply line delays.

9. That the City Council reviewed the amendment to the Development Agreement on March 22, 2022.

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

That the Ramsey City Council hereby grants approval of an amendment to the Development Agreement allowing for a completion date of February 22, 2024 for all required improvements.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this 22nd day of March, 2022.

CITY OF RAMSEY:

By:_____ By:_____
Mayor City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ____, before me a Notary Public personally appeared Mayor Mark E. Kuzma and Colleen Lasher, to me personally known, who, being each by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council, and Mark E. Kuzma and Colleen Lasher acknowledge said instrument to be the free act and deed of said Municipal Corporation.

_____
Notary Public

This document drafted by:
City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303

CC Regular Session **5. 12.**

Meeting Date: 03/22/2022

By: Bruce Westby, Engineering/Public Works

Information

Title

Adopt Resolution #22-071 Approving Revised Assessment Agreements for Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive

Purpose/Background:

Purpose

The purpose of this case is to adopt Resolution #22-071 approving Assessment Agreements for Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive.

Background:

Improvement Project #20-05 proposes to extend Riverdale Drive between Llama Street and Bowers Drive to extend the frontage road system south of U.S. Highway 10/169 from Llama Street to Bowers Drive. This project is consistent with the goals and objectives of the Highway 10 Access Planning Study completed in 2014 in partnership between the Minnesota Department of Transportation (MnDOT) and the Anoka County Highway Department, and broadly supported by partnering agencies including the City of Anoka, City of Ramsey, Anoka County, MnDOT, and the Metropolitan Council.

Extending Riverdale Drive between Llama Street and Bowers Drive will benefit abutting undeveloped properties by providing access and utilities to serve these properties upon development.

Pursuant to Resolution #21-185 adopted October 26, 2021, the City Council approved the cost share framework assigning costs for the Riverdale Drive extension to benefiting properties, including costs to be assessed against abutting properties.

Pursuant to Resolution #22-056 adopted February 22, 2022, the City Council approved three draft Assessment Agreements, one for each Pearson family ownership entity, related to Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive, contingent upon receiving City Attorney approval as to legal form.

Copies of the three final Assessment Agreements signed by the Pearson family ownership entities on March 16, 2022, are attached to this case.

Notification:

Notifications are not required for this case.

Observations/Alternatives:

Alternative #1 – Adopt Resolution #22-071 approving revised Assessment Agreements related to Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive.

Funding Source:

Though individual assessment amounts for the three Pearson family ownership entities were revised, the total assessment apportioned between the three assessment agreements remains at $465,639 per the approved cost-share framework included as Exhibit C in the Assessment Agreements.

Recommendation:

Staff recommends approving Alternative #1.

Action:

Adopt Resolution #22-071 approving revised Assessment Agreements related to Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive.

Attachments

ACTION: Resolution 22-071

Assessment Agreement AlanPearsonTrustees

Assessment Agreement ElizabethPearsonTrustees

Assessment Agreement PearsonProperties

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:48 PM
Form Started By: Bruce Westby		Started On: 02/18/2022 03:46 PM
Final Approval Date: 03/17/2022		

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-071

RESOLUTION APPPROVING REVISED ASSESSMENT AGREEMENTS FOR IMPROVEMENT PROJECT #20-05, RIVERDALE DRIVE EXTENSION, LLAMA STREET TO BOWERS DRIVE

WHEREAS, existing Riverdale Drive between Sunfish Lake Boulevard and Armstrong Boulevard functions as the south frontage road to U.S. Highway 10/169; and

WHEREAS, the City of Ramsey proposes to extend Riverdale Drive, as well as trunk sanitary sewer and watermain since this area is zoned as MUSA, between Llama Street and Bowers Drive to extend the south frontage road system south of U.S. Highway 10/169 to Bowers Drive; and

WHEREAS, this improvement project is consistent with the goals and objectives of the Highway 10 Access Planning Study completed in 2014 in partnership between the Minnesota Department of Transportation (MnDOT) and the Anoka County Highway Department, and broadly supported by partnering agencies including the City of Anoka, City of Ramsey, Anoka County, MnDOT, and the Metropolitan Council; and

WHEREAS, extending Riverdale Drive and municipal trunk utilities between Llama Street and Bowers Drive will benefit abutting undeveloped properties by providing access and utilities to serve these properties upon development; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-185 adopted October 26, 2021, the City Council approved the cost share framework assigning costs for the Riverdale Drive extension to benefiting properties, including the properties owned by various members of the Pearson family comprising three distinct ownership entities; and

WHEREAS, pursuant to Ramsey City Council Resolution #22-056 adopted February 22, 2022, the City Council approved three draft Assessment Agreements, one for each Pearson family ownership entity, related to Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive, contingent upon receiving City Attorney approval as to legal form; and

WHEREAS, the three Assessment Agreements have been reviewed and approved as to form by the City Attorney, and the assessment amounts have been revised based on Pearson family input, after which the Pearson family entities and their attorneys reviewed and approved the final Assessment Agreements before signing them on March 16, 2022.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) The Ramsey City Council hereby approves the three Assessment Agreements related to Improvement Project #20-05, Riverdale Drive Extension, Llama Street to Bowers Drive, as signed by the Pearson family ownership entities on March 16, 2022.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

(reserved for recording)

ASSESSMENT AGREEMENT

THIS ASSESSMENT AGREEMENT (this "Agreement") is made this ___ day of _____, 2022, by and between between the **City of Ramsey**, Minnesota, a Minnesota municipal corporation ("City"), and **Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust** ("Alan Pearson").

Recitals

A. Alan Pearson is the owner of fee title to the Property, as defined in Exhibit A, attached hereto.

B. Alan Pearson desires to have certain public improvements constructed to serve the Property as described in Exhibit B (the "Improvement Project"). Concept level plans and specifications for the Improvement Project are completed.

C. Alan Pearson desires to have the City construct the Improvement Project without notice of hearing or hearing on the special assessments levied to finance the Improvement Project, and to levy **$194,187.29** of the cost of the Improvement Project against the Property.

D. The City is willing to construct the Improvement Project without certain notices or hearings, provided that assurances and covenants stated below are made by Alan Pearson to ensure that the City will have valid and collectable special assessments as they relate to the Property.

E. Were it not for the assurances and covenants provided in this Agreement, the City would not construct the Improvement Project and is doing so at the behest, and for the benefit, of Alan Pearson.

Agreement

In consideration of the recitals stated above, the mutual promises and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1. Recitals Incorporated. The recitals stated above are hereby incorporated into this Agreement and made a part of this Agreement by reference.

2. Petition. Alan Pearson hereby petitions the City for construction of the Improvement Project.

3. Authority.

    a. Alan Pearson represents and warrants that he is the owner of 100 percent of the Property as described in Exhibit A, that he has full legal authority to encumber the Property as provided in this Agreement, and that as of the date of this Agreement, he has fee simple absolute title in the Property, which is not subject to any liens, interests or encumbrances, except as listed in Exhibit E.

4. Waiver of Hearings. Alan Pearson waives notice of hearing and hearing pursuant to Minn. Stat. section 429.031, on the Improvement Project, notice of hearing and hearing on the special assessments levied to finance the Improvement Project pursuant to Minn. Stat. section 429.061, and any notice of hearing or procedure specified under the City Charter, and specifically requests that the Improvement Project be constructed and special assessments be levied against the Property without hearings.

6. Waiver. Alan Pearson waives the right to appeal the levy of the special assessments pursuant to Minn. Stat. section 429.081, and further specifically agrees with respect to such special assessments that:

    a. Any requirements of Minn. Stat. chapter 429 or the City Charter with which the City does not comply are hereby waived;

    b. The increase in fair market value of the Property resulting from construction of the Improvement Project will be at least equal to the cost of the Improvement Project as set forth herein, and that such increase in fair market value is a special benefit to the Property;

    c. Assessment of the above-specified cost of the Improvement Project against the Property is reasonable, fair and equitable and there are no other properties against which such cost should be assessed.

7. No Deferral. Alan Pearson represents and warrants that the Property is not so classified for tax purposes as to result in deferral of the obligation to pay special assessments, and Alan Pearson agrees that he will take no action to secure such tax status of the Property during the term of this Agreement.

8. Assessment. Alan Pearson requests that **$216,312.52** of the actual cost of the Improvement Project be assessed against the Property as detailed in Exhibit C and Exhibit D.

9. Payment of Assessment.

    a. No annual or semi-annual assessment payments are required until the Alan Pearson parcel is sold. Interest shall accrue on the assessment. The fixed interest rate applied to the Assessment shall be set at the ten (10) year U.S. Treasury rate on the date of this agreement plus 2 percent. Certified assessments shall be paid in full upon transfer of ownership of the Alan Pearson parcel.

10. Collateral.

    a. No additional collateral required.

11. Successors and Assigns. The covenants, waivers and agreements contained in this Agreement shall bind the successors and assigns of Alan Pearson and shall run with the Property and bind all its successors in interest. It is the intent of the parties hereto that this Agreement be in a form that is recordable in the land records of Anoka County, Minnesota, and they agree to make any changes in this Agreement that may be necessary to effect the recording of this Agreement against the title to the Property.

12. Termination. This Agreement shall terminate upon the final payment of all special assessments levied against the Property from the Improvement Project. The City shall then execute and deliver such documents, in recordable form, as are necessary to extinguish its rights hereunder.

13. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute a single agreement.

CITY OF RAMSEY

By: _____
Its: Mayor

ATTEST

By: _____
Its: City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Mark E. Kuzma and Kurtis G. Ulrich, the Mayor and City Administrator, respectively, of the City of Ramsey, a Minnesota municipal corporation pursuant to the authority granted by its City Council.

_____
Notary Public

ALAN R. PEARSON AND ELIZABETH J. PEARSON, TRUSTEES OF THE ALAN R. PEARSON REVOCABLE TRUST

By: Alan R Pearson
Its: Trusty

STATE OF MINNESOTA)
) SS.
COUNTY OF Anoka)

On this 16 day of March, 2022, before me a Notary Public within and for said County, personally Alan R Pearson, to me personally known, who each by me duly sworn, did say that he is Alan Pearson, acknowledged said instrument to be the free act and deed of said person.

Marsha M Weidner
Notary Public

MARSHA M WEIDNER
Notary Public
Minnesota
My Commission Expires January 31, 2026

EXHIBIT A

Property Description

OUTLOT C AND OUTLOT O, RIVERSTONE SOUTH, Anoka County, Minnesota

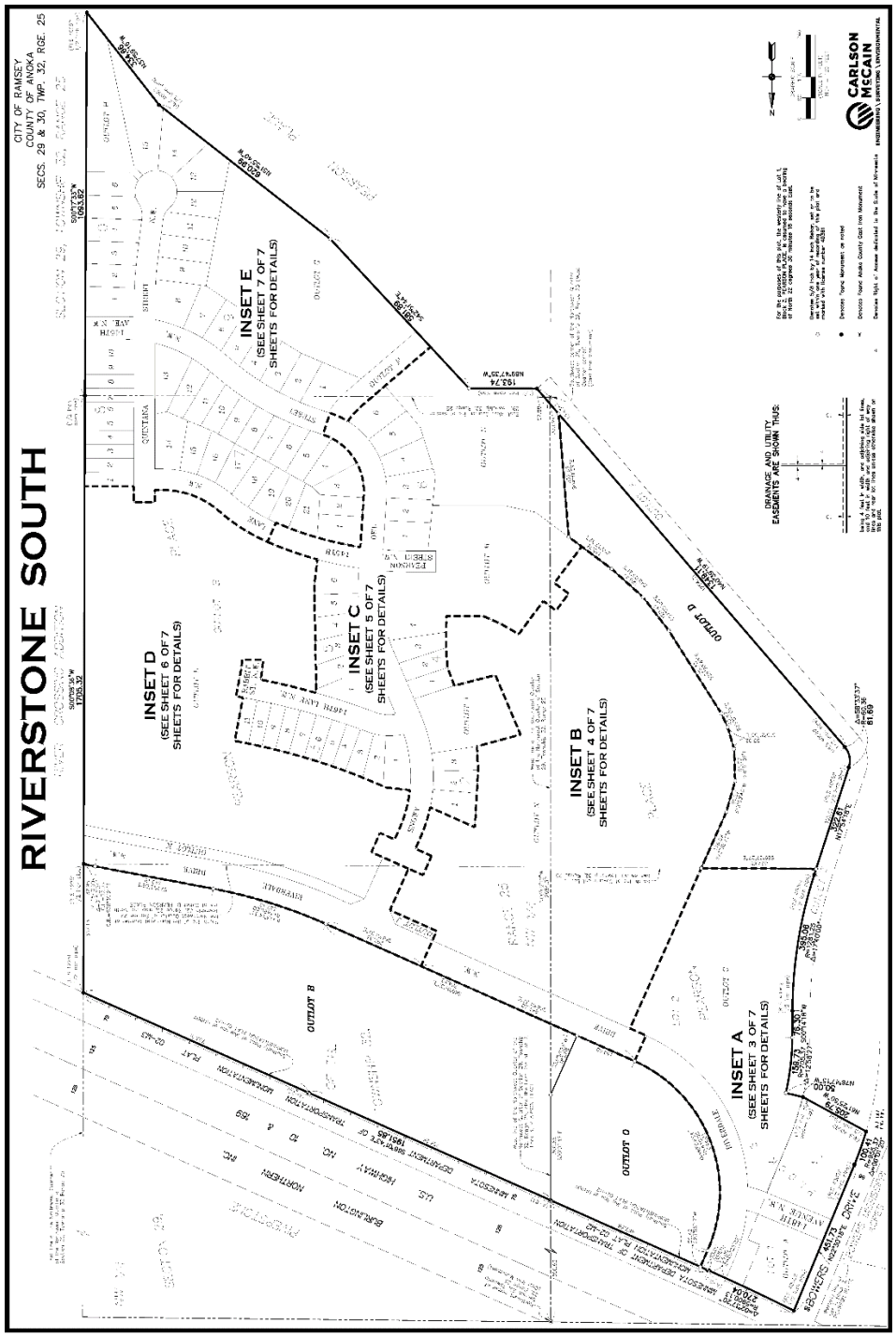


EXHIBIT B

Improvement Project

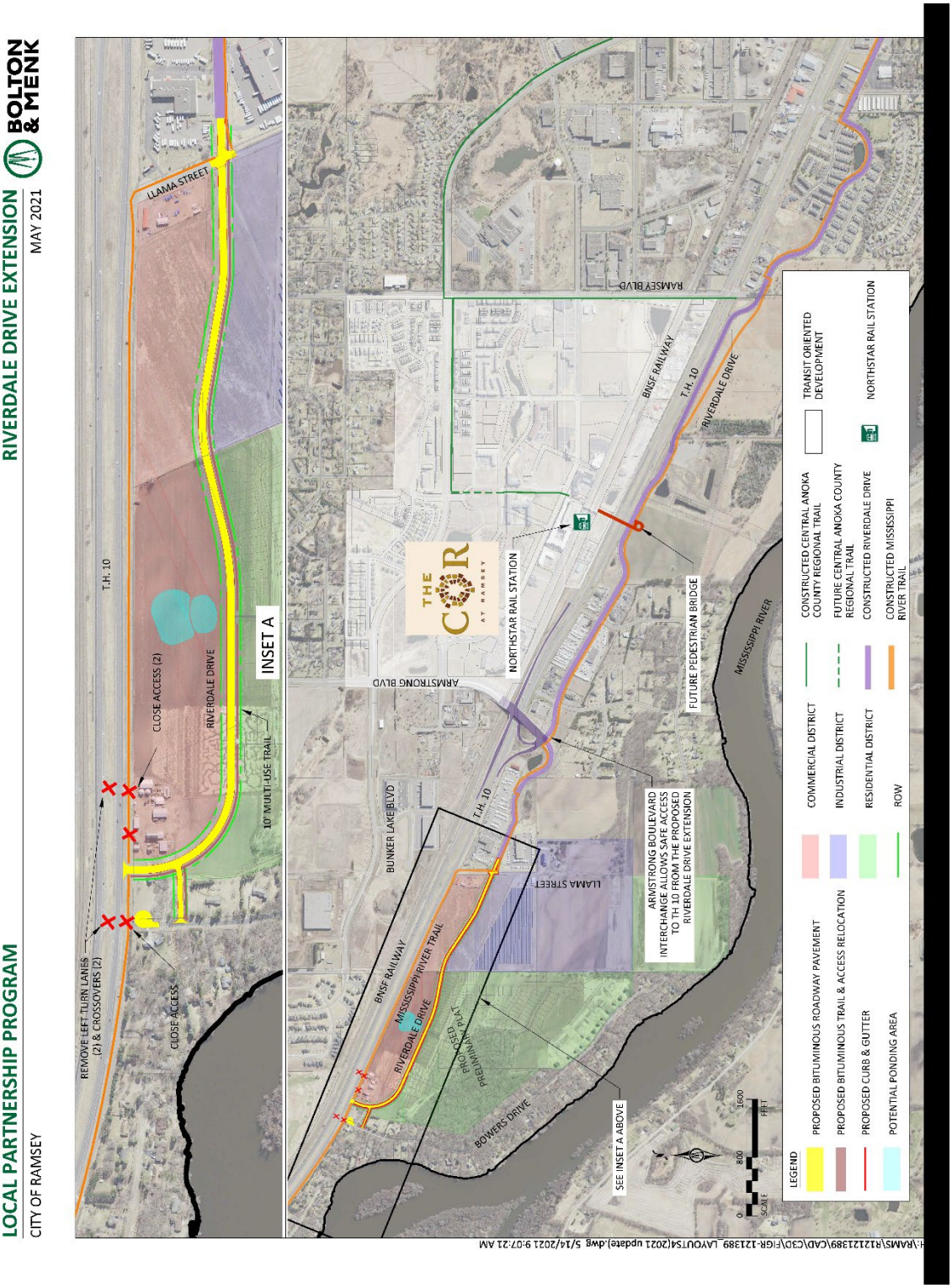


EXHIBIT C

Approved Cost Share Framework/Preliminary Assessment Roll

Approved Framework 10.26.21 Res. #21-185 Solving for 350K Tree Preservation with HRA and PIR Funding

City/Grant Fully Funding County Parcel **Project Costs (including ROW)**

Area Description	Cost Allocation	Lineal Footage	%	City %	Capstone %	Pearson%
County Parcel	$612,226	1532	35.89%	100%	0	0
County ROW DRAFT	**$283,000**	0	0	100%		
Pearson Parcel	$979,881	2452	57.44%	52.5%	0.0%	47.5%
Bowers Drive Modifications	$113,893	285	6.68%	100%	0	0
Total	**$1,989,000**	4269	100.00%			

Note: utilities not included - paid for by Trunk Fees

Sources of Funds						
	County Parcel	Pearson Parcel	%	Bowers Drive	Total	Project %
MnDOT Grant	$612,000	$0			$612,000	30.8%
City Contribution (HRA)	$283,226	$514,242	52.5%	$113,893	$911,361	45.8%
Pearson Contribution		$465,639	47.5%		$465,639	23.4%
Capstone Contribution		$0	0.0%		$0	0.0%
	$895,226	$979,881	100.0%		$1,989,000	100.0%
Uses (Project Costs)						
Portion of Overall Project	35.9%	57.4%		6.7%	100.0%	
Road, Trail, Storm	$612,226	$979,881		$113,893	$1,706,000	
ROW	**$283,000**				$283,000	
	$895,226	$979,881		$113,893	$1,989,000	

				1/3 of funding gap
County Parcel + ROW =	$895,226			
		Funding Gap	**$0**	*$0.00*

Public vs. Private Dollars

Private (Capstone + Pearson)	$465,639	23%
Public (City + MnDOT)	$1,523,361	77%
	$1,989,000	

Capstone / Pearson Agreement*	**Party**	**Assessment Amt**	**%**
Private Pearson Parcel Total	Capstone	$239,875	34%
$465,639	Pearson	$465,639	66%

* Assessment amounts based on lineal footage along Riverdale Drive Pearson and Capstone

Capstone Tree Preservation Credit (Pearson)	$ 239,875	HRA	Pay for Capstone Assessment (above)
Additional City Contribution (to Capstone)	$ 110,125	PIR	Payment to Capstone
Tree Preservation Reconcilliation	**$ 350,000**		

		Difference from 1.26.21
Total City Contribution**	$ 911,361	**$235,841**
Total Grant Contribution	$ 612,000	**$ (638,000)**
ROW Cost Estimate	$ 283,000	**$ (667,000)**
Project Costs Less County ROW	$ 1,706,000	**$ 31,000**

** This includes 350 K Tree Preservation

EXHIBIT D

Example Payment Schedule

Calculation is based on start date of 3/22/22 284 days of interest first year			
Alan R. Pearson & Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005-Outlot C & O			
Non-bonded 10-year treasurry 2.14+ 2 basis points =4.14%			
Chart below is for informational purposes only.			
	4.140% Interest	Cumulative Pay-Off Balance	Principal Balance
If Assessment paid in full by Dec 31:			216,312.52
2022	6,967.99	223,280.51	216,312.52
2023	6,967.99	230,248.50	216,312.52
2024	6,967.99	237,216.49	216,312.52
2025	6,967.99	244,184.48	216,312.52
2026	6,967.99	251,152.47	216,312.52
2027	6,967.99	258,120.46	216,312.52
2028	6,967.99	265,088.44	216,312.52
2029	6,967.99	272,056.43	216,312.52
2030	6,967.99	279,024.42	216,312.52
2031	6,967.99	285,992.41	216,312.52
Total	$ 69,679.89		

Exhibit E

Liens and Encumbrances

stewart title

163412-1180-

ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Countersigned by:

Dennis J. Unger, Vice President
Authorized Countersignature

Land Title, Inc.
Company Name

Roseville, MN
City, State

STEWART TITLE GUARANTY COMPANY INCORPORATED 1908 TEXAS

Matt Morris
President and CEO

Denise Carraux
Secretary

For purposes of this form the "Stewart Title" logo featured above is the represented logo for the underwriter, Stewart Title Guaranty Company.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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LT File No.: 650013
008-UN ALTA Commitment For Title Insurance 8-1-16
Page 1 of 11

COMMITMENT CONDITIONS

1. **DEFINITIONS**
   (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
   (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
   (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
   (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
   (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
   (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
   (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
   (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:
   (a) the Notice;
   (b) the Commitment to Issue Policy;
   (c) the Commitment Conditions;
   (d) Schedule A;
   (e) Schedule B, Part I - Requirements;
   (f) Schedule B, Part II - Exceptions; and
   (g) a countersignature by the Company or its issuing agent that may be in electronic form.

4. **COMPANY'S RIGHT TO AMEND**
   The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. **LIMITATIONS OF LIABILITY**
   (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
      (i) comply with the Schedule B, Part I - Requirements;
      (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
      (iii) acquire the Title or create the Mortgage covered by this Commitment.
   (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
   (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.

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(d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
(e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
(f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
(g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

(a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
(b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
(c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
(d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
(e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
(f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is $2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

STEWART TITLE GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252-2029.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Transaction Identification Data for reference only:
Issuing Agent: Land Title, Inc.
Issuing Office: 2200 County Road C West, Suite 2205, Roseville, MN 55113
Issuing Office's ALTA® Registry ID:
Loan ID Number:
Commitment Number: 650013
Issuing Office File Number: 650013
Property Address: 0 Unassigned, Ramsey, MN 55303

1. Commitment Date: October 18, 2021 at 7:00 am

2. Policy to be issued:

   (a) [X] 2006 ALTA® Owner's Policy (6-17-06)
   Proposed Insured: Capstone Homes, Inc., a Minnesota corporation

   Proposed Policy Amount: $

   (b) [X] 2006 ALTA® Loan Policy (6-17-06)
   Proposed Insured:
   Proposed Policy Amount: $

   (c) [ ] _____ ALTA® _____ Policy
   Proposed Insured:
   Proposed Policy Amount: $

3. The estate or interest in the Land described or referred to in this Commitment is FEE SIMPLE.

4. The Title is, at the Commitment Date, vested in:

   Parcels 1 and 2:
   Pearson Properties of Ramsey, LLC, a Minnesota limited liability company

   Parcel 3:
   Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005.

   Parcel 4:
   Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005

5. The Land is described as follows:

   See Attached Exhibit A.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Abstract Property
Anoka County, State of Minnesota

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

EXHIBIT A

Parcel 1:
Outlot B, Pearson Place, Anoka County, Minnesota.

Parcel 2:
That part of the Northwest Quarter of the Northwest Quarter of Section 29, Township 32, Range 25, Anoka County, Minnesota, lying southerly of U.S. Highway 10 and 169.

Parcel 3:
Lot 2, Block 3, Pearson Place, Anoka County, Minnesota.

Parcel 4:
Lot 1, Block 3, Pearson Place, Anoka County, Minnesota.

Abstract Property

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SCHEDULE B, PART I
Requirements

All of the following Requirements must be met:

A. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
B. Pay the agreed amount for the estate or interest to be insured.
C. Pay the premiums, fees, and charges for the Policy to the Company.
D. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

E. The record does not disclose any open mortgages. Confirmation of this must be made prior to closing.

F. Affidavit stating that Alan R. Pearson referenced as grantee in Warranty Deed filed as Document Number 619022 and R. Alan Pearson referenced as grantor in Warranty Deed filed as Document Number 1971756.001 are one and the same person. (Parcel 3).

G. Satisfactory evidence of the authority of the person(s) signing on behalf of Pearson Properties of Ramsey, LLC, a Minnesota limited liability company is required prior to closing.

H. Warranty Deed from Pearson Properties of Ramsey, LLC, a Minnesota limited liability company, to Capstone Homes, Inc., a Minnesota corporation. (Parcels 1 and 2)

I. A Certificate of Trust in regards to the Alan R. Pearson Revocable Trust u/a dated April 7, 2005, along with an Affidavit of Trustee, is required in support of the conveyance.

J. Trustee's Deed from Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005., to Capstone Homes, Inc., a Minnesota corporation.

K. A Certificate of Trust in regards to the Elizabeth J. Pearson Trust u/a dated April 7, 2005, along with an Affidavit of Trustee, is required in support of the conveyance.

L. Trustee's Deed from Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005, to Capstone Homes, Inc., a Minnesota corporation.

M. The standard form of Seller's and/or Purchaser's Affidavit, satisfactory to the Company, will be required.

INFORMATIONAL NOTE: Title is vested in Pearson Properties of Ramsey, LLC, a Minnesota limited liability company as evidenced by Warranty Deed dated December 28, 2004, filed December 29, 2004 as Document Number 1971756.001. (Parcels 1 and 2)

INFORMATIONAL NOTE: Title is vested in Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005 as evidenced by Warranty Deed dated January 25, 2019, filed

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January 28, 2019 as Document Number 2219380.004. (Parcel 3)

INFORMATIONAL NOTE: Title is vested in Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005 as evidenced by Warranty Deed dated January 25, 2019, filed January 28, 2019 as Document Number 2219380.005. (Parcel 4)

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

SCHEDULE B, PART II
Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.

   NOTE: Upon closing with Land Title, Inc., Item 1 on Schedule B, Part II will be deleted. The Final Policy will extend coverage as to the gap between the Effective Date listed in Item 1 of Schedule A and the date of recording of the instruments creating the interest to be insured.

2. Rights or claims of parties in possession not shown by the public records.

3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.

4. Easements or claims of easements, which are not shown by the public records.

5. Any lien or right to a lien for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

6. Taxes or special assessments which are not shown as existing liens by the records.

7. General and special taxes and assessments as hereafter listed, if any (all amounts shown being exclusive of interest, penalties and costs).

8. No coverage is provided for municipal code compliance matters and fees including, but not limited to, utilities, right of way maintenance, water or sewer services, or fees for tree, weeds, grass, and snow or garbage removal, police boarding, vacant building registration and zoning.

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9. Any lease, grant, exception or reservation of minerals or mineral rights appearing in the public records.

10. Tax I.D. No.: 293225230004 (UL)
Taxes for the year 2021: $700.66, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $700.66
(Homestead).

Tax I.D. No.: 293225220003 (UL)
Taxes for the year 2021: $2,899.22, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,899.22
(Homestead).

Tax I.D. No.: 303225110032 (UL)
Taxes for the year 2021: $2,452.76, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,428.74
(Homestead).

Tax I.D. No.: 303225110031 (UL)
Taxes for the year 2021: $2,934.14, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,910.12
(Homestead).

NOTE: 1st Half Taxes are payable on or before May 15th and 2nd Half Taxes are payable on or before October 15th.

11. Levied and pending special assessment searches have been ordered.

12. Rights of tenants in possession as tenants only under unrecorded leases.

13. Easement in favor of Rural Cooperative Power Association filed in Book 302, page 118 as Document Number 153924. (Parcels 1 and 2)
NOTE: Assignment to Anoka Electric Cooperative (now known as Connexus Energy) filed in Book 409, page39 as Document Number 186675.
NOTE: Partial Release filed as Document Number 2170673.001.

14. Resolution Granting Approval of the Final Plat and Development Agreement for Pearson Place filed as Document Number 2186615.001. (Parcels 1, 3 and 4)

15. Resolution No. 20-139 filed as Document Number 2274986.001. (Parcel 1)

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

16. Restrictions of Access to Minnesota State Highway No. 10 as referenced on the recorded plat of Pearson Place. (Parcels 3 and 4)

17. Declaration of Access Easement filed as Document Number 2090228.006. (Parcel 3)

18. Terms and conditions of Development Agreement dated November 17, 2017, filed November 17, 2017 as Document Number 2186615.003. (Parcels 1, 3, and 4)

19. Declaration of Covenants, Conditions, and Restrictions for Riverstone filed July 28, 2017 as Document Number 2176959.005, amended by Document Number 2183604.001, 2189331.001, and 2282641.001. (Parcels 1, 2, and 3 are shown as additional property)

20. The following matters disclosed by Boundary Survey dated June 30, 2020 by Carlson McCain Job No. 2086:
    (a) Light Pole, Billboard, Electric Meter and Sign lie Southerly of the South Mndot Right of Way line.
    (b) Guy wire lies Easterly of the Northwest Property line.

21. If there are any questions regarding this Commitment, please contact Nate Schultz at (651) 697-6161 or by email at nschultz@landtitleinc.com.

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(reserved for recording)

ASSESSMENT AGREEMENT

THIS ASSESSMENT AGREEMENT (this "Agreement") is made this ____ day of _____, 2022, by and between between the **City of Ramsey**, Minnesota, a Minnesota municipal corporation ("City"), and **Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust** ("Elizabeth Pearson").

Recitals

A. Elizabeth Pearson is the owner of fee title to the Property, as defined in Exhibit A, attached hereto.

B. Elizabeth Pearson desires to have certain public improvements constructed to serve the Property as described in Exhibit B (the "Improvement Project"). Concept level plans and specifications for the Improvement Project are completed.

C. Elizabeth Pearson desires to have the City construct the Improvement Project without notice of hearing or hearing on the special assessments levied to finance the Improvement Project, and to levy **$81,180.10** of the cost of the Improvement Project against the Property.

D. The City is willing to construct the Improvement Project without certain notices or hearings, provided that assurances and covenants stated below are made by Elizabeth Pearson to ensure that the City will have valid and collectable special assessments as they relate to the Property.

E. Were it not for the assurances and covenants provided in this Agreement, the City would not construct the Improvement Project and is doing so at the behest, and for the benefit, of Elizabeth Pearson.

Agreement

In consideration of the recitals stated above, the mutual promises and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1. Recitals Incorporated. The recitals stated above are hereby incorporated into this Agreement and made a part of this Agreement by reference.

2. Petition. Elizabeth Pearson hereby petitions the City for construction of the Improvement Project.

3. Authority.

    a. Elizabeth Pearson represents and warrants that she is the owner of 100 percent of the Property as described in Exhibit A, that she has full legal authority to encumber the Property as provided in this Agreement, and that as of the date of this Agreement, she has fee simple absolute title in the Property, which is not subject to any liens, interests or encumbrances, except as listed in Exhibit E.

4. Waiver of Hearings. Elizabeth Pearson waives notice of hearing and hearing pursuant to Minn. Stat. section 429.031, on the Improvement Project, notice of hearing and hearing on the special assessments levied to finance the Improvement Project pursuant to Minn. Stat. section 429.061, and any notice of hearing or procedure specified under the City Charter, and specifically requests that the Improvement Project be constructed and special assessments be levied against the Property without hearings.

6. Waiver. Elizabeth Pearson waives the right to appeal the levy of the special assessments pursuant to Minn. Stat. section 429.081, and further specifically agrees with respect to such special assessments that:

    a. Any requirements of Minn. Stat. chapter 429 or the City Charter with which the City does not comply are hereby waived;

    b. The increase in fair market value of the Property resulting from construction of the Improvement Project will be at least equal to the cost of the Improvement Project as set forth herein, and that such increase in fair market value is a special benefit to the Property;

    c. Assessment of the above-specified cost of the Improvement Project against the Property is reasonable, fair and equitable and there are no other properties against which such cost should be assessed.

7. No Deferral. Elizabeth Pearson represents and warrants that the Property is not so classified for tax purposes as to result in deferral of the obligation to pay special assessments, and Elizabeth Pearson agrees that she will take no action to secure such tax status of the Property during the term of this Agreement.

8. Assessment. Elizabeth Pearson requests that **$34,112.95** of the actual cost of the Improvement Project be assessed against the Property as detailed in Exhibit C and Exhibit D.

9. Payment of Assessment.

    a. No annual or semi-annual assessment payments are required until the Elizabeth Pearson parcel is sold. Interest shall accrue on the assessment. The fixed interest rate applied to the Assessment shall be set at the ten (10) year U.S. Treasury rate on the date of this agreement plus 2 percent. Certified assessments shall be paid in full upon transfer of ownership of the Elizabeth Pearson parcel.

10. Collateral.

    a. No additional collateral required.

11. Successors and Assigns. The covenants, waivers and agreements contained in this Agreement shall bind the successors and assigns of Elizabeth Pearson and shall run with the Property and bind all its successors in interest. It is the intent of the parties hereto that this Agreement be in a form that is recordable in the land records of Anoka County, Minnesota, and they agree to make any changes in this Agreement that may be necessary to effect the recording of this Agreement against the title to the Property.

12. Termination. This Agreement shall terminate upon the final payment of all special assessments levied against the Property from the Improvement Project. The City shall then execute and deliver such documents, in recordable form, as are necessary to extinguish its rights hereunder.

13. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute a single agreement.

CITY OF RAMSEY

By: _____
Its: Mayor

ATTEST

By: _____
Its: City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Mark E. Kuzma and Kurtis G. Ulrich, the Mayor and City Administrator, respectively, of the City of Ramsey, a Minnesota municipal corporation pursuant to the authority granted by its City Council.

_____
Notary Public

ALAN R. PEARSON AND ELIZABETH J. PEARSON, TRUSTEES OF THE ELIZABETH J. PEARSON TRUST

By: Elizabeth J Pearson
Its: Trustee

STATE OF MINNESOTA)
) SS.
COUNTY OF Anoka)

On this 16 day of March, 2022, before me a Notary Public within and for said County, personally Elizabeth J. Pearson, to me personally known, who each by me duly sworn, did say that she is Elizabeth Pearson, acknowledged said instrument to be the free act and deed of said person.

Marsha M. Weidner
Notary Public

MARSHA M WEIDNER
Notary Public
Minnesota
My Commission Expires January 31, 2026

EXHIBIT A

Property Description

OUTLOT A AND LOT 1, BLOCK 1, RIVERSTONE SOUTH, Anoka County, Minnesota

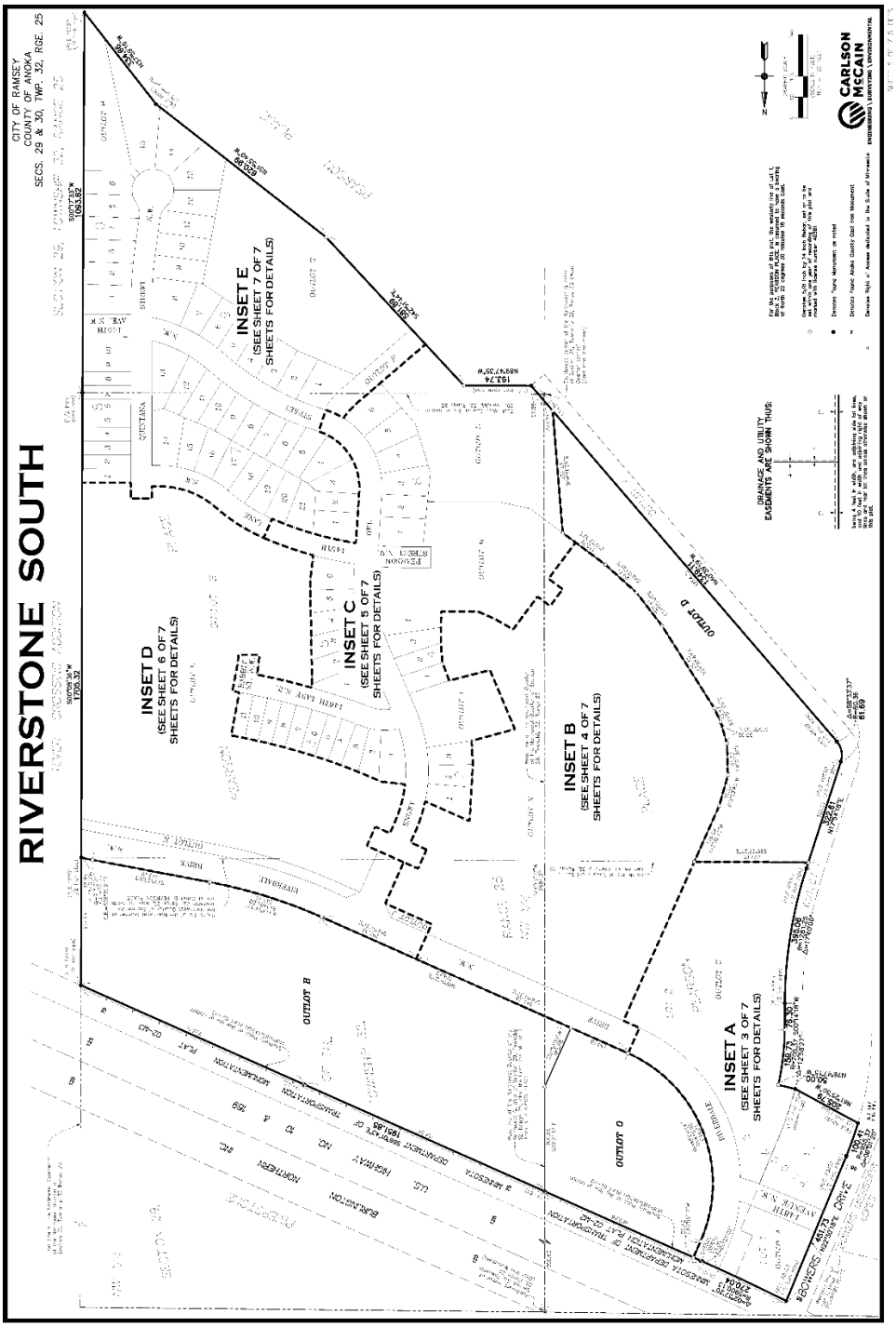


EXHIBIT B

Improvement Project

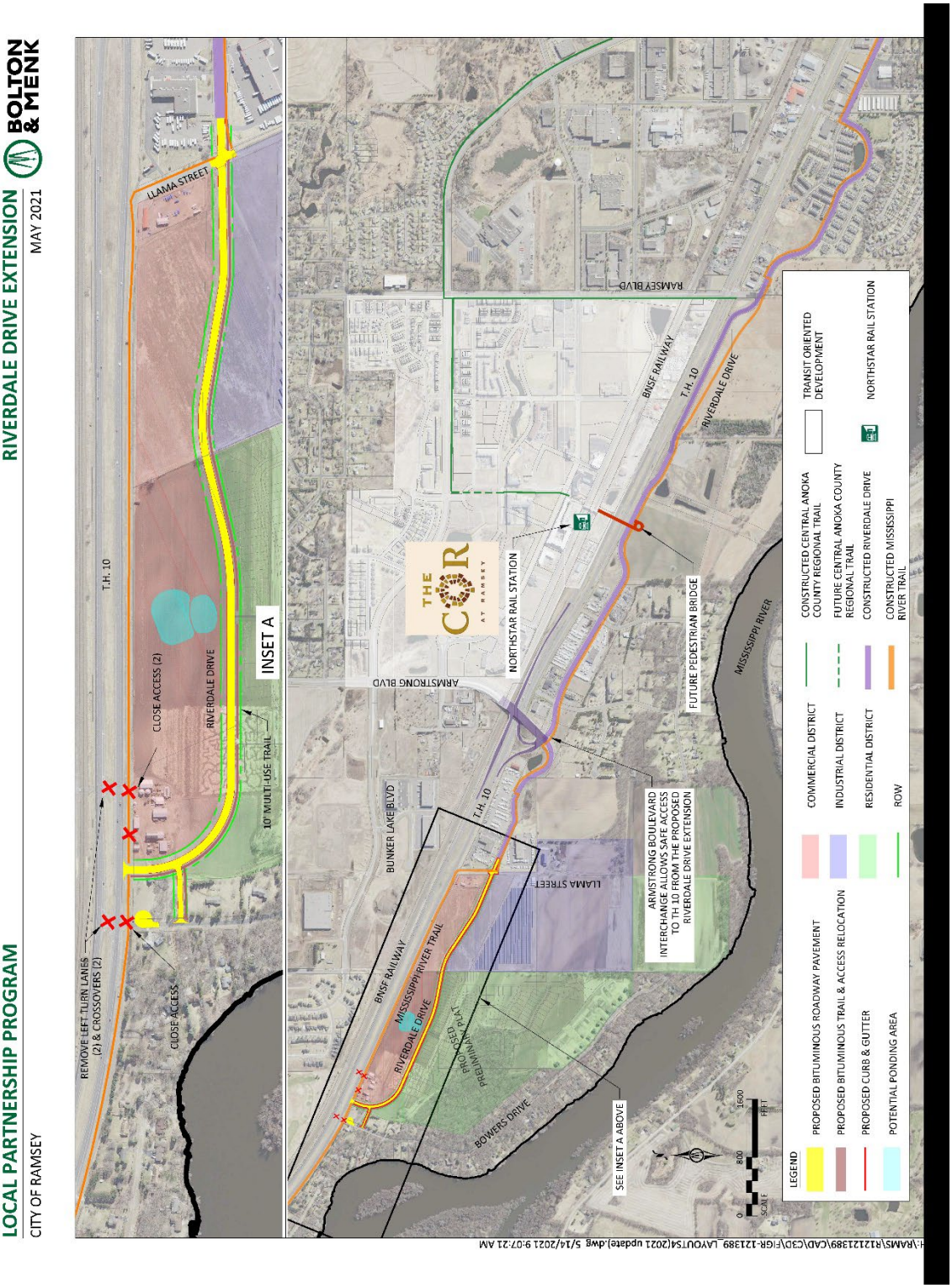


EXHIBIT C

Approved Cost Share Framework/Preliminary Assessment Roll

Approved Framework 10.26.21 Res. #21-185 Solving for 350K Tree Preservation with HRA and PIR Funding

City/Grant Fully Funding County Parcel **Project Costs (including ROW)**

Area Description	Cost Allocation	Lineal Footage	%	City %	Capstone %	Pearson%
County Parcel	$612,226	1532	35.89%	100%	0	0
County ROW DRAFT	**$283,000**	0	0	100%		
Pearson Parcel	$979,881	2452	57.44%	52.5%	0.0%	47.5%
Bowers Drive Modifications	$113,893	285	6.68%	100%	0	0
Total	**$1,989,000**	4269	100.00%			

Note: utilities not included - paid for by Trunk Fees

Sources of Funds						
	County Parcel	Pearson Parcel	%	Bowers Drive	Total	Project %
MnDOT Grant	$612,000	$0			$612,000	30.8%
City Contribution (HRA)	$283,226	$514,242	52.5%	$113,893	$911,361	45.8%
Pearson Contribution		$465,639	47.5%		$465,639	23.4%
Capstone Contribution		$0	0.0%		$0	0.0%
	$895,226	$979,881	100.0%		$1,989,000	100.0%
Uses (Project Costs)						
Portion of Overall Project	35.9%	57.4%		6.7%	100.0%	
Road, Trail, Storm	$612,226	$979,881		$113,893	$1,706,000	
ROW	**$283,000**				$283,000	
	$895,226	$979,881		$113,893	$1,989,000	

				1/3 of funding gap
County Parcel + ROW =	$895,226			
		Funding Gap	**$0**	*$0.00*

Public vs. Private Dollars

Private (Capstone + Pearson)	$465,639	23%
Public (City + MnDOT)	$1,523,361	77%
	$1,989,000	

Capstone / Pearson Agreement*	**Party**	**Assessment Amt**	**%**
Private Pearson Parcel Total	Capstone	$239,875	34%
$465,639	Pearson	$465,639	66%

* Assessment amounts based on lineal footage along Riverdale Drive Pearson and Capstone

Capstone Tree Preservation Credit (Pearson)	$ 239,875	HRA	Pay for Capstone Assessment (above)
Additional City Contribution (to Capstone)	$ 110,125	PIR	Payment to Capstone
Tree Preservation Reconcilliation	**$ 350,000**		

		Difference from 1.26.21
Total City Contribution**	$ 911,361	**$235,841**
Total Grant Contribution	$ 612,000	**$ (638,000)**
ROW Cost Estimate	$ 283,000	**$ (667,000)**
Project Costs Less County ROW	$ 1,706,000	**$ 31,000**

** This includes 350 K Tree Preservation

EXHIBIT D

Example Payment Schedule

Calculation is based on start date of 3/22/22 284 days of interest first year				
Alan R. Pearson & Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Revocable Trust u/a dated April 7, 2005-Outlot A				
Non-bonded 10-year treasurry 2.14+ 2 basis points =4.14%				
Chart below is for informational purposes only.				
	Principal	4.140% Interest	Cumulative Pay-Off Balance	Principal Balance
If Assessment paid in full by Dec 31:				**34,112.95**
2022		1,098.87	35,211.82	34,112.95
2023		1,412.28	36,624.09	34,112.95
2024		1,412.28	38,036.37	34,112.95
2025		1,412.28	39,448.65	34,112.95
2026		1,412.28	40,860.92	34,112.95
2027		1,412.28	42,273.20	34,112.95
2028		1,412.28	43,685.47	34,112.95
2029		1,412.28	45,097.75	34,112.95
2030		1,412.28	46,510.03	34,112.95
2031		1,412.28	47,922.31	34,112.95
Total		$ 13,809.35		

Exhibit E

Liens and Encumbrances

stewart title

163412-1180-0

ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Countersigned by:

Dennis J. Unger, Vice President
Authorized Countersignature

Land Title, Inc.
Company Name

Roseville, MN
City, State

STEWART TITLE GUARANTY COMPANY INCORPORATED 1908 TEXAS

Matt Morris
President and CEO

Denise Carraux
Secretary

For purposes of this form the "Stewart Title" logo featured above is the represented logo for the underwriter, Stewart Title Guaranty Company.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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LT File No.: 650013
008-UN ALTA Commitment For Title Insurance 8-1-16
Page 1 of 11

COMMITMENT CONDITIONS

1. **DEFINITIONS**
   (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
   (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
   (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
   (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
   (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
   (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
   (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
   (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:
   (a) the Notice;
   (b) the Commitment to Issue Policy;
   (c) the Commitment Conditions;
   (d) Schedule A;
   (e) Schedule B, Part I - Requirements;
   (f) Schedule B, Part II - Exceptions; and
   (g) a countersignature by the Company or its issuing agent that may be in electronic form.

4. **COMPANY'S RIGHT TO AMEND**
   The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. **LIMITATIONS OF LIABILITY**
   (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
      (i) comply with the Schedule B, Part I - Requirements;
      (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
      (iii) acquire the Title or create the Mortgage covered by this Commitment.
   (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
   (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.

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(d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
(e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
(f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
(g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

(a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
(b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
(c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
(d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
(e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
(f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is $2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

STEWART TITLE GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252-2029.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Transaction Identification Data for reference only:
Issuing Agent: Land Title, Inc.
Issuing Office: 2200 County Road C West, Suite 2205, Roseville, MN 55113
Issuing Office's ALTA® Registry ID:
Loan ID Number:
Commitment Number: 650013
Issuing Office File Number: 650013
Property Address: 0 Unassigned, Ramsey, MN 55303

1. Commitment Date: October 18, 2021 at 7:00 am

2. Policy to be issued:

   (a) [X] 2006 ALTA® Owner's Policy (6-17-06)
   Proposed Insured: Capstone Homes, Inc., a Minnesota corporation

   Proposed Policy Amount: $

   (b) [X] 2006 ALTA® Loan Policy (6-17-06)
   Proposed Insured:
   Proposed Policy Amount: $

   (c) [ ] _____ ALTA® _____ Policy
   Proposed Insured:
   Proposed Policy Amount: $

3. The estate or interest in the Land described or referred to in this Commitment is FEE SIMPLE.

4. The Title is, at the Commitment Date, vested in:

   Parcels 1 and 2:
   Pearson Properties of Ramsey, LLC, a Minnesota limited liability company

   Parcel 3:
   Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005.

   Parcel 4:
   Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005

5. The Land is described as follows:

   See Attached Exhibit A.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Abstract Property
Anoka County, State of Minnesota

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

EXHIBIT A

Parcel 1:
Outlot B, Pearson Place, Anoka County, Minnesota.

Parcel 2:
That part of the Northwest Quarter of the Northwest Quarter of Section 29, Township 32, Range 25, Anoka County, Minnesota, lying southerly of U.S. Highway 10 and 169.

Parcel 3:
Lot 2, Block 3, Pearson Place, Anoka County, Minnesota.

Parcel 4:
Lot 1, Block 3, Pearson Place, Anoka County, Minnesota.

Abstract Property

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SCHEDULE B, PART I
Requirements

All of the following Requirements must be met:

A. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
B. Pay the agreed amount for the estate or interest to be insured.
C. Pay the premiums, fees, and charges for the Policy to the Company.
D. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

E. The record does not disclose any open mortgages. Confirmation of this must be made prior to closing.

F. Affidavit stating that Alan R. Pearson referenced as grantee in Warranty Deed filed as Document Number 619022 and R. Alan Pearson referenced as grantor in Warranty Deed filed as Document Number 1971756.001 are one and the same person. (Parcel 3).

G. Satisfactory evidence of the authority of the person(s) signing on behalf of Pearson Properties of Ramsey, LLC, a Minnesota limited liability company is required prior to closing.

H. Warranty Deed from Pearson Properties of Ramsey, LLC, a Minnesota limited liability company, to Capstone Homes, Inc., a Minnesota corporation. (Parcels 1 and 2)

I. A Certificate of Trust in regards to the Alan R. Pearson Revocable Trust u/a dated April 7, 2005, along with an Affidavit of Trustee, is required in support of the conveyance.

J. Trustee's Deed from Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005., to Capstone Homes, Inc., a Minnesota corporation.

K. A Certificate of Trust in regards to the Elizabeth J. Pearson Trust u/a dated April 7, 2005, along with an Affidavit of Trustee, is required in support of the conveyance.

L. Trustee's Deed from Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005, to Capstone Homes, Inc., a Minnesota corporation.

M. The standard form of Seller's and/or Purchaser's Affidavit, satisfactory to the Company, will be required.

INFORMATIONAL NOTE: Title is vested in Pearson Properties of Ramsey, LLC, a Minnesota limited liability company as evidenced by Warranty Deed dated December 28, 2004, filed December 29, 2004 as Document Number 1971756.001. (Parcels 1 and 2)

INFORMATIONAL NOTE: Title is vested in Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005 as evidenced by Warranty Deed dated January 25, 2019, filed

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January 28, 2019 as Document Number 2219380.004. (Parcel 3)

INFORMATIONAL NOTE: Title is vested in Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005 as evidenced by Warranty Deed dated January 25, 2019, filed January 28, 2019 as Document Number 2219380.005. (Parcel 4)

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

SCHEDULE B, PART II
Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.

   NOTE: Upon closing with Land Title, Inc., Item 1 on Schedule B, Part II will be deleted. The Final Policy will extend coverage as to the gap between the Effective Date listed in Item 1 of Schedule A and the date of recording of the instruments creating the interest to be insured.

2. Rights or claims of parties in possession not shown by the public records.

3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.

4. Easements or claims of easements, which are not shown by the public records.

5. Any lien or right to a lien for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

6. Taxes or special assessments which are not shown as existing liens by the records.

7. General and special taxes and assessments as hereafter listed, if any (all amounts shown being exclusive of interest, penalties and costs).

8. No coverage is provided for municipal code compliance matters and fees including, but not limited to, utilities, right of way maintenance, water or sewer services, or fees for tree, weeds, grass, and snow or garbage removal, police boarding, vacant building registration and zoning.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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9. Any lease, grant, exception or reservation of minerals or mineral rights appearing in the public records.

10. Tax I.D. No.: 293225230004 (UL)
Taxes for the year 2021: $700.66, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $700.66
(Homestead).

Tax I.D. No.: 293225220003 (UL)
Taxes for the year 2021: $2,899.22, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,899.22
(Homestead).

Tax I.D. No.: 303225110032 (UL)
Taxes for the year 2021: $2,452.76, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,428.74
(Homestead).

Tax I.D. No.: 303225110031 (UL)
Taxes for the year 2021: $2,934.14, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,910.12
(Homestead).

NOTE: 1st Half Taxes are payable on or before May 15th and 2nd Half Taxes are payable on or before October 15th.

11. Levied and pending special assessment searches have been ordered.

12. Rights of tenants in possession as tenants only under unrecorded leases.

13. Easement in favor of Rural Cooperative Power Association filed in Book 302, page 118 as Document Number 153924. (Parcels 1 and 2)
NOTE: Assignment to Anoka Electric Cooperative (now known as Connexus Energy) filed in Book 409, page39 as Document Number 186675.
NOTE: Partial Release filed as Document Number 2170673.001.

14. Resolution Granting Approval of the Final Plat and Development Agreement for Pearson Place filed as Document Number 2186615.001. (Parcels 1, 3 and 4)

15. Resolution No. 20-139 filed as Document Number 2274986.001. (Parcel 1)

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

16. Restrictions of Access to Minnesota State Highway No. 10 as referenced on the recorded plat of Pearson Place. (Parcels 3 and 4)

17. Declaration of Access Easement filed as Document Number 2090228.006. (Parcel 3)

18. Terms and conditions of Development Agreement dated November 17, 2017, filed November 17, 2017 as Document Number 2186615.003. (Parcels 1, 3, and 4)

19. Declaration of Covenants, Conditions, and Restrictions for Riverstone filed July 28, 2017 as Document Number 2176959.005, amended by Document Number 2183604.001, 2189331.001, and 2282641.001. (Parcels 1, 2, and 3 are shown as additional property)

20. The following matters disclosed by Boundary Survey dated June 30, 2020 by Carlson McCain Job No. 2086:
    (a) Light Pole, Billboard, Electric Meter and Sign lie Southerly of the South Mndot Right of Way line.
    (b) Guy wire lies Easterly of the Northwest Property line.

21. If there are any questions regarding this Commitment, please contact Nate Schultz at (651) 697-6161 or by email at nschultz@landtitleinc.com.

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(reserved for recording)

ASSESSMENT AGREEMENT

THIS ASSESSMENT AGREEMENT (this "Agreement") is made this ____ day of _____, 2022, by and between between the **City of Ramsey**, Minnesota, a Minnesota municipal corporation ("City"), and **Pearson Properties of Ramsey, LLC**, a Minnesota limited liability company ("Pearson Properties").

Recitals

A. Pearson Properties is the owner of fee title to the Property, as defined in Exhibit A, attached hereto.

B. Pearson Properties desire to have certain public improvements constructed to serve the Property as described in Exhibit B (the "Improvement Project"). Concept level plans and specifications for the Improvement Project are completed.

C. Pearson Properties desire to have the City construct the Improvement Project without notice of hearing or hearing on the special assessments levied to finance the Improvement Project, and to levy **$190,271.61** of the cost of the Improvement Project against the Property.

D. The City is willing to construct the Improvement Project without certain notices or hearings, provided that assurances and covenants stated below are made by Pearson Properties to ensure that the City will have valid and collectable special assessments as they relate to the Property.

E. Were it not for the assurances and covenants provided in this Agreement, the City would not construct the Improvement Project and is doing so at the behest, and for the benefit, of Pearson Properties.

Agreement

In consideration of the recitals stated above, the mutual promises and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1. Recitals Incorporated. The recitals stated above are hereby incorporated into this Agreement and made a part of this Agreement by reference.

2. Petition. Pearson Properties hereby petition the City for construction of the Improvement Project.

3. Authority.

    a. Pearson Properties represents and warrants that it is the owner of 100 percent of the Property as described in Exhibit A, that it has full legal authority to encumber the Property as provided in this Agreement, and that as of the date of this Agreement, it has fee simple absolute title in the Property, which is not subject to any liens, interests or encumbrances, except as listed in Exhibit E.

4. Waiver of Hearings. Pearson Properties waive notice of hearing and hearing pursuant to Minn. Stat. section 429.031, on the Improvement Project, notice of hearing and hearing on the special assessments levied to finance the Improvement Project pursuant to Minn. Stat. section 429.061, and any notice of hearing or procedure specified under the City Charter, and specifically requests that the Improvement Project be constructed and special assessments be levied against the Property without hearings.

6. Waiver. Pearson Properties waives the right to appeal the levy of the special assessments pursuant to Minn. Stat. section 429.081, and further specifically agrees with respect to such special assessments that:

    a. Any requirements of Minn. Stat. chapter 429 or the City Charter with which the City does not comply are hereby waived;

    b. The increase in fair market value of the Property resulting from construction of the Improvement Project will be at least equal to the cost of the Improvement Project as set forth herein, and that such increase in fair market value is a special benefit to the Property;

    c. Assessment of the above-specified cost of the Improvement Project against the Property is reasonable, fair and equitable and there are no other properties against which such cost should be assessed.

7. No Deferral. Pearson Properties represents and warrants that the Property is not so classified for tax purposes as to result in deferral of the obligation to pay special assessments, and Pearson Properties agrees that it will take no action to secure such tax status of the Property during the term of this Agreement.

8. Assessment. Pearson Properties request that **$215,213.54** of the actual cost of the Improvement Project be assessed against the Property as detailed in Exhibit C and Exhibit D.

9. Payment of Assessment.

    a. No annual or semi-annual assessment payments are required until the Pearson Properties parcel is sold. Interest shall accrue on the assessment. The fixed interest rate applied to the Assessment shall be set at the ten (10) year U.S. Treasury rate on the date of this agreement plus 2 percent. Certified assessments shall be paid in full upon transfer of ownership of the Pearson Properties parcel.

10. Collateral.

    a. No additional collateral required.

11. Successors and Assigns. The covenants, waivers and agreements contained in this Agreement shall bind the successors and assigns of Pearson Properties and shall run with the Property and bind all its successors in interest. It is the intent of the parties hereto that this Agreement be in a form that is recordable in the land records of Anoka County, Minnesota, and they agree to make any changes in this Agreement that may be necessary to effect the recording of this Agreement against the title to the Property.

12. Termination. This Agreement shall terminate upon the final payment of all special assessments levied against the Property from the Improvement Project. The City shall then execute and deliver such documents, in recordable form, as are necessary to extinguish its rights hereunder.

13. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute a single agreement.

CITY OF RAMSEY

By: _____
Its: Mayor

ATTEST

By: _____
Its: City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Mark E. Kuzma and Kurtis G. Ulrich, the Mayor and City Administrator, respectively, of the City of Ramsey, a Minnesota municipal corporation pursuant to the authority granted by its City Council.

_____
Notary Public

PEARSON PROPERTIES OF RAMSEY, LLC

By: Alan R Pearson
Its: Pres

STATE OF MINNESOTA)
) SS.
COUNTY OF Anoka)

On this 16 day of March, 2022, before me a Notary Public within and for said County, personally Alan R. Pearson, to me personally known, who each by me duly sworn, did say that he is the President of Pearson Properties of Ramsey, LLC, a limited liability corporation under the laws of the State of Minnesota, acknowledged said instrument to be the free act and deed of said corporation.

Marsha M Weidner
Notary Public

MARSHA M WEIDNER
Notary Public
Minnesota
My Commission Expires January 31, 2026

EXHIBIT A

Property Description

OUTLOT B, RIVERSTONE SOUTH, Anoka County, Minnesota

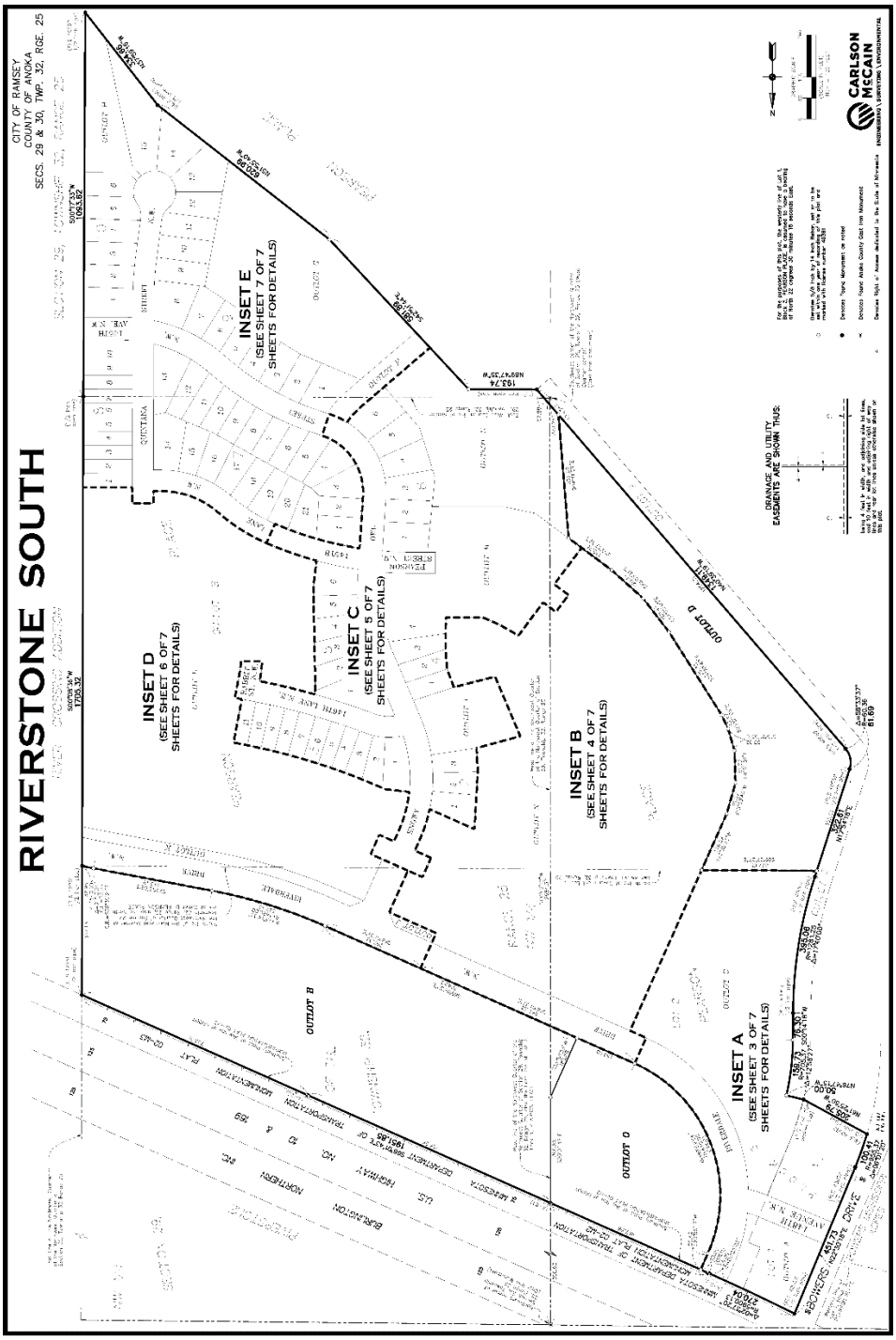


EXHIBIT B

Improvement Project

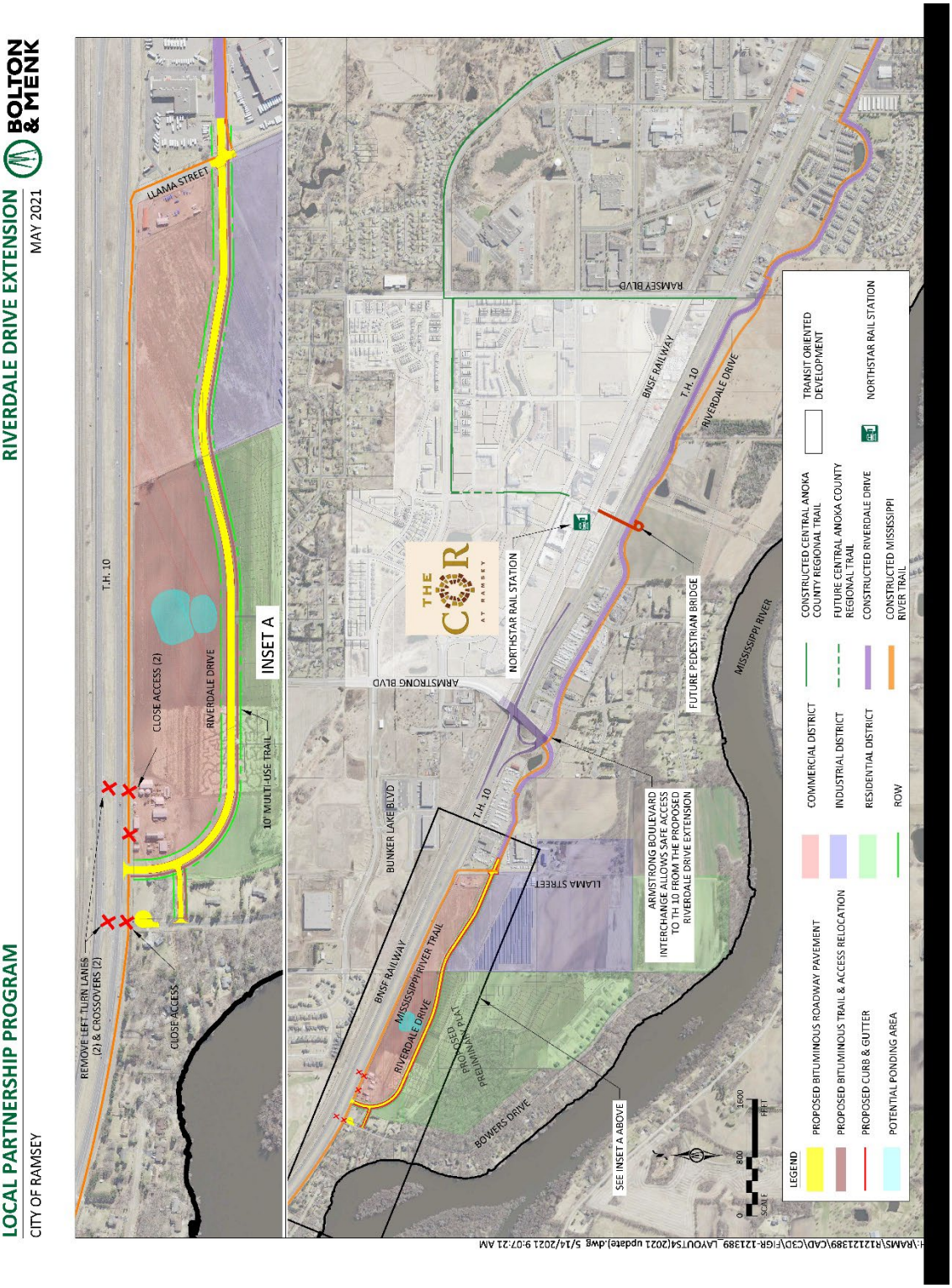


EXHIBIT C

Approved Share Framework/Preliminary Assessment Roll

Approved Framework 10.26.21 Res. #21-185 Solving for 350K Tree Preservation with HRA and PIR Funding

City/Grant Fully Funding County Parcel **Project Costs (including ROW)**

Area Description	Cost Allocation	Lineal Footage	%	City %	Capstone %	Pearson%
County Parcel	$612,226	1532	35.89%	100%	0	0
County ROW DRAFT	**$283,000**	0	0	100%		
Pearson Parcel	$979,881	2452	57.44%	52.5%	0.0%	47.5%
Bowers Drive Modifications	$113,893	285	6.68%	100%	0	0
Total	**$1,989,000**	4269	100.00%			

Note: utilities not included - paid for by Trunk Fees

Sources of Funds						
	County Parcel	Pearson Parcel	%	Bowers Drive	Total	Project %
MnDOT Grant	$612,000	$0			$612,000	30.8%
City Contribution (HRA)	$283,226	$514,242	52.5%	$113,893	$911,361	45.8%
Pearson Contribution		$465,639	47.5%		$465,639	23.4%
Capstone Contribution		$0	0.0%		$0	0.0%
	$895,226	$979,881	100.0%		$1,989,000	100.0%
Uses (Project Costs)						
Portion of Overall Project	35.9%	57.4%		6.7%	100.0%	
Road, Trail, Storm	$612,226	$979,881		$113,893	$1,706,000	
ROW	**$283,000**				$283,000	
	$895,226	$979,881		$113,893	$1,989,000	

				1/3 of funding gap
County Parcel + ROW =	$895,226			
		Funding Gap	**$0**	*$0.00*

Public vs. Private Dollars

Private (Capstone + Pearson)	$465,639	23%
Public (City + MnDOT)	$1,523,361	77%
	$1,989,000	

Capstone / Pearson Agreement*	**Party**	**Assessment Amt**	**%**
Private Pearson Parcel Total	Capstone	$239,875	34%
$465,639	Pearson	$465,639	66%

* Assessment amounts based on lineal footage along Riverdale Drive Pearson and Capstone

Capstone Tree Preservation Credit (Pearson)	$ 239,875	HRA	Pay for Capstone Assessment (above)
Additional City Contribution (to Capstone)	$ 110,125	PIR	Payment to Capstone
Tree Preservation Reconcilliation	**$ 350,000**		

		Difference from 1.26.21
Total City Contribution**	$ 911,361	**$235,841**
Total Grant Contribution	$ 612,000	**$ (638,000)**
ROW Cost Estimate	$ 283,000	**$ (667,000)**
Project Costs Less County ROW	$ 1,706,000	**$ 31,000**

** This includes 350 K Tree Preservation

EXHIBIT D

Example Payment Schedule

Calculation is based on start date of 3/22/22 284 days of interest first year			
Pearson Properties of Ramsey, LLC-Outlot B			
Non-bonded 10-year treasurry 2.14+ 2 basis points =4.14%			
Chart below is for informational purposes only.			
	4.140% Interest	Cumulative Pay-Off Balance	Principal Balance
If Assessment paid in full by Dec 31:			**215,213.54**
2022	6,932.59	222,146.13	215,213.54
2023	8,909.84	231,055.97	215,213.54
2024	8,909.84	239,965.81	215,213.54
2025	8,909.84	248,875.65	215,213.54
2026	8,909.84	257,785.49	215,213.54
2027	8,909.84	266,695.33	215,213.54
2028	8,909.84	275,605.17	215,213.54
2029	8,909.84	284,515.01	215,213.54
2030	8,909.84	293,424.85	215,213.54
2031	8,909.84	302,334.69	215,213.54
Total	$ 87,121.15		

Exhibit E

Liens and Encumbrances

stewart title

163412-1180-

ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Countersigned by:

Dennis J. Unger, Vice President
Authorized Countersignature

Land Title, Inc.
Company Name

Roseville, MN
City, State

STEWART TITLE GUARANTY COMPANY INCORPORATED 1908 TEXAS

Matt Morris
President and CEO

Denise Carraux
Secretary

For purposes of this form the "Stewart Title" logo featured above is the represented logo for the underwriter, Stewart Title Guaranty Company.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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LT File No.: 650013
008-UN ALTA Commitment For Title Insurance 8-1-16
Page 1 of 11

COMMITMENT CONDITIONS

1. **DEFINITIONS**
   (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
   (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
   (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
   (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
   (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
   (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
   (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
   (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:
   (a) the Notice;
   (b) the Commitment to Issue Policy;
   (c) the Commitment Conditions;
   (d) Schedule A;
   (e) Schedule B, Part I - Requirements;
   (f) Schedule B, Part II - Exceptions; and
   (g) a countersignature by the Company or its issuing agent that may be in electronic form.

4. **COMPANY'S RIGHT TO AMEND**
   The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. **LIMITATIONS OF LIABILITY**
   (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
      (i) comply with the Schedule B, Part I - Requirements;
      (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
      (iii) acquire the Title or create the Mortgage covered by this Commitment.
   (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
   (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.

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(d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
(e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
(f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
(g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

(a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
(b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
(c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
(d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
(e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
(f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is $2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

STEWART TITLE GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252-2029.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Transaction Identification Data for reference only:
Issuing Agent: Land Title, Inc.
Issuing Office: 2200 County Road C West, Suite 2205, Roseville, MN 55113
Issuing Office's ALTA® Registry ID:
Loan ID Number:
Commitment Number: 650013
Issuing Office File Number: 650013
Property Address: 0 Unassigned, Ramsey, MN 55303

1. Commitment Date: October 18, 2021 at 7:00 am

2. Policy to be issued:

   (a) [X] 2006 ALTA® Owner's Policy (6-17-06)
   Proposed Insured: Capstone Homes, Inc., a Minnesota corporation

   Proposed Policy Amount: $

   (b) [X] 2006 ALTA® Loan Policy (6-17-06)
   Proposed Insured:
   Proposed Policy Amount: $

   (c) [ ] _____ ALTA® _____ Policy
   Proposed Insured:
   Proposed Policy Amount: $

3. The estate or interest in the Land described or referred to in this Commitment is FEE SIMPLE.

4. The Title is, at the Commitment Date, vested in:

   Parcels 1 and 2:
   Pearson Properties of Ramsey, LLC, a Minnesota limited liability company

   Parcel 3:
   Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005.

   Parcel 4:
   Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005

5. The Land is described as follows:

   See Attached Exhibit A.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Abstract Property
Anoka County, State of Minnesota

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

EXHIBIT A

Parcel 1:
Outlot B, Pearson Place, Anoka County, Minnesota.

Parcel 2:
That part of the Northwest Quarter of the Northwest Quarter of Section 29, Township 32, Range 25, Anoka County, Minnesota, lying southerly of U.S. Highway 10 and 169.

Parcel 3:
Lot 2, Block 3, Pearson Place, Anoka County, Minnesota.

Parcel 4:
Lot 1, Block 3, Pearson Place, Anoka County, Minnesota.

Abstract Property

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SCHEDULE B, PART I
Requirements

All of the following Requirements must be met:

A. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
B. Pay the agreed amount for the estate or interest to be insured.
C. Pay the premiums, fees, and charges for the Policy to the Company.
D. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

E. The record does not disclose any open mortgages. Confirmation of this must be made prior to closing.

F. Affidavit stating that Alan R. Pearson referenced as grantee in Warranty Deed filed as Document Number 619022 and R. Alan Pearson referenced as grantor in Warranty Deed filed as Document Number 1971756.001 are one and the same person. (Parcel 3).

G. Satisfactory evidence of the authority of the person(s) signing on behalf of Pearson Properties of Ramsey, LLC, a Minnesota limited liability company is required prior to closing.

H. Warranty Deed from Pearson Properties of Ramsey, LLC, a Minnesota limited liability company, to Capstone Homes, Inc., a Minnesota corporation. (Parcels 1 and 2)

I. A Certificate of Trust in regards to the Alan R. Pearson Revocable Trust u/a dated April 7, 2005, along with an Affidavit of Trustee, is required in support of the conveyance.

J. Trustee's Deed from Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005., to Capstone Homes, Inc., a Minnesota corporation.

K. A Certificate of Trust in regards to the Elizabeth J. Pearson Trust u/a dated April 7, 2005, along with an Affidavit of Trustee, is required in support of the conveyance.

L. Trustee's Deed from Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005, to Capstone Homes, Inc., a Minnesota corporation.

M. The standard form of Seller's and/or Purchaser's Affidavit, satisfactory to the Company, will be required.

INFORMATIONAL NOTE: Title is vested in Pearson Properties of Ramsey, LLC, a Minnesota limited liability company as evidenced by Warranty Deed dated December 28, 2004, filed December 29, 2004 as Document Number 1971756.001. (Parcels 1 and 2)

INFORMATIONAL NOTE: Title is vested in Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Alan R. Pearson Revocable Trust u/a dated April 7, 2005 as evidenced by Warranty Deed dated January 25, 2019, filed

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January 28, 2019 as Document Number 2219380.004. (Parcel 3)

INFORMATIONAL NOTE: Title is vested in Alan R. Pearson and Elizabeth J. Pearson, Trustees of the Elizabeth J. Pearson Trust u/a dated April 7, 2005 as evidenced by Warranty Deed dated January 25, 2019, filed January 28, 2019 as Document Number 2219380.005. (Parcel 4)

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

SCHEDULE B, PART II
Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.

   NOTE: Upon closing with Land Title, Inc., Item 1 on Schedule B, Part II will be deleted. The Final Policy will extend coverage as to the gap between the Effective Date listed in Item 1 of Schedule A and the date of recording of the instruments creating the interest to be insured.

2. Rights or claims of parties in possession not shown by the public records.

3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.

4. Easements or claims of easements, which are not shown by the public records.

5. Any lien or right to a lien for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

6. Taxes or special assessments which are not shown as existing liens by the records.

7. General and special taxes and assessments as hereafter listed, if any (all amounts shown being exclusive of interest, penalties and costs).

8. No coverage is provided for municipal code compliance matters and fees including, but not limited to, utilities, right of way maintenance, water or sewer services, or fees for tree, weeds, grass, and snow or garbage removal, police boarding, vacant building registration and zoning.

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9. Any lease, grant, exception or reservation of minerals or mineral rights appearing in the public records.

10. Tax I.D. No.: 293225230004 (UL)
Taxes for the year 2021: $700.66, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $700.66
(Homestead).

Tax I.D. No.: 293225220003 (UL)
Taxes for the year 2021: $2,899.22, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,899.22
(Homestead).

Tax I.D. No.: 303225110032 (UL)
Taxes for the year 2021: $2,452.76, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,428.74
(Homestead).

Tax I.D. No.: 303225110031 (UL)
Taxes for the year 2021: $2,934.14, Total, are 1st 1/2 Paid, 2nd 1/2 Due, plus penalty on unpaid taxes,
Base Tax $2,910.12
(Homestead).

NOTE: 1st Half Taxes are payable on or before May 15th and 2nd Half Taxes are payable on or before October 15th.

11. Levied and pending special assessment searches have been ordered.

12. Rights of tenants in possession as tenants only under unrecorded leases.

13. Easement in favor of Rural Cooperative Power Association filed in Book 302, page 118 as Document Number 153924. (Parcels 1 and 2)
NOTE: Assignment to Anoka Electric Cooperative (now known as Connexus Energy) filed in Book 409, page39 as Document Number 186675.
NOTE: Partial Release filed as Document Number 2170673.001.

14. Resolution Granting Approval of the Final Plat and Development Agreement for Pearson Place filed as Document Number 2186615.001. (Parcels 1, 3 and 4)

15. Resolution No. 20-139 filed as Document Number 2274986.001. (Parcel 1)

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ALTA COMMITMENT FOR TITLE INSURANCE
SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Commitment Number: 650013

16. Restrictions of Access to Minnesota State Highway No. 10 as referenced on the recorded plat of Pearson Place. (Parcels 3 and 4)

17. Declaration of Access Easement filed as Document Number 2090228.006. (Parcel 3)

18. Terms and conditions of Development Agreement dated November 17, 2017, filed November 17, 2017 as Document Number 2186615.003. (Parcels 1, 3, and 4)

19. Declaration of Covenants, Conditions, and Restrictions for Riverstone filed July 28, 2017 as Document Number 2176959.005, amended by Document Number 2183604.001, 2189331.001, and 2282641.001. (Parcels 1, 2, and 3 are shown as additional property)

20. The following matters disclosed by Boundary Survey dated June 30, 2020 by Carlson McCain Job No. 2086:
    (a) Light Pole, Billboard, Electric Meter and Sign lie Southerly of the South Mndot Right of Way line.
    (b) Guy wire lies Easterly of the Northwest Property line.

21. If there are any questions regarding this Commitment, please contact Nate Schultz at (651) 697-6161 or by email at nschultz@landtitleinc.com.

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CC Regular Session **5. 13.**

Meeting Date: 03/22/2022

Submitted For: Joe Feriancek, Engineering/Public Works

By: Joe Feriancek, Engineering/Public Works

Information

Title

Adopt Resolution #22-073 Approving Plans and Specifications and Authorizing Advertisement for Bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01

Purpose/Background:

Purpose:

The purpose of this case is to adopt resolution #22-073 Approving Plans and Specifications and Authorizing Advertisement for Bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01.

Background:

City Improvement Project 22-01 proposes to reconstruct Sunwood Drive between Trunk Highway 47 and Waco Street, and Waco Street between Sunwood Drive and 150th Avenue. The streets total approximately 2,500 lineal feet (0.48 miles) in length, and are 44 feet wide as measured to the face of curb.

Project History

- 2022 – 2031 Capital Improvement Program – listed as street reconstruction for 2022
- Resolution #21-194, adopted July 13, 2021; City Council ordered the City Engineer to request proposals for Topographic Survey, Geotechnical Evaluations and Utility Testing for 2022 Pavement Management Program projects.
- Resolution #21-224, adopted August 10, 2021; City Council awarded a proposal to Hakanson Anderson for Topographic Survey, and Haugo Geotechnical Services for a geotechnical report of the project area.
- Resolution #21-240, adopted August 24, 2021; City Council awarded a proposal to Hydro-Klean, LLC for cleaning and televising the sanitary sewer and storm sewer, and Water Conservation Services, Inc. for watermain leak testing of the project area.
- October 19, 2021; Public Works Committee gave City Staff direction to review the option of reducing the width of Waco Street within the project area from 46 feet to 34 feet as measured from the back of curb.
- Resolution #21-299, adopted October 26, 2021; City Council ordered the City Engineer to prepare plans and specifications for the improvement project.
- Resolution #21-345, adopted December 14, 2021; City Council approved reconstruction Waco Street to the existing pavement width as part of the improvement project. Staff review had found the estimated life cycle cost savings to have a significant shortfall to the initial costs.
- March 15, 2022; Public Works Committee gave recommendation for City Council approving plans and specifications and authorizing advertisement for bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01

Pavement History

Sunwood Drive and Waco Street were constructed in 1985 and 1992 respectively. Pavement maintenance has included crack seal / seal coat improvements in 1992 (Sunwood Drive), 2006, 2013. Maintenance crews have performed patching over the last several years, including extensive spray patching. No pavement overlay improvements have been performed on these street segments. 2021 PASER values were 3 for Sunwood Drive and 3 for Waco Street.

Ground Penetrating Radar (GPR) was performed on the street segments. Bituminous pavement thickness was found

to have an average thickness of 4.20 inches on Sunwood Drive and 3.9 inches on Waco Street. GPR was not able to reliably identify the aggregate base thickness, however, the soil borings performed as part of the geotechnical report found an average of 6.4 inches.

Proposed Improvements

Sunwood Drive and Waco Street are Municipal State Aid (MSA) streets, and must comply with State Aid design requirements. MSA design requires these to be a 10-ton design. Based on the traffic counts performed in 2021 (1,800 ADT Sunwood, 580 ADT Waco), the required pavement section is 5" aggregate base and 4" bituminous pavement.

Staff review found the existing pedestrian ramps within the project area did not meet current ADA requirements, therefore all seven pedestrian ramps will need to be removed and replaced. The concrete curb and gutter were found to generally be in good condition, and only spot repairs are proposed. Staff is proposing minimal impacts to the existing bituminous trail with the project beyond what is required for matching into the new pedestrian ramps. The south leg of trail at the intersection of Sunwood Drive and Trunk Highway 47 is proposed to be straightened, the current 90-degree corner is a hazard for plowing.

Review of the sanitary sewer and watermain did not find issues requiring repair. The City will be placing inflow and infiltration barriers on the sanitary sewer manholes with this project. The City received an MCES I/I Grant for this work, which will reimburse the City for the costs associated with the I/I barriers.

Televising of the storm sewer system found more issues than anticipated, and will require removal and replacement of six storm sewer structures and their connecting pipes. The majority of this work will be concentrated at the intersection of Sunwood Drive and Zuni Street.

The current pavement marking layout meets State Aid standard, and the road is proposed to be marked back to the existing layout.

Generally, impacts to boulevards will be minor, just as necessary for removal and replacement of concrete curb and gutter, pedestrian ramp improvements, and excavation required for the storm sewer repairs.

Anticipated Build Process

- Install traffic control measures
  - These are maintained throughout the project
  - Layout of traffic control may be adjusted to accommodate construction periodically
- Install erosion control measures
- Full-depth reclamation of existing bituminous pavement and aggregate base
- Storm sewer repairs
- Project removals (spot curb and gutter, pedestrian ramps, driveways as needed)
- Place new concrete curb and gutter and pedestrian ramps (5 to 7-day cure time)
- Remove excess reclaim material, shape and compact 5 inches of remaining material
  - Excess reclaim is stockpiled and will be used on future City projects
- Place first lift of new bituminous pavement
- Finish any trail and driveway repairs
- Restore the boulevard in any impacted areas
  - 4 inches topsoil, seed and hydro-mulch
- Place the final lift of new bituminous pavement
  - Remove traffic control measures as allowed
- Place all pavement marking, must wait 72 hours after paving
- Erosion control measures are removed after restoration has been completed

Preliminary Schedule Remaining

- Council Approves Plans and Specifications / Authorizes Ad for Bids
  - March 22, 2022

- Staff Receives Bids
  - April 18, 2022
- Council Awards Contract to the lowest responsible bidder
  - April 26, 2022
- Contractor begins construction
  - June 2022
- Contractor Substantially Completes construction
  - September 2, 2022
- Contractor Final Completion (project clean up, punch list created)
  - September 30, 2022

State Aid Approval

Plans are currently being routed through State Aid for approval, which is required before the project can be bid. Staff does not anticipate significant comments from State Aid which would require moving the proposed project bid opening.

Staff proposes to open bids on April 18, 2022, and to present the bid results to City Council on April 26, 2022 for award of a construction contract to the lowest responsible bidder.

Final plans are not attached to this case to prevent potential bidders from downloading plans attached to the case to prepare and submit their bids, rather than purchasing the plans through QuestCDN, the electronic bidding software used by the City of Ramsey. This ensures all bidders are bidding off the same set of plans, and all bidders are notified of any plan revisions (addenda) issued during the bidding process. Attached is the title sheet from the plans showing the scope of the improvements, as well as a plan sheet showing the typical sections, which includes information on the proposed pavement section. Plans are available upon request from the City Engineer.

Notification:

If Council approves plans and specifications and authorizes advertising for bids, bids will be advertised on Friday, March 25, and again on Friday, April 1, 2022, both in the City's official newspaper, the Anoka Union Herald, and in Finance & Commerce.

Additionally, letters will be mailed to property owners with updates on the project status. Engineering Staff maintains City Improvement webpages with the most current project information, this can be found on the City website, Engineering department page.

Observations/Alternatives:

Motion to adopt Resolution #22-073 approving plans and specifications and authorizing advertisement for bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01.

Funding Source:

Funding for this improvement is proposed to come from MSA Funds, Stormwater Utility Funds, and Sanitary Sewer Utility Funds.

Staff has completed an estimate based on the final plans and anticipated 2022 construction costs, with a total estimated project cost of $572,160.33, which includes 23-percent indirect costs for administrative, engineering, finance, and legal costs.

- Street Construction Costs $391,163.00
- Storm Sewer Costs $66,808.00
- Sanitary Sewer Costs $7,200.00
- Indirect Costs $106,989.33
- Total Estimated Project Costs $572,160.33

Recommendation:

Staff recommends adopting Resolution #22-073 approving plans and specifications and authorizing advertisement for bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01.

The Public Works Committee reviewed the Sunwood Drive and Waco Street Reconstruction project on March 15, 2022 and recommended the City Council approve the plans and authorize advertisements for bids.

Action:

Adopt Resolution #22-073 approving plans and specifications and authorizing advertisements for bids for Sunwood Drive and Waco Street Reconstruction, Improvement Project #22-01

Attachments

22-01 Street Summary

22-01 Title Sheet

22-01 Typical Section

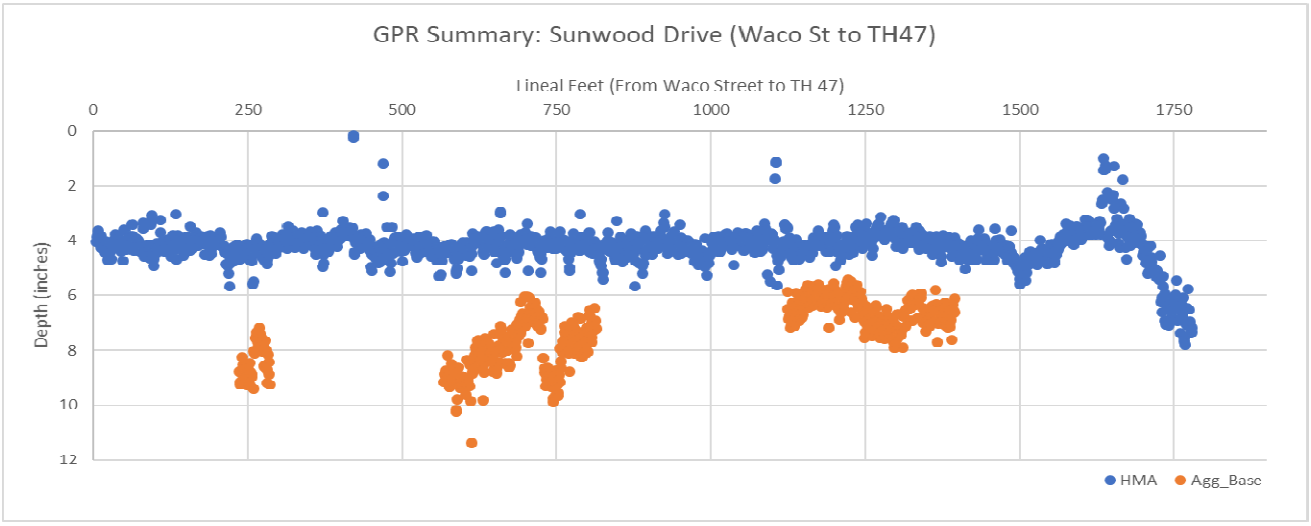
Res 22-073

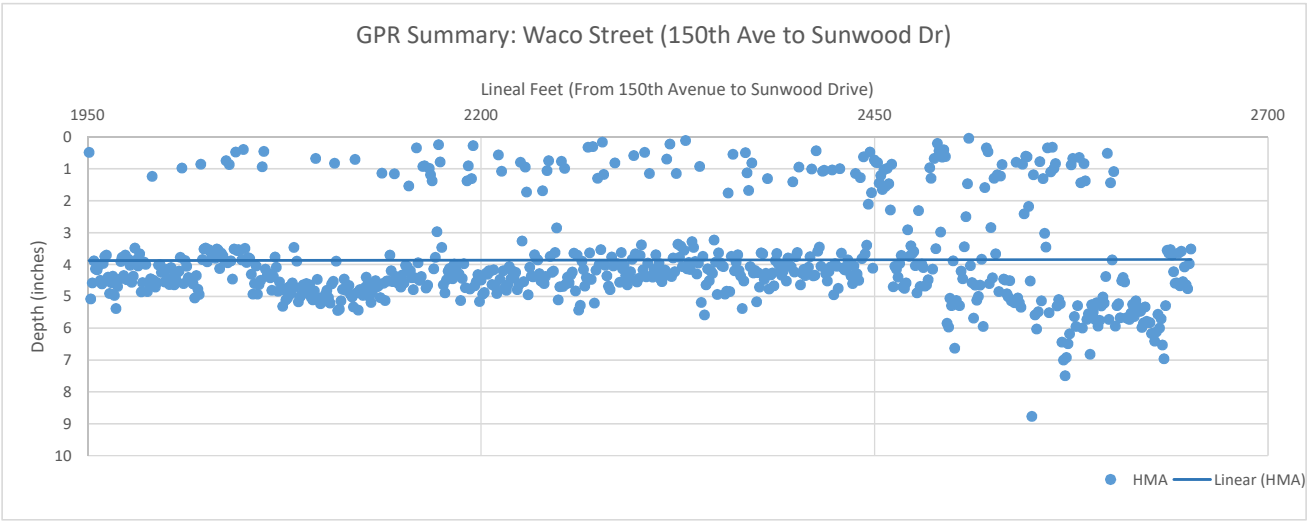
Form Review

Inbox	Reviewed By	Date
Bruce Westby	Joe Feriancek	03/16/2022 11:08 AM
Bruce Westby	Bruce Westby	03/17/2022 01:58 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:58 PM
Form Started By: Joe Feriancek		Started On: 03/15/2022 08:09 AM
Final Approval Date: 03/17/2022		

IP 22-01 Sunwood Drive & Waco Street Reconstruction
Street Segment Summary

Street Description				Street History					GPR Summary		
Street	**Segment Description**	**Length (feet)**	**Curb**	**2020 PASER**	**Year Built**	**Maint. 1**	**Maint. 2**	**Maint. 3**	**Avg HMA (inches)**	**Avg Agg. Base (inches)**	**Avg Section (inches)**
Sunwood Drive	TH 47 / Waco Street	1,826	conc.	4	1985	SC 1992	SC 2006	SC 2013	4.20	3.25	7.38
Waco Street	Sunwood Drive / 150th Avenue	705	conc.	3	1992	SC 2006			3.86	n/a*	n/a*
				** GPR not able to detect Agg. Base*							
	Total Length	**2,531**	**0.48 mi.**								



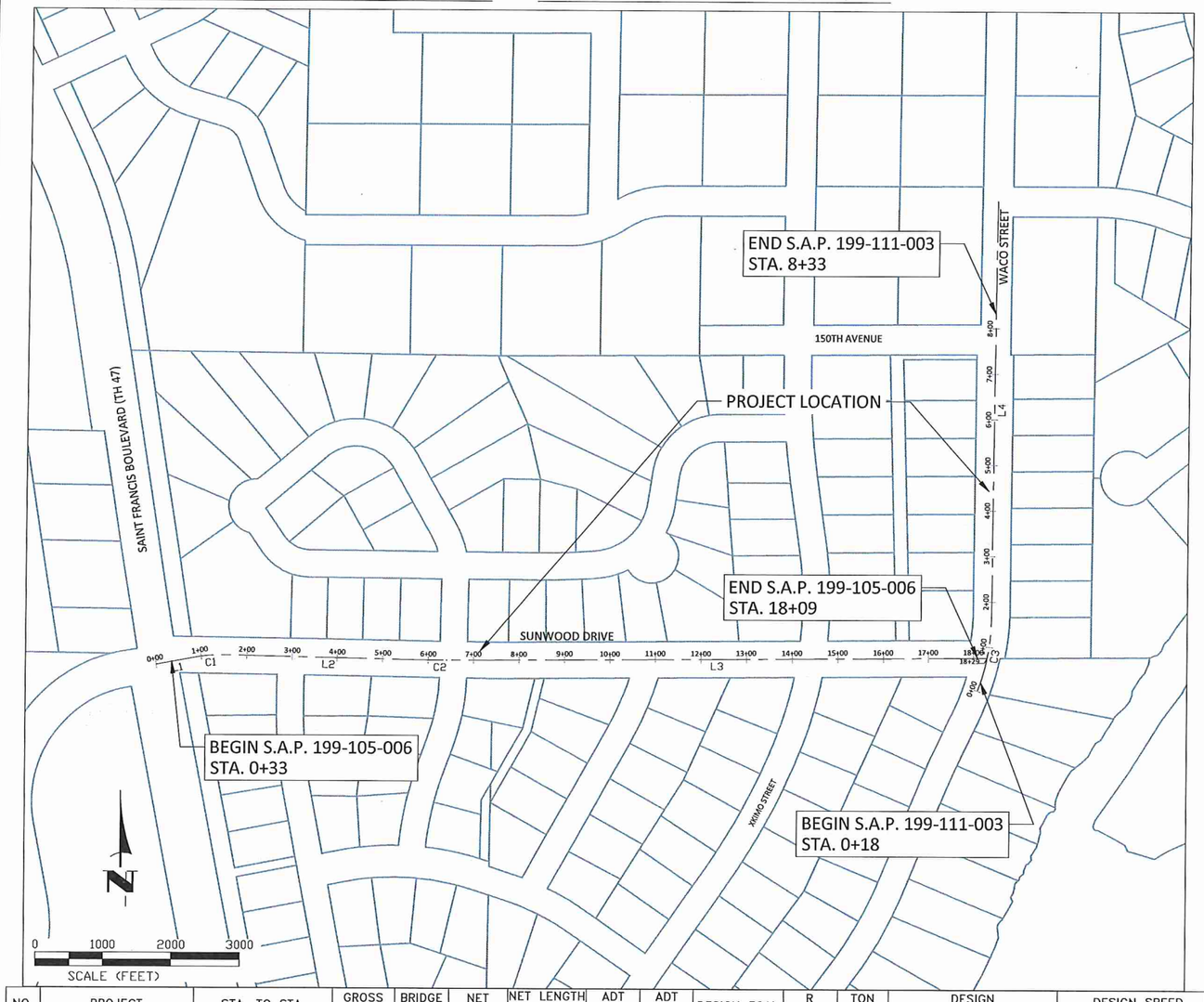


CITY OF RAMSEY

STREET CONSTRUCTION PLANS FOR BITUMINOUS RECLAMATION AND PAVING.
S.A.P. 199-105-006 & S.A.P. 199-111-003

S.A.P. 199-105-006 LOCATED ON SUNWOOD DRIVE BETWEEN TRUNK HIGHWAY 47 AND WACO STREET & S.A.P. 199-111-003 LOCATED ON WACO STREET BETWEEN SUNWOOD DRIVE AND 150TH AVENUE.

FROM NE 1/4 OF THE NW 1/4 OF S25, T32, R25 TO SE 1/4 OF THE SE 1/4 OF S24, T32, R25





CITY OF RAMSEY
ANOKA COUNTY, MINNESOTA
DISTRICT: METRO

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

NOTE: EXISTING UTILITY INFORMATION SHOWN ON THIS PLAN HAS BEEN PROVIDED BY THE UTILITY OWNER. THE CONTRACTOR SHALL FIELD VERIFY EXACT LOCATIONS PRIOR TO COMMENCING CONSTRUCTION AS REQUIRED BY STATE LAW. NOTIFY GOPHER STATE ONE CALL 1-800-252-1166 OR 651-454-0002

GSOC

Call before you dig
811
651 454-0002 Metro
800 252-1166 Outstate
www.gopherstateonecall.org

NO.	PROJECT	STA. TO STA.	GROSS LENGTH	BRIDGE LENGTH	NET LENGTH	NET LENGTH (MILES)	ADT (2022)	ADT (2042)	DESIGN ESAL	R VALUE	TON DESIGN	DESIGN SPEED	DESIGN SPEED NOT MET	NUMBER OF LANES	WIDTH OF LANES	NUMBER OF SHOULDERS	WIDTH OF LANES	FUNCTIONAL CLASSIFICATION
①	S.A.P. 199-105-006 SUNWOOD DRIVE	0+33 TO 18+09	1776 FT	0 FT	1776 FT	0.34 MI	1750	1925	205,000	50	10	30	N/A	2	12'	2	10'	COLLECTOR
②	S.A.P. 199-111-003 WACO STREET	0+18 TO 8+33	815 FT	0 FT	815 FT	0.15 MI	520	1610	117,000	50	10	30	N/A	2	12'	2	10'	COLLECTOR

City of RAMSEY
CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

STOPPING SIGHT DISTANCE BASED ON:
3.5 FT – HEIGHT OF EYE
2.0 FT – HEIGHT OF OBJECT

DATUM:
VERTICAL: NAVD 88
HORIZONTAL: ANOKA COUNTY COORDINATES (1996 ADJUSTMENT)

SAP 199-105-006
SAP 199-111-003

DATE	REVISION

GOVERNING SPECIFICATIONS

THE 2020 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION" SHALL GOVERN.

ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES SHALL BE COMPLIED WITH IN THE CONSTRUCTION OF THIS PROJECT.

ALL TRAFFIC CONTROL DEVICES AND SIGNING SHALL CONFORM TO THE MINNESOTA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, INCLUDING THE FIELD MANUAL FOR TEMPORARY TRAFFIC CONTROL ZONE LAYOUTS.

SHEET INDEX

THIS PLAN CONTAINS 26 SHEETS

SHEET NO.	DESCRIPTION
01	TITLE SHEET
02	STATEMENT OF ESTIMATED QUANTITIES
03	TABULATIONS
04	ALIGNMENT LAYOUT
05	TYPICAL SECTION
06 - 07	CITY DETAILS
08 - 13	MNDOT PEDESTRIAN RAMP DETAILS
14 - 15	SWPPP
16	EROSION CONTROL
17	REMOVALS (SUNWOOD STA. 0+18 TO 6+00)
18	REMOVALS (SUNWOOD STA. 6+00 TO 12+25)
19	REMOVALS (SUNWOOD STA. 12+25 TO WACO STA. 3+50)
20	REMOVALS (WACO 3+50 TO 8+33)
21	STREET IMPROVEMENTS (SUNWOOD STA. 0+18 TO 6+00)
22	STREET IMPROVEMENTS (SUNWOOD STA. 6+00 TO 12+25)
23	STREET IMPROVEMENTS (SUNWOOD STA. 12+25 TO WACO STA. 3+50)
24	STREET IMPROVEMENTS (WACO STA. 3+50 TO 8+33)
25	PAVEMENT MARKING (SUNWOOD STA. 0+18 TO 12+25)
26	PAVEMENT MARKING (SUNWOOD STA. 12+25 TO WACO STA. 8+33)

LEGEND

- SANITARY MANHOLE
- STORM SEWER MANHOLE
- CATCH BASIN MANHOLE
- CATCH BASIN
- CATCH BASIN - GROUT
- CATCH BASIN - RESET
- FLARED END SECTION
- CULVERT END SECTION
- HYDRANT
- VALVE
- TREE - CONIFEROUS
- TREE - DECIDUOUS
- SHRUB
- LIGHT POLE
- SIGN
- MAILBOX
- PEDESTAL - TELECOM
- PEDESTAL - ELECTRIC
- HAND HOLE
- DRIVE - BITUMINOUS
- DRIVE - CONCRETE
- DRIVE - GRAVEL
- CONCRETE WALK
- BITUMINOUS TRAIL
- REMOVE BIT PAVE
- REMOVE CONCRETE PAVE
- REMOVE GRAVEL SURFACE
- MILL BIT PAVEMENT
- RECLAIM BIT PAVEMENT
- Easement - Drainage & Utility
- Easement - Roadway
- LOT LINE
- ELECTRIC LINE
- ELECTRIC LINE - BURIED
- ELECTRIC LINE - OVERHEAD
- GAS LINE
- TELECOMMUNICATION LINE
- TELECOMM - OVERHEAD
- FIBER OPTIC LINE
- TREE LINE
- LANDSCAPE
- RETAINING WALL
- FENCE
- SILT FENCE
- WATERMAIN
- SANITARY SEWER
- STORM SEWER
- DRAIN TILE
- LANDSCAPE - ROCK
- LANDSCAPE - MULCH
- LANDSCAPE - RIP RAP
- PR. DRIVE - BITUMINOUS
- PR. DRIVE - CONCRETE
- PR. DRIVE - GRAVEL
- PR. CONCRETE WALK
- PR. CONCRETE
- PR. SEEDING AREA

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

JOE FERIANCEK, P.E. — LIC. NO. 57095 — DATE 3/11/22

APPROVED: _____ CITY ENGINEER, CITY OF RAMSEY — DATE 3/14/22

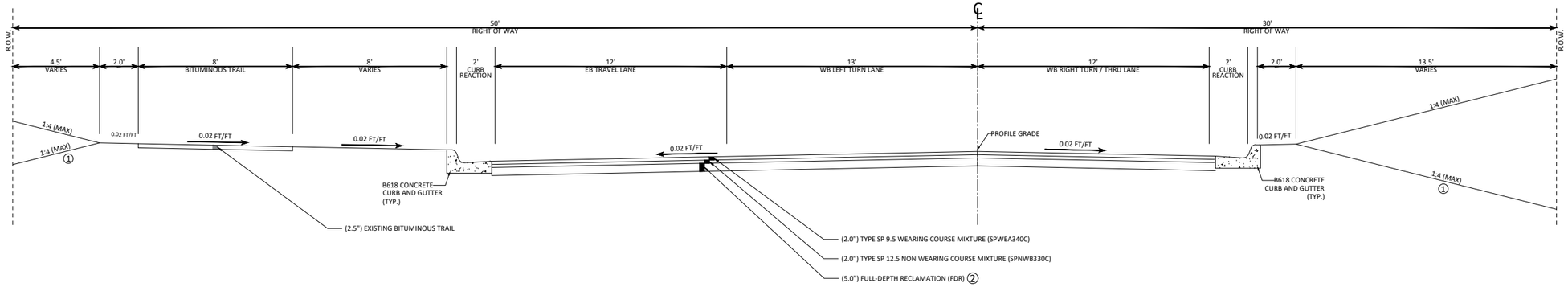
DISTRICT STATE AID ENGINEER: REVIEWED FOR COMPLIANCE WITH STATE AID RULES/POLICY — DATE _____

STATE AID ENGINEER: APPROVED FOR STATE AID FUNDING — DATE _____

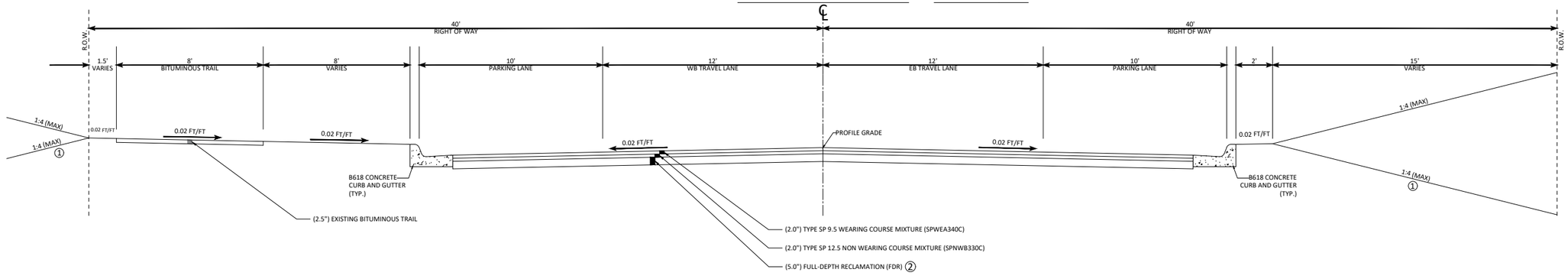
SHEET 01 OF 26 SHEETS

Mar 11, 2022 - 8:34am
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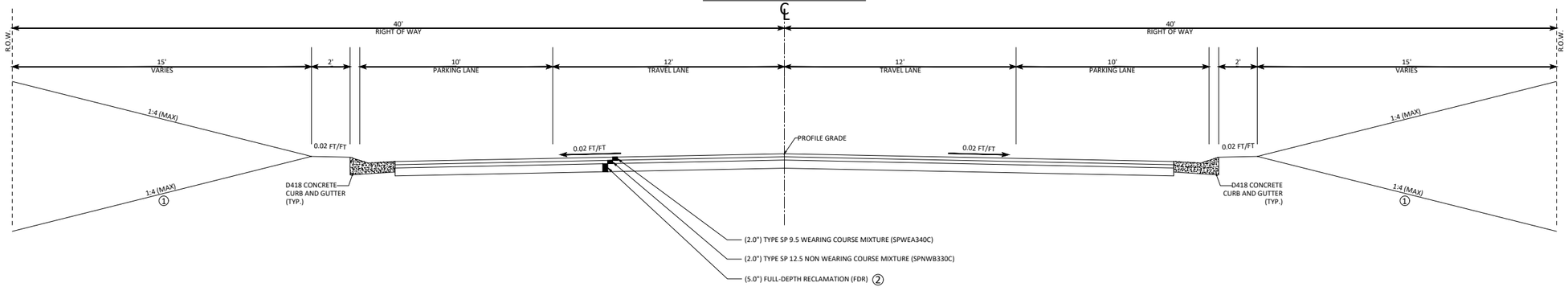
TYPICAL SECTION: SUNWOOD DRIVE TURN LANE STA. 0+33 TO 1+50



TYPICAL SECTION: SUNWOOD DRIVE STA. 1+50 TO 18+09



TYPICAL SECTION: WACO STREET



PAVEMENT DESIGN:
S.A.P. 199-105-006

20 YR DESIGN LANE BESALS:	205,000
DESIGN R-VALUE:	50

MINIMUM REQUIRED

MINIMUM BIT (GE)	7.00
MIN. AGG. BASE (GE)	3.53
TOTAL REQUIRED GE	10.53

PROPOSED DESIGN

WEARING COURSE (2.0")	4.50
NON-WEAR COURSE (2.0")	4.50
FDR UNSTABILIZED (5.0")	5.00
TOTAL DESIGN GE	14.00

PAVEMENT DESIGN:
S.A.P. 199-111-003

20 YR DESIGN LANE BESALS:	117,000
DESIGN R-VALUE:	50

MINIMUM REQUIRED

MINIMUM BIT (GE)	7.00
MIN. AGG. BASE (GE)	3.88
TOTAL REQUIRED GE	10.00

PROPOSED DESIGN

WEARING COURSE (2.0")	4.50
NON-WEAR COURSE (2.0")	4.50
FDR UNSTABILIZED (5.0")	5.00
TOTAL DESIGN GE	14.00

REFERENCE NOTES:

1. GRADE TO MATCH EXISTING GROUND. ESTABLISH TURF USING A MINIMUM OF 4" TOPSOIL AND HYDROSEED WITH MNDOT SEED MIXTURE 25-151. SEE CITY DETAIL ERO-6 FOR TOPSOIL REQUIREMENTS.

2. CONTRACTOR SHALL SCARIFY AND COMPACT, ACCORDING TO THE SPECIFIED DENSITY METHOD, THE TOP 12 INCHES OF MATERIAL PRIOR TO PLACING CLASS 5 AGGREGATE BASE. THIS PROCESS SHALL BE INCIDENTAL TO THE SUBGRADE PREPARATION PAY ITEM.

NOTE: NOT TO SCALE

DATE	REVISION

Mar 11, 2022 - 10:18am
G:\Engineering\AutoCad Dwgs\Projects N-Z\Sunwood Drive & Waco Street 22-01\Plan Drawings\22-01 Details.dwg

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

JOE FERIANCEK
Date 3/11/22 Lic. No. 57095

DESIGNED BY:	JJF	
DRAWN BY:	JJF	DATE: 3/10/22
CHECKED BY:	JJF	FILE: 22-01

CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

TYPICAL SECTION

S.A.P. 199-105-006 & S.A.P. 199-111-003

SUNWOOD DRIVE & WACO STREET RECONSTRUCTION
CITY PROJECT NO. 22-01
CITY OF RAMSEY, MINNESOTA

SHEET 05 OF 26 SHEETS

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-073

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENTS FOR BIDS FOR SUNWOOD DRIVE AND WACO STREET RECONSTRUCTION, IMPROVEMENT PROJECT #22-01

WHEREAS, the City of Ramsey proposes to reconstruct Sunwood Drive between Trunk Highway 47 and Waco Street, and Waco Street between Sunwood Drive and 150th Avenue; and

WHEREAS, pursuant to Ramsey City Council resolution #21-194, adopted July 13, 2021, the City Council ordered the City Engineer to request proposals for Topographic Survey, Geotechnical Evaluations and Utility Testing for proposed 2022 Pavement Management Program projects, including IP 22-01; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-224, adopted August 10th, 2021, the City Council awarded a proposal to Hakanson Anderson for Topographic Survey, and Haugo Geotechnical Services for a geotechnical report of the project area; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-240, adopted August 24, 2021, the City Council awarded a proposal to Hydro-Klean, LLC for cleaning and televising the sanitary and storm sewer, and Water Conservation Services, Inc. for watermain leak testing of the project area; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-299, adopted October 26, 2021, the City Council ordered the City Engineer to prepare plans and specifications for improvement project #22-01, Sunwood Drive and Waco Street Reconstruction; and

WHEREAS, per direction given by committee at the October 19, 2021 Public Works Committee meeting, Staff has reviewed the option of reducing the width of Waco Street within the project area from 46 feet to 34 feet as measured from the back of curb; and

WHEREAS, Staff review estimates an additional project cost of $86,000 to reduce the width of Waco Street with said improvement project; and

WHEREAS, Staff review estimates 60-year life cycle cost saving shortfall of $23,500 to $46,000 to reduce the width of Waco Street with said improvement project; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-345, adopted December 14, 2021, the City Council has approved reconstructing Waco Street to the existing pavement width as part of improvement project; and

WHEREAS, the City Engineer has prepared plans and specifications for the purpose of advertising for bids for the same improvements.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) The Ramsey City Council hereby approves the plans and specifications prepared by the City Engineer for the making of such improvements and authorizes the advertisement of bids for the same improvements as City Improvement Project #22-01, Sunwood Drive and Waco Street Reconstruction.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember ____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

CC Regular Session **5. 14.**

Meeting Date: 03/22/2022

Submitted For: Joe Feriancek, Engineering/Public Works

By: Joe Feriancek, Engineering/Public Works

Information

Title

Adopt Resolution #22-074 Approving Plans and Specifications and Authorizing Advertisements for Bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06

Purpose/Background:

Purpose:

The purpose of this case is to adopt Resolution #22-074 Approving Plans and Specifications and Authorizing Advertisement for Bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06.

Background:

City Improvement Project 22-06 proposes to reconstruct the streets within the Wood Pond Hills 2nd, 3rd, 4th, and 5th subdivision, generally located southwest of Sunwood Drive and Nowthen Boulevard. The streets total approximately 4,600 linear feet (0.88 miles) in length, and are 31 feet wide urban section with surmountable concrete curb and gutter. A street segment summary is attached to this case.

Project History

- 2022 – 2031 Capital Improvement Program – listed as street reconstruction for 2022
- Resolution #21-194, adopted July 13, 2021; City Council ordered the City Engineer to request proposals for Topographic Survey, Geotechnical Evaluations and Utility Testing for 2022 Pavement Management Program projects.
- Resolution #21-224, adopted August 10, 2021; City Council awarded a proposal to Hakanson Anderson for Topographic Survey, and Haugo Geotechnical Services for a geotechnical report of the project area.
- Resolution #21-240, adopted August 24, 2021; City Council awarded a proposal to Hydro-Klean, LLC for cleaning and televising the sanitary sewer and storm sewer, and Water Conservation Services, Inc. for watermain leak testing of the project area.
- Resolution #21-299, adopted October 26, 2021; City Council ordered the City Engineer to prepare plans and specifications for the improvement project.
- March 15, 2022; Public Works Committee gave recommendation for City Council approving plans and specifications and authorizing advertisement for bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06.

Pavement History

The streets within the subdivision were built between 1993 and 1996. Pavement maintenance has included crack seal / seal coat improvement in 1998, 2005, and in 2013. Maintenance crews have performed patching over the last several years, including extensive spray patching. 2021 PASER values ranged between 2 and 6, with the bulk of the subdivision being rated at 2. PASER values of 2 are as low as any street segments within the City.

Ground Penetrating Radar (GPR) was performed on the street segments. Bituminous pavement thickness was found to have an average thickness of 2.9 inches. Aggregate base thickness was found to have an average thickness of 4.4 inches. The overall average section thickness was 7.3 inches.

Proposed Improvements

Staff review of the geotechnical report found the sub-base material as poorly graded sand and poorly graded sand

with silt, these materials are well suited for pavement support and are considered non-frost susceptible and are also free draining materials. With the sub-base material being sufficient, Staff is proposing to use the current standard City pavement section of 4-inches aggregate base, and 3.5-inches new bituminous pavement. The 4-inches of aggregate base is proposed to be compose of recycled reclamation material.

Staff review found the existing pedestrian ramps within the project area did not meet current ADA requirements, therefore all four pedestrian ramps will need to be removed and replaced. The concrete curb and gutter in the project area were found to generally be in good condition, and only spot repairs are proposed. Staff is proposing minimal impacts to the existing bituminous trail which crosses through the project, beyond what is required for matching into the new pedestrian ramps.

A portion of the cul-de-sac located on the south end of Junkite Street has had some undercutting of the existing concrete curb and gutter. This project proposes to remove and replace a portion of the concrete curb and gutter, perform a full-depth restoration of the compromised road section, and provide a stabilized erosion control mat in the boulevard area to prevent future erosion of the soils.

Review of the storm sewer, sanitary sewer and watermain did not find issues requiring repair. The City will be placing inflow and infiltration barriers on the sanitary sewer manholes with this project. The City received an MCES I/I Grant for this work, which will reimburse the City for the costs associated with the I/I barriers.

Build Process

- Install traffic control measures
  - These are maintained throughout the project
- Install erosion control measures
- Full-depth reclamation of existing bituminous pavement and aggregate base
- Project removals (spot curb and gutter, pedestrian ramps, driveways as needed)
- Place new concrete curb and gutter and pedestrian ramps (5 to 7-day cure time)
- Remove excess reclaim material, shape and compact 5 inches of remaining material
  - Subgrade excavation required to remove approximately 0.5 inches below the existing reclamation material to allow 4-inch thickness
  - Excess reclaim is stockpiled and will be used on future City projects
- Place first lift of new bituminous pavement
- Finish any trail and driveway repairs
  - No driveway repairs are anticipated
- Restore the boulevard in any impacted areas
  - 4 inches topsoil, seed and hydro-mulch
- Place the final lift of bituminous pavement
  - Remove traffic control measures as allowed
- Place all pavement marking, must wait 72 hours after paving
- Erosion control measures are removed after restoration has been completed

Preliminary Schedule Remaining

- Council Approves Plans and Specifications / Authorizes Ad for Bids
  - March 22, 2022
- Staff Receives Bids
  - April 18, 2022
- Council Awards Contract to the lowest responsible bidder
  - April 26, 2022
- Contractor begins construction
  - June 2022
- Contractor Substantially Completes construction
  - September 2, 2022
- Contractor Final Completion (project clean up, punch list created)
  - September 30, 2022

Staff proposes to open bids on April 18, 2022, and to present the bid results to City Council on April 26, 2022 for award of a construction contract to the lowest responsible bidder.

Final plans are not attached to this case to prevent potential bidders from downloading plans attached to the case to prepare and submit their bids, rather than purchasing the plans through QuestCDN, the electronic bidding software used by the City of Ramsey. This ensures all bidders are bidding off the same set of plans, and all bidders are notified of any plan revisions (addenda) issued during the bidding process. Attached is the title sheet showing the scope of the improvements, as well as a plan sheet showing the typical sections, which includes information on the proposed pavement section. Plans are available upon request from the City Engineer.

Notification:

If Council approves plans and specifications and authorizes advertising for bids, bids will be advertised on Friday, March 25, and again on Friday, April 1, 2022, both in the City's official newspaper, the Anoka Union Herald, and in Finance & Commerce.

Additionally, letters will be mailed to property owners with updates on the project status. Engineering Staff maintains a project webpage, which will be updated as new information is made available throughout the project.

Observations/Alternatives:

Motion to adopt Resolution #22-074 Approving Plans and Specifications and Authorizing Advertisements for Bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06.

Funding Source:

Funding for this improvement is proposed to come from Pavement Management Funds, Stormwater Utility Funds, Sanitary Sewer Utility Funds, and Watermain Utility Funds.

Staff has completed an estimate based on the final plans and anticipated 2022 construction costs, with a total estimated project cost of $622,832.65, which includes 23-percent indirect costs for administrative, engineering, finance, and legal costs.

- Street Construction Costs $489,068.01
- Storm Sewer Costs $5,700.00
- Sanitary Sewer Costs $9,600.00
- Watermain Costs $2,000.00
- Indirect Costs $116,464.64
- Total Estimated Project Costs $622,832.65

Recommendation:

Staff recommends adopting Resolution #22-074 approving plans and specifications and authorizing advertisement for bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06.

The Public Works Committee reviewed the Wood Pond Hills 2nd – 5th Street Reconstructions project on March 15, 2022 and recommended the City Council approve the plans and authorize advertisements for bids.

Action:

Adopt Resolution #22-074 approving plans and specifications and authorizing advertisements for bids for Wood Pond Hills 2nd – 5th Street Reconstructions, Improvement Project #22-06.

Attachments

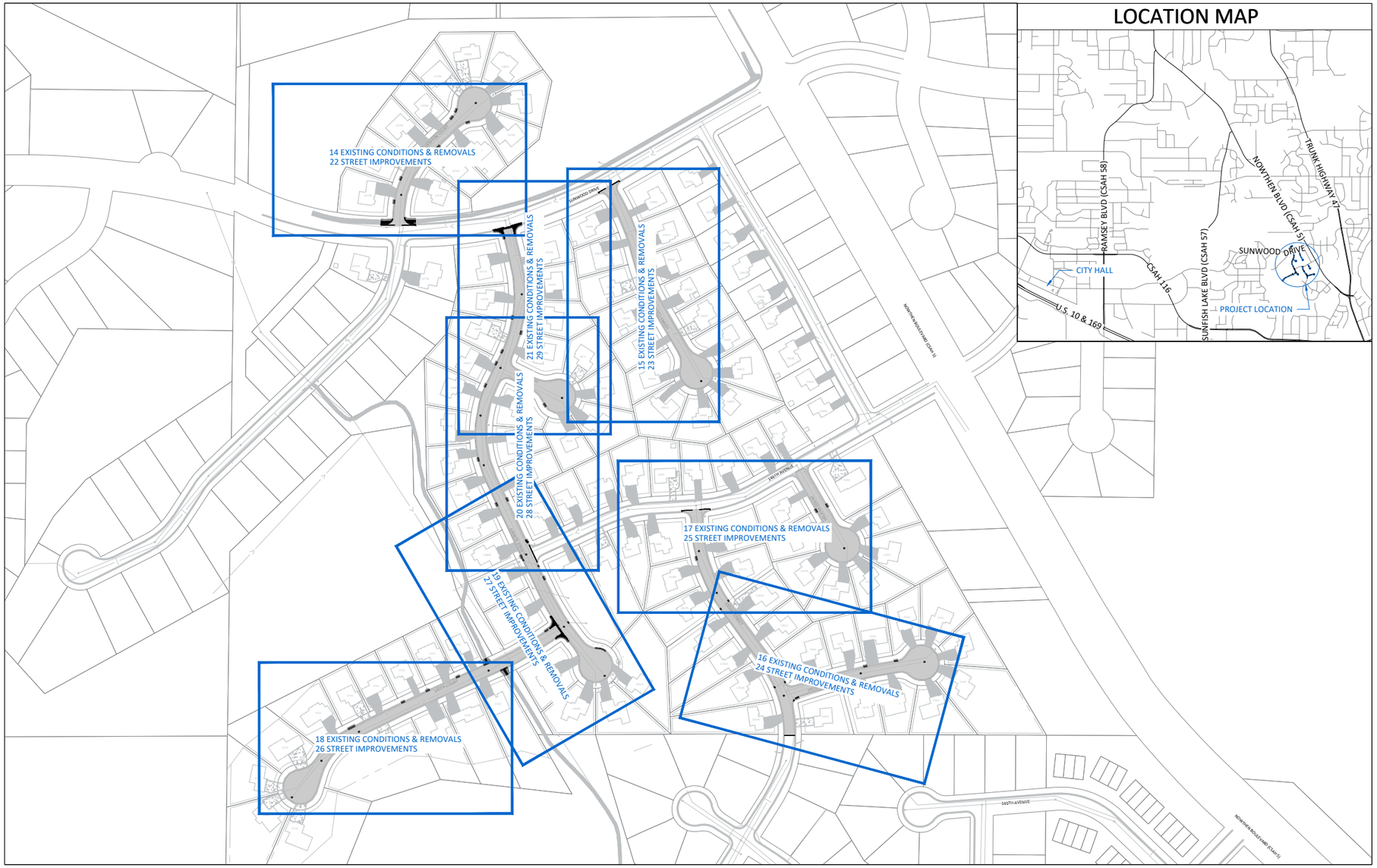
22-06 Title Sheet

22-06 Details
22-06 Street Summary
Res 22-074

Form Review

Inbox	Reviewed By	Date
Bruce Westby	Bruce Westby	03/17/2022 02:08 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:01 PM
Form Started By: Joe Feriancek		Started On: 03/15/2022 08:34 AM
Final Approval Date: 03/17/2022		

CITY OF RAMSEY
WOOD POND HILLS 2ND - 5TH STREET RECONSTRUCTIONS
CITY IMPROVEMENT PROJECT NO. 22-06



LOCATION MAP

GOVERNING SPECIFICATIONS

THE 2020 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION" SHALL GOVERN.

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11 - 12	SWPPP
13	EROSION CONTROL
14 - 21	EXISTING CONDITIONS & REMOVALS
22 - 29	STREET IMPROVEMENTS

LEGEND

SANITARY MANHOLE	Easement - Drainage & Utility
STORM SEWER MANHOLE	Easement - Roadway
CATCH BASIN MANHOLE	LOT LINE
CATCH BASIN	ELECTRIC LINE
CATCH BASIN - GROUT	ELECTRIC LINE - BURIED
CATCH BASIN - RESET	ELECTRIC LINE - OVERHEAD
FLARED END SECTION	GAS LINE
CULVERT END SECTION	TELECOMMUNICATION LINE
HYDRANT	TELECOMM - OVERHEAD
VALVE	FIBER OPTIC LINE
TREE - CONIFEROUS	TREE LINE
TREE - DECIDUOUS	LANDSCAPE
SHRUB	RETAINING WALL
LIGHT POLE	FENCE
SIGN	SILT FENCE
MAILBOX	WATERMAIN
PEDESTAL - TELECOM	SANITARY SEWER
PEDESTAL - ELECTRIC	STORM SEWER
HAND HOLE	DRAIN TILE
DRIVE - BITUMINOUS	LANDSCAPE - ROCK
DRIVE - CONCRETE	LANDSCAPE - MULCH
DRIVE - GRAVEL	LANDSCAPE - RIP RAP
CONCRETE WALK	PR. DRIVE - BITUMINOUS
BITUMINOUS TRAIL	PR. DRIVE - CONCRETE
REMOVE BIT PAVE	PR. DRIVE - GRAVEL
REMOVE CONCRETE PAVE	PR. CONCRETE WALK
REMOVE GRAVEL SURFACE	PR. CONCRETE
MILL BIT PAVEMENT	PR. SEEDING AREA
RECLAIM BIT PAVEMENT	

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

JOE FERIANCEK, P.E.
CIVIL ENGINEER II

57095 LIC. NO.

DATE 2/28/22

DATE	REVISION

SHEET 01 OF 29 SHEETS

0 150 300 450
SCALE (FEET)

N

City of RAMSEY

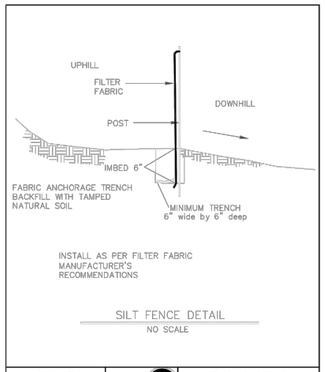
CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

NOTE: EXISTING UTILITY INFORMATION SHOWN ON THIS PLAN HAS BEEN PROVIDED BY THE UTILITY OWNER. THE CONTRACTOR SHALL FIELD VERIFY EXACT LOCATIONS PRIOR TO COMMENCING CONSTRUCTION AS REQUIRED BY STATE LAW. NOTIFY GOPHER STATE ONE CALL 1-800-252-1166 OR 651-454-0002

GSOC
Call before you dig
811
651 454-0002 Metro
800 252-1166 Outstate
www.gopherstateonecall.org

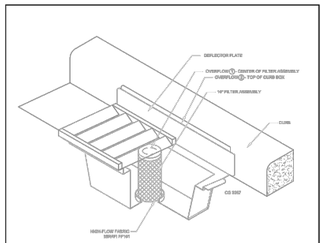
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SILT FENCE DETAIL

NO SCALE

APPROVED: 1 – 2016	City of RAMSEY	STANDARD DETAILS: SILT FENCE
		CITY PLATE No. ERO–1

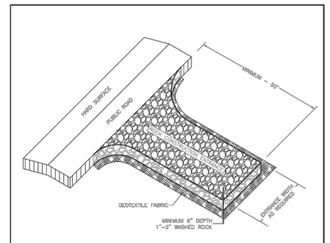


INLET PROTECTION – WIMCO OR EQUAL

N.T.S.

NOTE:
THIS INLET PROTECTION SHALL BE USED IMMEDIATELY FOLLOWING CURB & GUTTER CONSTRUCTION. INLET PROTECTION SHALL REMAIN INSTALLED AND MAINTAINED UNTIL ALL HOME CONSTRUCTION IS COMPLETE.

APPROVED: 1 – 2016	City of RAMSEY	STANDARD DETAILS: INLET PROTECTION
		CITY PLATE No. ERO–2



NOTE:
1. MINIMUM CONSTRUCTION ENTRANCE WIDTH EQUAL TO PROPOSED ROADWAY WIDTH.
2. WIDTH OF RADIUS AS REQUIRED TO ENSURE VEHICLES DO NOT TRACK ONTO PUBLIC ROAD.
3. MAINTAINENCE AS REQUIRED TO PREVENT TRACKING ONTO PUBLIC ROADS. THIS MAY REQUIRE TOP DRESSING WITH ADDITIONAL ROCK OR REMOVAL AND REINSTALLATION OF THE ENTRANCE AS NEEDED.

NOT TO SCALE

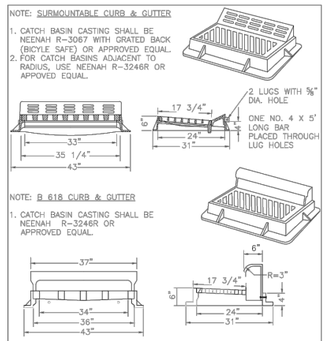
APPROVED: 1 – 2016	City of RAMSEY	STANDARD DETAILS: ROCK CONSTRUCTION ENTRANCE
		CITY PLATE No. ERO–5

Notes:
1. INSTALLATION OF 4" OF TOPSOIL REQUIRED ACROSS ALL DISTURBED AREAS.
2. TOPSOIL IS DEFINED AS BLACK DIRT COMPOSED OF UNCONSOLIDATED MATERIAL, LARGELY UNDECOMPOSED ORGANIC MATTER WHICH IS SUITABLE FOUNDATION FOR VEGETATIVE GROWTH.
3. THE COMPOSITION OF TOPSOIL SHOULD CONTAIN NO MORE THAN THIRTY-FIVE PERCENT (35%) SAND CONTENT.

APPROVED: 7 – 2019	City of RAMSEY	STANDARD DETAILS: TOPSOIL REQUIREMENTS
		CITY PLATE No. ERO–6

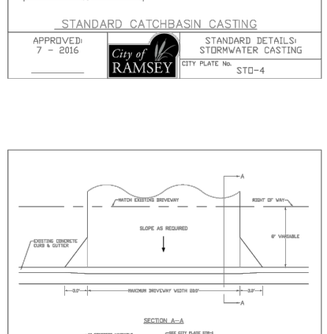
NOTE: SURMOUNTABLE CURB & GUTTER

1. CATCH BASIN CASTING SHALL BE NEENAH R–3067 WITH GRATED BACK (BICYLE SAFE) OR APPROVED EQUAL.
2. FOR CATCH BASINS ADJACENT TO RADIUS, USE NEENAH R–3246R OR APPOVED EQUAL.



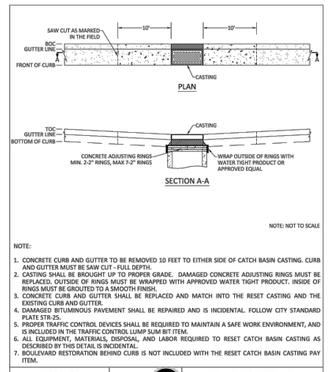
NOTE: B 618 CURB & GUTTER

1. CATCH BASIN CASTING SHALL BE NEENAH R–3246R OR APPROVED EQUAL.



STANDARD CATCHBASIN CASTING

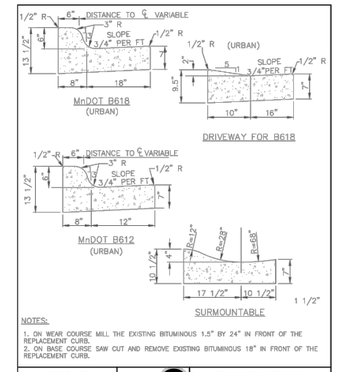
APPROVED: 7 – 2016	City of RAMSEY	STANDARD DETAILS: STORMWATER CASTING
		CITY PLATE No. STO–4



NOTE: NOT TO SCALE

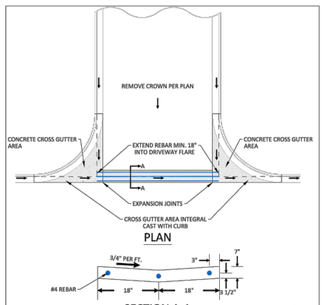
NOTE:
1. CONCRETE CURB AND GUTTER TO BE REMOVED 10 FEET TO EITHER SIDE OF CATCH BASIN CASTING. CURB AND GUTTER MUST BE SAW CUT - FULL DEPTH.
2. CASTING SHALL BE BROUGHT UP TO PROPER GRADE. DAMAGED CONCRETE ADJUSTING RINGS MUST BE REPLACED. OUTSIDE OF RINGS MUST BE WRAPPED WITH APPROVED WATER TIGHT PRODUCT. INSIDE OF RINGS MUST BE GROUTED TO A SMOOTH FINISH.
3. CONCRETE CURB AND GUTTER SHALL BE REPLACED AND MATCH INTO THE RESET CASTING AND THE EXISTING CURB AND GUTTER.
4. DAMAGED BITUMINOUS PAVEMENT SHALL BE REPAIRED AND IS INCIDENTAL. FOLLOW CITY STANDARD PLATE STR-25.
5. PROPER TRAFFIC CONTROL DEVICES SHALL BE REQUIRED TO MAINTAIN A SAFE WORK ENVIRONMENT, AND IS INCLUDED IN THE TRAFFIC CONTROL LUMP SUM BIT ITEM.
6. ALL EQUIPMENT, MATERIALS, DISPOSAL, AND LABOR REQUIRED TO RESET CATCH BASIN CASTING AS DESCRIBED BY THIS DETAIL IS INCIDENTAL.
7. BOULEVARD RESTORATION BEHIND CURB IS NOT INCLUDED WITH THE RESET CATCH BASIN CASTING PAY ITEM.

APPROVED: 3 – 2017	City of RAMSEY	STANDARD DETAILS: RESET CATCH BASIN CASTING
		CITY PLATE No. STO–13



NOTES:
1. ON WEAR COURSE MILL THE EXISTING BITUMINOUS 1.5" BY 24" IN FRONT OF THE REPLACEMENT CURB.
2. ON BASE COURSE SAW CUT AND REMOVE EXISTING BITUMINOUS 18" IN FRONT OF THE REPLACEMENT CURB.

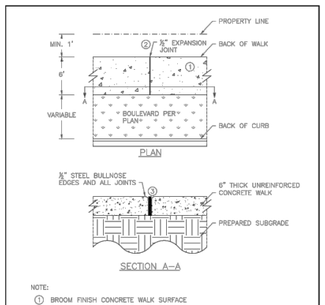
APPROVED: 1 – 2016	City of RAMSEY	STANDARD DETAILS: CURB AND GUTTER
		CITY PLATE No. STR–1



NOTE: NOT TO SCALE

NOTES:
1. WITH REMOVAL OF EXISTING CURB AT A STREET, MILL BITUMINOUS TO A DEPTH OF 1.5" AND A WIDTH OF 18" IN EXISTING STREET.
2. TO BE USED WHENEVER CROSS DRAINAGE IS < 25L
3. CONCRETE CURB AND GUTTER SHALL BE CAST INTEGRAL WITH CONCRETE CROSS GUTTER AREA.
4. CONCRETE CURB AND GUTTER SHALL BE PAID SEPARATELY FROM CONCRETE CROSS GUTTER AREA.

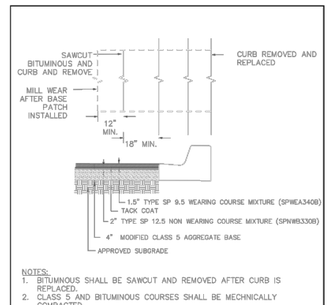
APPROVED: 3 – 2017	City of RAMSEY	STANDARD DETAILS: CROSS GUTTER
		CITY PLATE No. STR–2



NOTE:
① BROOM FINISH CONCRETE WALK SURFACE
② MAXIMUM 100 FOOT SPACING BETWEEN EXPANSION JOINTS
③ 1/2" EXPANION JOINT MEETING MNDOT SPEC 3702. PROVIDE ONE PIECE OF FILLER FOR THE ENTIRE DEPTH AND WIDTH OF THE JOINT

NOT TO SCALE

APPROVED: 10 – 2015	City of RAMSEY	STANDARD DETAILS: CONCRETE SIDEWALK
		CITY PLATE No. STR–3



NOTES:
1. BITUMINOUS SHALL BE SAWCUT AND REMOVED AFTER CURB IS REPLACED.
2. CLASS 5 AND BITUMINOUS COURSES SHALL BE MECHNICALLY COMPACTED.
3. SEE CITY PLATE STR–26 FOR MODIFIED CLASS 5 SPECIFICATIONS.

APPROVED: 6 – 2016	City of RAMSEY	STANDARD DETAILS: STREET PATCHING STANDARDS
		CITY PLATE No. STR–25

TABLE A
MODIFIED CLASS 5 SPECIFICATIONS

% PASSING

1"	100
3/4"	90 – 100
3/8"	50 – 80
No.4	35 – 70
No.10	20 – 60
No.40	10 – 35
No.200	5 – 10

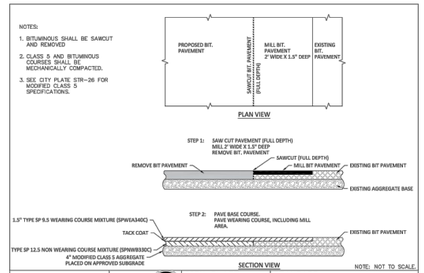
NOTES:
1. THE AGGREGATE BASE CONSTRUCTION WILL BE ACCEPTED FOR PAYMENT IN ACCORDANCE WITH THE PROVISIONS IN TABLE A.
2. IF THE AGGREGATE BASE FAILS TO MEET THE REQUIREMENTS OF TABLE A THE MATERIAL CAN BE CORRECTED IN PLACE OR REMOVED AND REPLACED WITH MATERIAL THAT MEET THE REQUIREMENTS OF TABLE A.
3. IN THE EVENT THAT RECYCLED MATERIAL IS USE IT MUST MEET MNDOT REQUIREMENTS FOR RECYCLED BASE.

APPROVED: 2 – 2003	City of RAMSEY	STANDARD DETAILS: MODIFIED CLASS 5 SPECIFICATIONS
		CITY PLATE No. STR–26

NOTES:
1. PANEL WIDTH SHALL NOT EXCEED 10 FT. WITHOUT A CENTERLINE CONSTRUCTION JOINT.
2. CONCRETE DRIVEWAY TO BE ONE COURSE CONCRETE PAVEMENT. DBE SPECIAL PROVISIONS FOR CLASS OF CONCRETE.)
3. CONCRETE DRIVEWAYS TO BE 6" THICK.
4. ⅜" EXPANSION JOINT, ⅜" PREFORMED JOINT FILLER MATERIAL, AASHTO M 213 (REQUIRED WHEN 2 CONCRETE AREAS ARE POURED SEPERATELY.)
5. BITUMINOUS DRIVEWAYS MINIMUM 2" THICK, MATCH EXISTING BITUMINOUS PAVEMENT THICKNESS.

APPROVED: 1 – 2016	City of RAMSEY	STANDARD DETAILS: RESIDENTIAL DRIVEWAY – NO SIDEWALK
		CITY PLATE No. STR–30

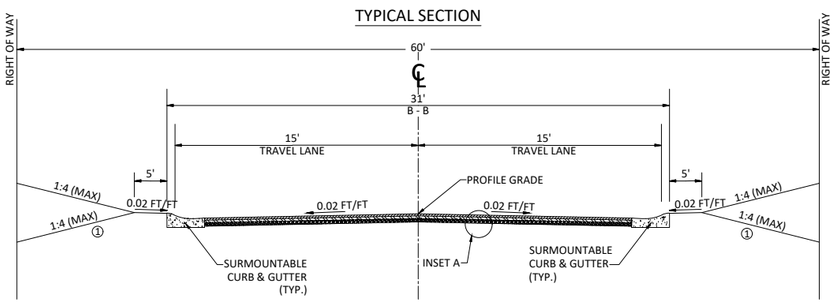
NOTES:
1. BITUMINOUS SHALL BE SAWCUT AND REMOVED
2. CLASS 5 AND BITUMINOUS COURSES SHALL BE MECHANICALLY COMPACTED.
3. SEE CITY PLATE STR–26 FOR MODIFIED CLASS 5 SPECIFICATIONS.



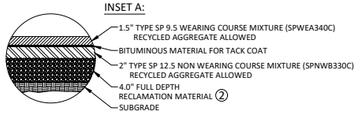
NOTE: NOT TO SCALE

APPROVED: 3 – 2017	City of RAMSEY	CITY PLATE No. STR–31	STANDARD DETAILS: STREET TIE–IN

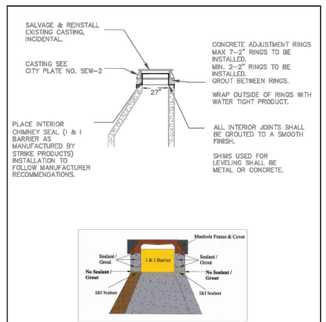
TYPICAL SECTION



INSET A:



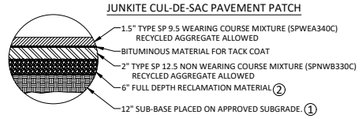
REFERENCE NOTES:
① GRADE TO MATCH EXISTING GROUND. ESTABLISH TURF USING A MINIMUM OF 4" TOPSOIL AND HYDROSEED. SEE CITY PLATE NO. ERO-6 FOR TOPSOIL REQUIREMENTS.
② FULL-DEPTH RECLAMATION MUST PASS CITY OF RAMSEY MODIFIED CLASS 5 AGGREGATE BASE GRADATION. SEE CITY PLATE NO. STR-26.



NOT TO SCALE

APPROVED: 1 – 2022	City of RAMSEY	STANDARD DETAILS: SANITARY MANHOLE ADJUSTING RINGS & CHIMNEY SEAL.
		CITY PLATE No. SEW–7

JUNKITE CUL-DE-SAC PAVEMENT PATCH



REFERENCE NOTES:
① REMOVE & REPLACE 1' SUBBASE MATERIAL IN PATCH AREA, TO 1' BEHIND CURB & GUTTER. RECLAMATION MATERIAL MAY BE USED IN-LIEU OF SELECT GRANULAR MATERIAL.
② FULL-DEPTH RECLAMATION MUST PASS CITY OF RAMSEY MODIFIED CLASS 5 AGGREGATE BASE GRADATION. SEE CITY PLATE NO. STR-26.

DATE	REVISION

Feb 28, 2022 - 9:30am
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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

JOE FERIANCEK
Date 2/28/22 Lic. No. 57095

DESIGNED BY:	JJF	
DRAWN BY:	JJF	DATE: 2/28/22
CHECKED BY:	JJF	FILE: 22-06

CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

CITY DETAILS

WOOD POND HILLS 2ND - 5TH STREET RECONSTRUCTIONS
CITY PROJECT NO. 22-06
CITY OF RAMSEY, MINNESOTA

SHEET 03 OF 29 SHEETS

Wood Pond Hills 2nd, 3rd, 4th & 5th Street Reconstructions
Street Segment Summary

Street Description				Street History						GPR Summary		
Street	**Segment Description**	**Length (feet)**	**Section (Urban / Rural)**	**2021 PASER**	**Year Built**	**Maint. 1**	**Maint. 2**	**Maint. 3**	**Maint. 4**	**Avg HMA (inches)**	**Avg Agg. Base (inches)**	**Avg Section (inches)**
145th Circle	Iodine Street / CDS	425	Urban	5	1996	SC 1998	SC 2005		SC 2013	2.4	5.3	7.4
145th Court	Junkite Street / W EOP	625	Urban	4	1994	SC 1998	SC 2005		SC 2013	2.7	3.6	6.3
146th Circle	Junkite Street / CDS	226	Urban	2	1993	SC 1998	SC 2005			4.0	3.0	7.0
Helium Court	146th Avenue / CDS	301	Urban	6	1996	SC 1998	SC 2005		SC 2013	2.0	5.7	7.7
Iodine Street	145th Circle / S EOP	92	Urban	6	1996	SC 1998	SC 2005		SC 2013	2.0	3.6	5.6
Iodine Street	146th Avenue / 145th Circle	569	Urban	6	1996	SC 1998	SC 2005		SC 2013	3.1	3.6	6.7
Iodine Street	Sunwood Drive / CDS	612	Urban	2	1992	SC 1998	SC 2005			3.1	4.4	7.5
Junkite Street	145th Court / 146th Avenue	164	Urban	2	1994	SC 1998	SC 2005			2.8	4.4	7.2
Junkite Street	145th Court / CDS	197	Urban	2	1994	SC 1998	SC 2005		SC 2013	2.8	4.4	7.2
Junkite Street	146th Avenue / S EOP	39	Urban	2	1993	SC 1998	SC 2005	OL 2012		2.8	4.4	7.2
Junkite Street	146th Circle / 146th Avenue	521	Urban	2	1993	SC 1998	SC 2005			2.8	4.4	7.2
Junkite Street	Sunwood Drive / 146th Avenue	406	Urban	2	1993	SC 1998	SC 2005			2.8	4.4	7.2
Krypton Court	Sunwood Drive / CDS	466	Urban	2	1993	SC 1998	SC 2005			3.2	5.9	9.1
	Total Length	**4,643**	**0.88 mi.**									

** GPR not able to detect Agg. Base*

*** Estimated Depths, GPR not available*

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-074

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTIZEMENTS FOR BIDS FOR WOOD POND HILLS 2ND – 5TH STREET RECONSTRUCTIONS, IMPROVEMENT PROJECT #22-06

WHEREAS, the City of Ramsey proposes to reconstruct Wood Pond Hills 2nd, 3rd, 4th and 5th Subdivisions; and

WHEREAS, pursuant to Ramsey City Council resolution #21-194, adopted July 13, 2021, the City Council ordered the City Engineer to request proposals for Topographic Survey, Geotechnical Evaluations and Utility Testing for proposed 2022 Pavement Management Program projects, including IP 22-06; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-224, adopted August 10th, 2021, the City Council awarded a proposal to Hakanson Anderson for Topographic Survey, and Haugo Geotechnical Services for a geotechnical report of the project area; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-240 adopted August 24, 2021, the City Council awarded a proposal to Hydro-Klean, LLC for cleaning and televising the sanitary and storm sewer, and Water Conservation Services, Inc. for watermain leak testing of the project area; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-307, adopted October 26th 2021 the City Engineer has received and reviewed the Topographic Survey and has prepared plans and specifications for the purpose of advertising for bids for same improvements.

WHEREAS, the City Engineer has prepared plans and specifications for the purpose of advertising for bids for the same improvements.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA:

1) The Ramsey City Council hereby approves the plans and specifications prepared by the City Engineer for the making of such improvements and authorizes the advertisement of bids for the same improvements as City Improvement Project #22-06, Wood Pond Hills 2nd - 5th Street Reconstructions.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22th day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

CC Regular Session **5. 15.**

Meeting Date: 03/22/2022

Submitted For: Joe Feriancek, Engineering/Public Works

By: Joe Feriancek, Engineering/Public Works

Information

Title

Adopt Resolution #22-075 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04

Purpose/Background:

Purpose:

The purpose of this case is to adopt Resolution #22-075 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04.

Background:

City Improvement Project 22-04 proposes to overlay the streets within the Sunfish Lake Business Park 2nd, Sunflower Ridge, Tiger Meadows, and The Ponds of Ramsey subdivisions. The streets total approximately 14,200 (2.69 miles) in length, vary in width between 32 and 42 feet wide urban section. A street segment summary is attached to this case.

Project History

- 2022 – 2031 Capital Improvement Program – listed as street overlay for 2022
- Resolution #21-194, adopted July 13, 2021; City Council ordered the City Engineer to request proposals for Topographic Survey for 2022 Pavement Management Program project.
- Resolution #21-224, adopted August 10, 2021; City Council awarded a proposal to Hakanson Anderson for Topographic Survey of the project area.
- Resolution #21-306, adopted October 26, 2021; City Council ordered the City Engineer to prepare plans and specifications for the improvement project.
- March 15, 2022; Public Works Committee gave recommendation for City Council approving plans and specifications and authorizing advertisement for bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04.

Pavement History

The streets within the subdivisions were generally built between 2002 and 2003. Pavement maintenance has included 2 crack seal / seal coat improvements. 2021 PASER values were 7 for all street segments. Ground Penetrating Radar (GPR) was performed on some of the street segments within the project area, and are summarized in the street segment summary.

Proposed Improvements

Based on Staff review of the existing pavement sections, and condition of the existing pavements, a mill and overlay of the existing pavement is appropriate. The proposed mill and overlay will very between 1.5 and 2 inches thick dependent upon the existing pavement thicknesses.

Staff review found the existing pedestrian ramps within the project area did not meet current ADA requirements, therefore all pedestrian ramps within the project area will need to be removed and replaced. The concrete curb and gutter in the project area were found to generally be in good condition, and only spot repairs are proposed.

Minor repairs to the existing storm sewer structures are proposed with this project, the majority of which are

grouting the existing adjustment rings and pipe inverts. Some storm sewers catch basins will require resetting due to settling.

The City will be placing inflow and infiltration barriers on the sanitary sewer manholes with this project. The City received an MCES I/I Grant for this work, which will reimburse the City for the costs associated with the I/I barriers.

Build Process

- Install traffic control measures
  - These are maintained throughout the project
- Project removals (spot curb and gutter, pedestrian ramps)
- Place new concrete curb and gutter and pedestrian ramps (5 to 7-day cure time)
- Mill existing pavement
- Finish structure adjustments, storm sewer catch basin repairs
- Restore the boulevard in any impacted areas
  - 4 inches topsoil, turf
- Place new bituminous pavement
  - Remove traffic control measures as allowed

Preliminary Schedule Remaining

- Council Approves Plans and Specifications / Authorizes Ad for Bids
  - March 22, 2022
- Staff Receives Bids
  - April 18, 2022
- Council Awards Contract to the lowest responsible bidder
  - April 26, 2022
- Contractor begins construction
  - June 2022
- Contractor Substantially Completes construction
  - September 2, 2022
- Contractor Final Completion (project clean up, punch list created)
  - September 30, 2022

Staff proposes to open bids on April 18, 2022, and to present the bid results to City Council on April 26, 2022 for award of a construction contract to the lowest responsible bidder.

Final plans are not attached to this case to prevent potential bidders from downloading plans attached to the case to prepare and submit their bids, rather than purchasing the plans through QuestCDN, the electronic bidding software used by the City of Ramsey. This ensures all bidders are bidding off the same set of plans, and all bidders are notified of any plan revisions (addenda) issued during the bidding process. Attached is the title sheet showing the scope of the improvements. Plans are available upon request from the City Engineer.

Notification:

If Council approves plans and specifications and authorizes advertising for bids, bids will be advertised on Friday, March 25, and again on Friday, April 1, 2022, both in the City's official newspaper, the Anoka Union Herald, and in Finance & Commerce.

Additionally, letters will be mailed to property owners with updates on the project status. Engineering Staff maintains a project webpage, which will be updated as new information is made available throughout the project.

Observations/Alternatives:

Motion to adopt Resolution #22-075 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04.

Funding Source:

Funding for this improvement is proposed to come from Pavement Management Funds, Stormwater Utility Funds, Sanitary Sewer Utility Funds.

Staff has completed an estimate based on the final plans and anticipated 2022 construction costs, with a total estimated project cost of $817,851.96, which includes 14-percent indirect costs for administrative, engineering, finance, and legal costs.

- Street Construction Costs $656,814.00
- Storm Sewer Costs $39,000.00
- Sanitary Sewer Costs $21,600.00
- Indirect Costs $100,437.96
- Total Estimated Project Costs $817,851.96

Recommendation:

Staff recommends adopting Resolution #22-075 approving plans and specifications and authorizing advertisement for bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04.

The Public Works Committee reviewed the 2022 Neighborhood Pavement Overlay Improvements project on March 15, 2022 and recommended the City Council approve the plans and authorize advertisements for bids.

Action:

Adopt Resolution #22-075 approving plans and specifications and authorizing advertisement for bids for 2022 Neighborhood Pavement Overlay Improvements, Improvement Project #22-04.

Attachments

Res 22-075

22-04 Street Summary

22-04 Title Sheet

Form Review

Inbox	Reviewed By	Date
Bruce Westby	Bruce Westby	03/17/2022 02:05 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:59 PM
Form Started By: Joe Feriancek		Started On: 03/15/2022 08:11 AM
Final Approval Date: 03/17/2022		

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-075

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTIZEMENTS FOR BIDS FOR 2022 NEIGHBORHOOD PAVEMENT OVERLAY IMPROVEMENTS, IMPROVEMENT PROJECT #22-04

WHEREAS, the City of Ramsey proposes to overlay the pavement on numerous street segments in 2022 as identified within the proposed 2022 – 2031 Capital Improvement Program; and.

WHEREAS, funding for this improvement is proposed to come from the Pavement Management Fund and Stormwater Utility Fund with a total estimated project cost of $624,000 and

WHEREAS, pursuant to Ramsey City Council resolution #21-194, adopted July 13, 2021, the City Council ordered the City Engineer to request proposals for Topographic Survey for proposed 2022 Pavement Management Program projects, including improvement project #22-04, 2022 Neighborhood Pavement Overlay Improvements; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-224, adopted August 10th, 2021, the City Council awarded a proposal to Hakanson Anderson for Topographic Survey of the project area; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-306, adopted October 26, 2021, the City Council ordered the City Engineer to prepare plans and specifications for improvement project #22-04, 2021 Neighborhood Pavement Overlay Improvements; and

WHEREAS, the City Engineer has prepared plans and specifications for the purpose of advertising for bids for the same improvements.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA:

1) The Ramsey City Council hereby approves the plans and specifications prepared by the City Engineer for the making of such improvements and authorizes the advertisement of bids for the same improvements as City Improvement Project #22-04, 2022 Neighborhood Pavement Overlay Improvements.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22ND day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

IP 22-04 2022 Neighborhood Pavement Overlay Improvements
Street Segment Summary

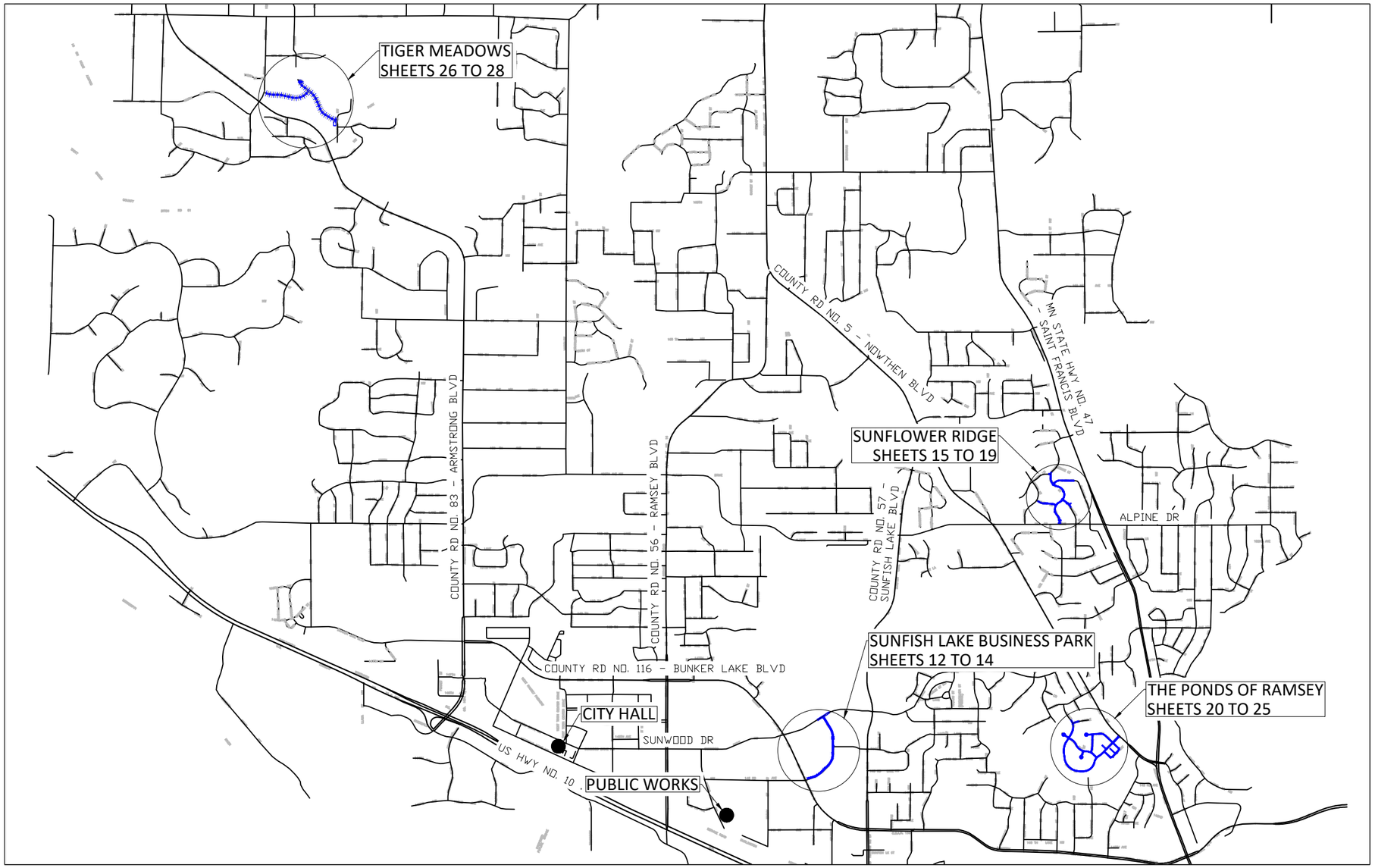
Street Description						Street History							GPR Summary		
Subdivision	**Street**	**Segment Description**	**Length (feet)**	**Section (Urban / Rural)**	**Curb (Bit / Conc.)**	**2021 PASER**	**Year Built**	**Maint. 1**	**Maint. 2**	**Maint. 3**	**Maint. 4**	**Maint. 5**	**Avg HMA (inches)**	**Avg Agg. Base (inches)**	**Avg Section (inches)**
Sunfish Lake Business Park 2nd	Azurite Street	Bunker Lake Boulevard / Sunwood Drive	2123	Urban	Conc.	7	2002	SC 2009	SC 2016				3.5*	6.0*	9.5*
	Sunfish Lake Business Park 2nd Total		*2123*	*0.4 mi.*											
Sunflower Ridge	154th Avenue	Iodine Street / W EOP	305	Urban	Conc.	7	2003	SC 2008	SC 2017				3.9	5.4	9.3
	154th Lane	Iodine Street / E EOP	488	Urban	Conc.	7	2007	SC 2008	SC 2017				3.7	5.3	9.0
	Germanium Street	Iodine Street / E EOP	434	Urban	Conc.	7	2003	SC 2008	SC 2017				3.9	4.5	8.4
	Iodine Street	Alpine Drive / 155th Lane	1613	Urban	Conc.	7	2003	SC 2008	SC 2017				3.8	5.7	9.5
	Sunflower Ridge Total		*2840*	*0.54 mi.*											
Tiger Meadows	Rabbit Street	170th Avenue / Nutria Street	1230	Urban	Conc.	7	2003	SC 2008	SC 2017				4.2	3.6	7.8
	Rabbit Street	170th Avenue / N EOP	409	Urban	Conc.	7	2003	SC 2008	SC 2017				4.2	3.6	7.8
	170th Avenue	Tiger Street / Rabbit Street	1240	Urban	Conc.	7	2003	SC 2008	SC 2017				4.2	4.4	8.6
	Tiger Meadows Total		*2879*	*0.55 mi.*											

**GPR not available, depth based off asbuilts*

IP 22-04 2022 Neighborhood Pavement Overlay Improvements
Street Segment Summary

Street Description						Street History							GPR Summary		
Subdivision	**Street**	**Segment Description**	**Length (feet)**	**Section (Urban / Rural)**	**Curb (Bit / Conc.)**	**2020 PASER**	**Year Built**	**Maint. 1**	**Maint. 2**	**Maint. 3**	**Maint. 4**	**Maint. 5**	**Avg HMA (inches)**	**Avg Agg. Base (inches)**	**Avg Section (inches)**
The Ponds of Ramsey	144th Avenue	Iodine Street / CDS	210	Urban	Conc.	7	2002	SC 2007	SC 2013	SC 2018			2.5*	4.0*	6.5*
	144th Avenue	Iodine Street / Fluorine Street	731	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	144th Avenue	Iodine Street E / Fluorine Street	203	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	144th Court	144th Avenue / CDS	223	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	144th Way	Iodine Street N / Iodine Street S	806	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	145th Avenue	Fluorine Street / CDS	157	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	145th Avenue	Iodine Street / Fluorine Street	615	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	Fluorine Court	145th Avenue / 144th Avenue	486	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	Iodine Street	144th Avenue E / 144th Avenue W	1769	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	Iodine Street	144th Avenue W / W EOP	313	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	Iodine Street	144th Way S / 144th Way E	258	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	Iodine Street	145th Avenue / 144th Way	327	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	Iodine Street	Nowthen Boulevard / 145th Avenue	242	Urban	Conc.	7	2002	SC 2007	SC 2018				2.5*	4.0*	6.5*
	The Ponds of Ramsey Total Length		*6340*	*1.2 mi.*									**GPR not available, depth based off asbuilts*		

CITY OF RAMSEY
NEIGHBORHOOD OVERLAY IMPROVEMENTS
CITY IMPROVEMENT PROJECT NO. 22-04



0 1500 3000 4500
SCALE (FEET)

N

CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

NOTE: EXISTING UTILITY INFORMATION SHOWN ON THIS PLAN HAS BEEN PROVIDED BY THE UTILITY OWNER. THE CONTRACTOR SHALL FIELD VERIFY EXACT LOCATIONS PRIOR TO COMMENCING CONSTRUCTION AS REQUIRED BY STATE LAW. NOTIFY GOPHER STATE ONE CALL 1-800-252-1166 OR 651-454-0002

Call before you dig
811
651 454-0002 Metro
800 252-1166 Outstate
www.gopherstateonecall.org

GOVERNING SPECIFICATIONS

THE 2020 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION" SHALL GOVERN.

ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES SHALL BE COMPLIED WITH IN THE CONSTRUCTION OF THIS PROJECT.

ALL TRAFFIC CONTROL DEVICES AND SIGNING SHALL CONFORM TO THE MINNESOTA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, INCLUDING THE FIELD MANUAL FOR TEMPORARY TRAFFIC CONTROL ZONE LAYOUTS.

SHEET INDEX

THIS PLAN CONTAINS XX SHEETS

SHEET No.	DESCRIPTION
01	TITLE SHEET
02	STATEMENT OF ESTIMATED QUANTITIES
03 - 05	CITY DETAILS
06 - 11	MNDOT PED RAMP DETAILS
12 - 14	BITUMINOUS MILL & OVERLAY - SUNFISH LAKE BUSINESS PARK
15 - 19	BITUMINOUS MILL & OVERLAY - SUNFLOWER RIDGE
20 - 25	BITUMINOUS MILL & OVERLAY - THE PONDS OF RAMSEY
26 - 28	BITUMINOUS MILL & OVERLAY - TIGER MEADOWS

LEGEND

- ADJUST SANITARY FRAME AND RING CASTING
- ADJUST STORM FRAME AND RING CASTING
- RESET CATCH BASIN
- GROUT CATCH BASIN
- FLARED END SECTION
- HYDRANT
- ADJUST VALVE BOX
- LIGHT POLE
- EASEMENT
- RIGHT OF WAY
- ELECTRIC LINE
- GAS LINE
- TELECOMMUNICATIONS LINE
- STORM SEWER
- SANITARY SEWER
- WATERMAIN
- SAWCUT FULL DEPTH
- REMOVE CONCRETE WALK
- REMOVE BITUMINOUS TRAIL
- BITUMINOUS PAVEMENT PATCH
- HYDROSEED
- SODDING TYPE LAWN
- REMOVE & REPLACE CONCRETE CURB & GUTTER
- MILL & OVERLAY BITUMINOUS PAVEMENT
- (S) INDICATES PEDESTRIAN RAMP - SLOPE SHALL BE BETWEEN 5.0% MINIMUM AND 8.3% MAXIMUM IN THE DIRECTION SHOWN AND CROSS SLOPE SHALL NOT EXCEED 2.0%.
- (F) INDICATES PEDESTRIAN RAMP - SLOPE SHALL BE GREATER THAN 2.0% AND LESS THAN 5.0% IN THE DIRECTION SHOWN AND CROSS SLOPE SHALL NOT EXCEED 2.0%.
- PEDESTRIAN RAMP LANDING AREA
- DRAINAGE FLOW ARROW

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

JOE FERIANCEK, P.E.
CIVIL ENGINEER II

57095 LIC. NO.

DATE 03/17/22

DATE	REVISION

SHEET 01 OF 28 SHEETS

Mar 17, 2022 - 9:37am
G:\Engineering\AutoCad Dwgs\Projects N-Z\Overlays\22-04 2022 Neighborhood Overlay Program\Plan Drawings\22-04 Title & SEQ.dwg

CC Regular Session **5. 16.**

Meeting Date: 03/22/2022

Submitted For: Joe Feriancek, Engineering/Public Works

By: Joe Feriancek, Engineering/Public Works

Information

Title

Adopt Resolution #22-076 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Crack Seal Improvements, Improvement Project #22-08

Purpose/Background:

Purpose:

The purpose of this case is to adopt Resolution #22-076 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Crack Seal Improvements, Improvement Project #22-08.

Background:

Crack seal improvements are completed annually, on between 10 and 23 miles of public street segments to cost-effectively maximize the life of the bituminous pavement.

Crack sealing protects pavement by preventing stormwater runoff from seeping through cracks in the pavement and joints between the pavement and concrete curb and gutter, and utility castings. Reducing future pavement damage due to wet subgrade soils, especially during freeze-thaw cycles.

The City's current pavement maintenance schedule calls for public streets to be crack sealed the third, seventh, and fourteenth year following construction, reconstruction, and overlay improvements. However, while this is the typical maintenance schedule it is important to note that Staff reviews the condition of all streets annually and adjusts the schedule of maintenance operations based on actual pavement conditions.

A total of 10.37 miles of public street segments is proposed to receive crack seal improvements in 2022. These street segments were selected based on age, pavement maintenance history, and Pavement and Surface Evaluation Rating (PASER) values of 7 or higher.

Plans and specifications for the 2022 Crack Sealing Improvements were prepared in-house as part of Staff's normal duties. A copy of the plans is attached to this case.

Preliminary Schedule Remaining

- Council Approves Plans and Specifications / Authorizes Ad for Bids
  - March 22, 2022
- Staff Receives Bids
  - April 18, 2022
- Council Awards Contract to the lowest responsible bidder
  - April 26, 2022
- Contractor begins construction
  - June 2022
- Contractor Completes Improvements
  - July 29, 2022

Notification:

If Council approves plans and specifications and authorizes advertising for bids, bids will be advertised on Friday, March 25, and again on Friday, April, 2022, both in the City's official newspaper, the Anoka Union Herald, and in Finance & Commerce.

Staff does not mail letter to property owners for crack seal improvements since the work occurs quickly and has little to no impact to the traveling public or abutting properties. Engineering Staff maintains a project webpage, which will be updated as new information is made available throughout the project.

Observations/Alternatives:

Motion to adopt Resolution #22-076 Approving Plans and Specifications and Authorizing Advertisements for Bids for 2022 Crack Seal Improvements, Improvement Project #22-08.

Funding Source:

Estimated project costs for the proposed 2022 Crack Seal Improvements total $141,600. This includes 14% indirect costs for administrative, engineering, legal and financing.

Staff anticipates bid prices for the 2022 crack seal improvements to be approximately 5 – 10 percent higher than 2021 bid prices.

The City annually budgets $200,000 for crack seal improvements. If bids are less than $200,000, Staff will recommend completing a pavement rejuvenation project to spend the remainder of the budgeted funds.

Recommendation:

Staff recommends adopting Resolution #22-076 approving plans and specifications and authorizing advertisement for bids for 2022 Crack Seal Improvements, Improvement Project #22-08.

Action:

Adopt Resolution #22-076 approving plans and specifications and authorizing advertisement for bids for 2022 Crack Seal Improvements, Improvement Project #22-08.

Attachments

2022 Crack Seal Plans

22-08 Street Summary

Res 22-076

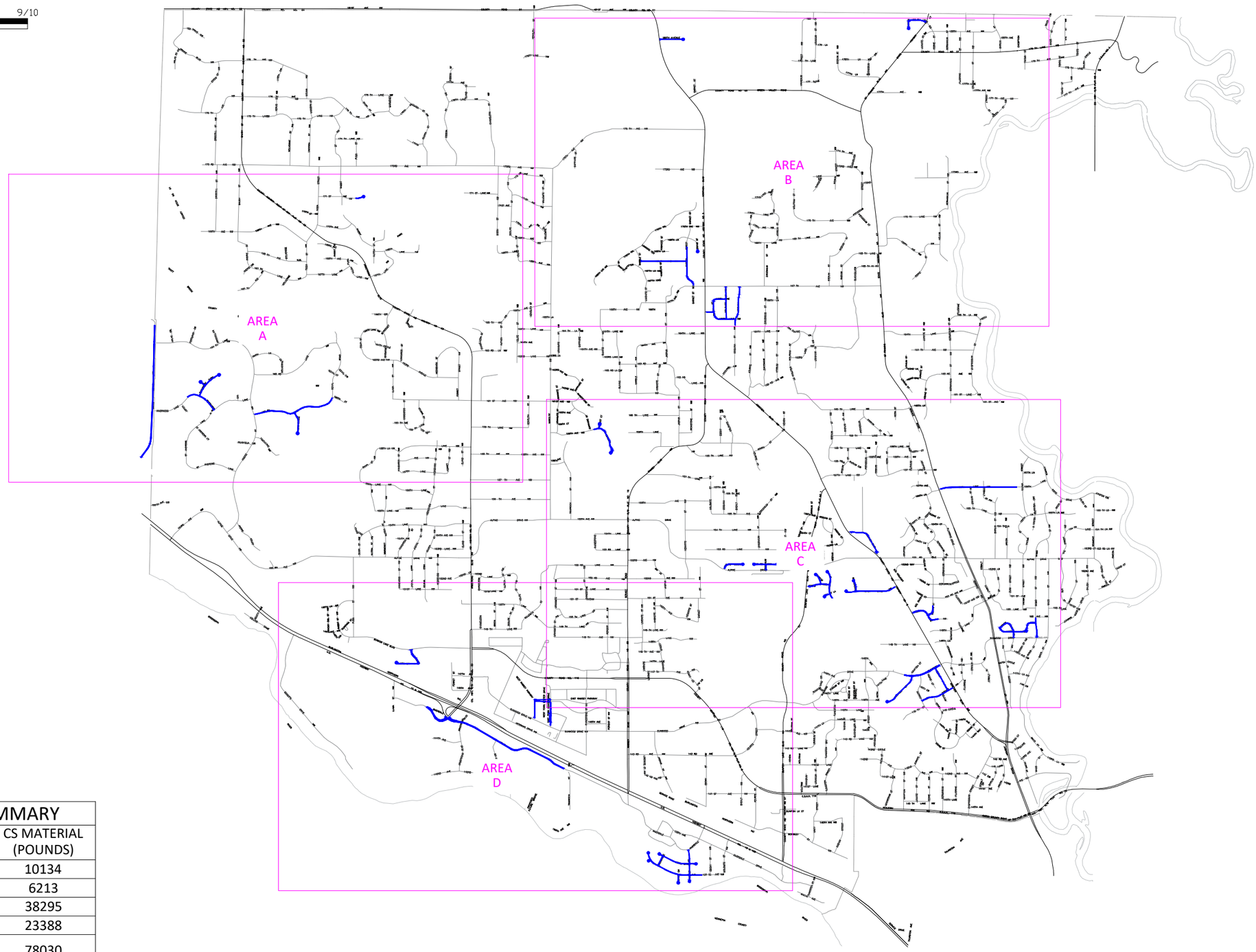
Form Review

Inbox	Reviewed By	Date
Bruce Westby	Joe Feriancek	03/16/2022 11:06 AM
Bruce Westby	Bruce Westby	03/17/2022 02:10 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:02 PM
Form Started By: Joe Feriancek		Started On: 03/15/2022 08:36 AM
Final Approval Date: 03/17/2022		

N

0 3/10 6/10 9/10

SCALE (MILE)



2022 CRACK SEAL SUMMARY

PROJECT AREA	LENGTH (MILES)	CS MATERIAL (POUNDS)
A	2.06	10134
B	1.72	6213
C	3.86	38295
D	2.74	23388
PROJECT TOTAL	10.37	78030

DATE	REVISION

Feb 17, 2022 - 2:58pm
G:\Engineering\AutoCad Dwgs\Projects N-Z\SealCoat Areas\2022 Seal Coat Area\22-08 Base Map.dwg

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

Joe Feriancek

Date____---____ Lic. No. ____---____

DESIGNED BY:	---	
DRAWN BY:	---	DATE: 2/17/22
CHECKED BY:	---	FILE: 22-08

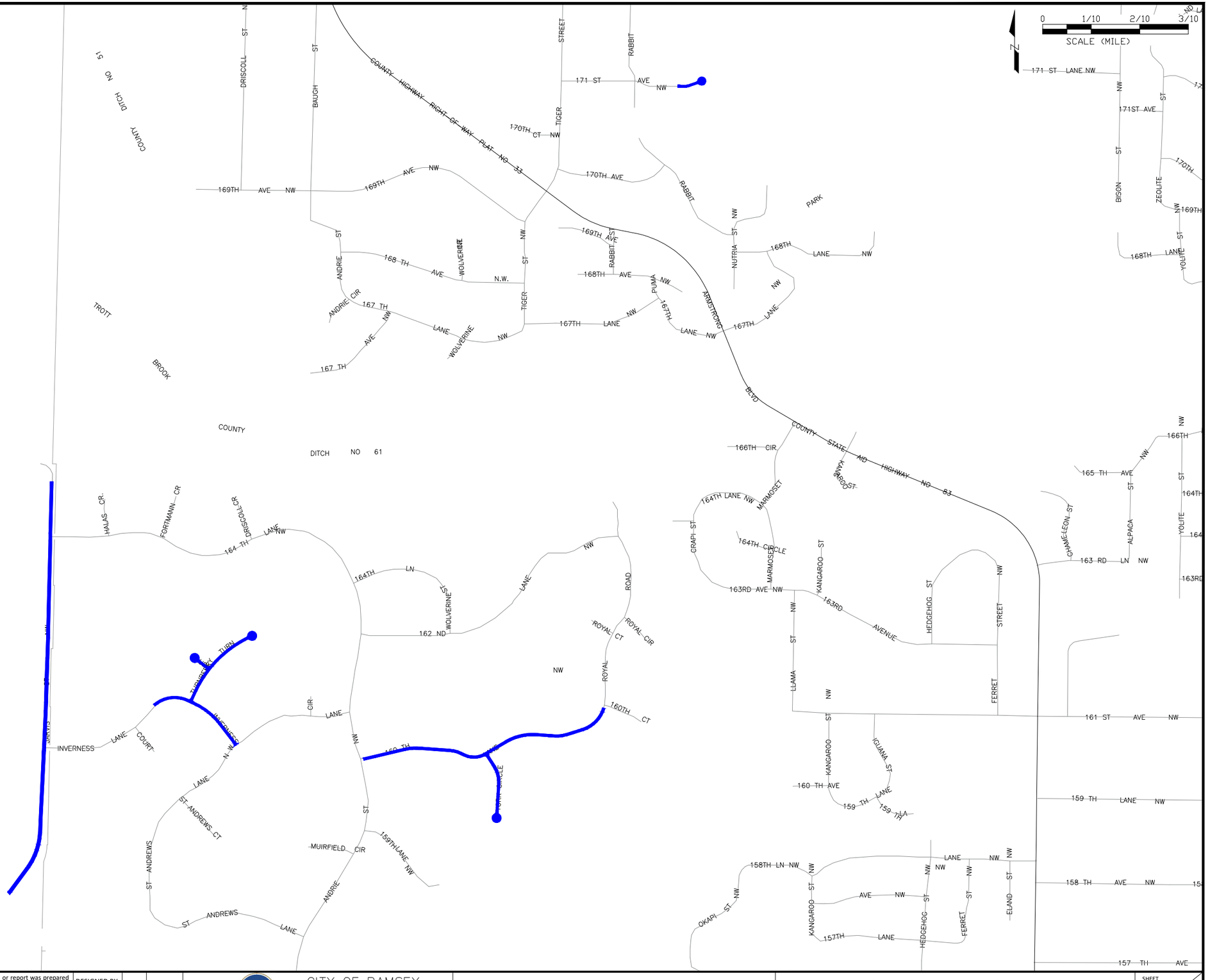
CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

OVERALL MAP

2022 CRACK SEAL IMPROVEMENTS
CITY PROJECT NO. 22-08
CITY OF RAMSEY, MINNESOTA

SHEET 1 OF 5 SHEETS

AREA A		
SUBDIVISION	LENGTH (MILES)	CS MATERIAL (POUNDS)
MSA - JARVIS STREET	0.87	4983
NORTHFORK HIGHLANDS	0.45	2009
NORTHFORK OAKS	0.08	344
NORTHFORK POINT	0.60	2569
RABBIT MEADOW	0.06	229
MAP AREA A TOTAL	2.18	14381



DATE	REVISION

Feb 17, 2022 - 3:16pm
C:\Engineering\AutoCad Dwgs\Projects N-Z\SealCoat Areas\2022 Seal Coat Area\22-08 Base Map.dwg

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

Joe Feriancek
Date --- Lic. No. ---

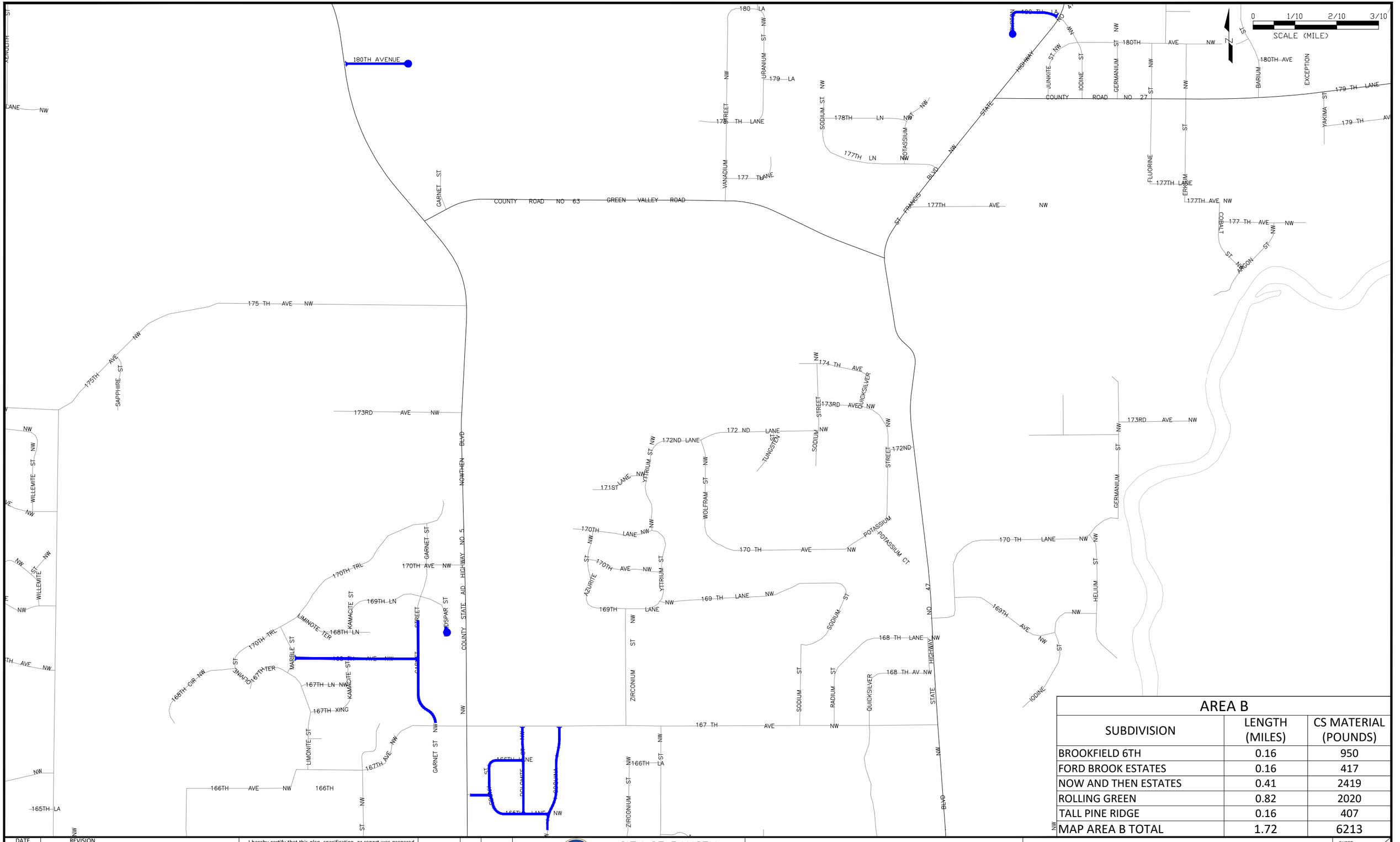
DESIGNED BY:	---		
DRAWN BY:	---	DATE:	2/17/22
CHECKED BY:	---	FILE:	22-08

City of RAMSEY
CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

AREA A

2022 CRACK SEAL IMPROVEMENTS
CITY PROJECT NO. 22-08
CITY OF RAMSEY, MINNESOTA

SHEET 2 OF 5 SHEETS



AREA B

SUBDIVISION	LENGTH (MILES)	CS MATERIAL (POUNDS)
BROOKFIELD 6TH	0.16	950
FORD BROOK ESTATES	0.16	417
NOW AND THEN ESTATES	0.41	2419
ROLLING GREEN	0.82	2020
TALL PINE RIDGE	0.16	407
MAP AREA B TOTAL	1.72	6213

DATE	REVISION

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

Joe Feriancek
Date --- Lic. No. ---

DESIGNED BY:	---	
DRAWN BY:	---	DATE: 2/17/22
CHECKED BY:	---	FILE: 22-08

Feb 17, 2022 - 3:38pm
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CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

AREA B

2022 CRACK SEAL IMPROVEMENTS
CITY PROJECT NO. 22-08
CITY OF RAMSEY, MINNESOTA

SHEET 3 OF 5 SHEETS

AREA C		
SUBDIVISION	LENGTH (MILES)	CS MATERIAL (POUNDS)
ALPINE ESTATES	0.34	4527
AMBER RIDGE	0.52	6584
FOX KNOLL	0.18	2436
FOX KNOLL 2ND	0.45	5230
HAUBRICH ADDITION	0.23	3927
MSA - 156TH LANE	0.49	5646
MSA - SUNWOOD DRIVE	0.24	3033
PONDVALE ESTATES	0.06	347
PONDVALE ESTATES 2ND	0.21	1236
SECTION 23 UNPLATTED	0.25	603
WOOD POND HILLS	0.47	2420
WOOD POND HILLS 3RD	0.15	757
WOODLANDS 4TH	0.27	1549
MAP AREA C TOTAL	3.86	38295

DATE	REVISION

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

Joe Feriancek
Date --- Lic. No. ---

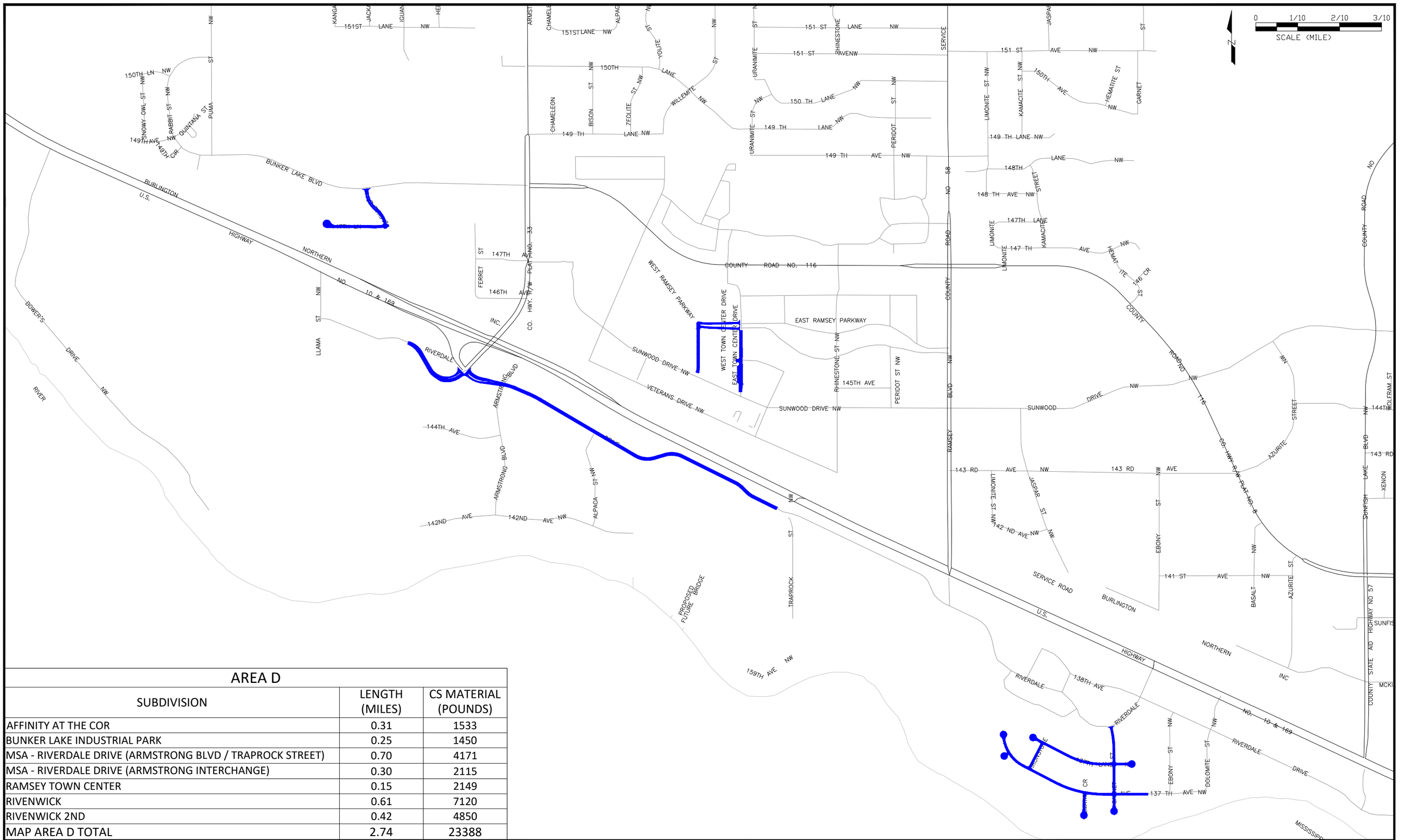
DESIGNED BY:	---	
DRAWN BY:	---	DATE: 2/17/22
CHECKED BY:	---	FILE: 22-08

CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

AREA C

2022 CRACK SEAL IMPROVEMENTS
CITY PROJECT NO. 22-08
CITY OF RAMSEY, MINNESOTA

SHEET 4 OF 5 SHEETS



AREA D

SUBDIVISION	LENGTH (MILES)	CS MATERIAL (POUNDS)
AFFINITY AT THE COR	0.31	1533
BUNKER LAKE INDUSTRIAL PARK	0.25	1450
MSA - RIVERDALE DRIVE (ARMSTRONG BLVD / TRAPROCK STREET)	0.70	4171
MSA - RIVERDALE DRIVE (ARMSTRONG INTERCHANGE)	0.30	2115
RAMSEY TOWN CENTER	0.15	2149
RIVENWICK	0.61	7120
RIVENWICK 2ND	0.42	4850
MAP AREA D TOTAL	2.74	23388

DATE	REVISION

Feb 17, 2022 - 3:29pm
C:\Engineering\AutoCad Dwgs\Projects To Z\SealCoat Areas\2022 Seal Coat Areas\22-08 Base Map.dwg

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota

Joe Feriancek
Date --- Lic. No. ---

DESIGNED BY:	---	
DRAWN BY:	---	DATE: 2/17/22
CHECKED BY:	---	FILE: 22-08

City of RAMSEY

CITY OF RAMSEY
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
(763) 427-1410 FAX (763) 433-9898

AREA D

2022 CRACK SEAL IMPROVEMENTS
CITY PROJECT NO. 22-08
CITY OF RAMSEY, MINNESOTA

SHEET 5 OF 5 SHEETS

22-08 2022 Crack Seal Summary		
Map Area	**Length (miles)**	**CS MATERIAL (LBS)**
Map Area A	2.06	10134
Map Area B	1.72	6213
Map Area C	3.86	38295
Map Area D	2.74	23388
Project Total	**10.37**	**78,030**

Map Area A				
Subdivision	**Street**	**Concrete Curb (yes/no)**	**Length (miles)**	**CS MATERIAL (LBS)**
MSA - Jarvis Street	Jarvis Street (N Section Line / N Line Parcel 18-32-0002)	YES	0.87	4,983
	MSA Jarvis Street Total		*0.87*	*4,983*
Northfork Highlands	Inverness Lane (Turnberry Turn / E EOP)	NO	0.12	479
	Turnberry Turn (Inverness Ln / Turnberry Crt)	NO	0.07	265
	Turnberry Turn (Turnberry Crt / CDS)	NO	0.13	626
	Inverness Lane (Turnberry Turn / W EOP)	NO	0.09	329
	Turnberry Court (Turnberry Turn / CDS)	NO	0.04	310
	Northfork Highlands Total		*0.45*	*2,009*
Northfork Oaks	160th Lane (160th Crt / W EOP)	NO	0.08	344
	Northfork Oaks Total		*0.08*	*344*
Northfork Point	York Circle (160th Ln / CDS)	NO	0.15	732
	160th Lane (York Cir / E EOP)	NO	0.19	779
	160th Lane (Andrie St / York Cir)	NO	0.26	1,057
	Northfork Point Total		*0.60*	*2,569*
Rabbit Meadow	171st Avenue (W EOP / E EOP)	NO	0.06	229
	Rabbit Meadow Total		*0.06*	*229*
Map Area A Total			**2.06**	**10,134**

Map Area B				
Subdivision	**Street**	**Concrete Curb (yes/no)**	**Length (miles)**	**CS MATERIAL (LBS)**
Brookfield 6th	168th Avenue (Marble St / E EOP)	YES	0.16	950
	Brookfield 6th Total		*0.16*	*950*
Ford Brook Estates	180th Lane (TH 47 / Krypton St)	NO	0.11	230
	Krypton Street (180th Ln / CDS)	NO	0.06	187
	Ford Brook Estates Total		*0.16*	*417*
Now and Then Estates	Garnet Street (167th Ave / N EOP)	YES	0.26	1,477
	168th Avenue (W EOP / Garnet Street)	YES	0.13	733
	Feldspar CDS (Brookfield)	YES	0.02	209
	Now and Then Estates Total		*0.41*	*2,419*
Rolling Green	165th Lane (NW PC Ebony & 165th / Coquina ST)	NO	0.12	299
	166th Lane (SW PC Ebony & 166th Ln / Dolomite St)	NO	0.08	189
	Ebony Street (NW PC @ 165th / SW PC @ 166th)	NO	0.12	300
	165th Lane (Nowthen Blvd / Ebony St)	NO	0.05	115
	Dolomite Street (165th Ln / 167th Ave)	NO	0.21	506
	Coquina Street (S EOP / 167th Ave)	NO	0.25	610
	Rolling Green Total		*0.82*	*2,020*
Tall Pine Ridge	180th Avenue (CSAH 5 / E EOP)	NO	0.16	407
	Tall Pine Ridge Total		*0.16*	*407*
Map Area B			**1.72**	**6,213**

Map Area C				
Subdivision	**Street**	**Concrete Curb (yes/no)**	**Length (miles)**	**CS MATERIAL (LBS)**
Alpine Estates	153rd Court (Alpine Dr / CDS)	YES	0.14	2,144
	153rd Way (E CDS / W CDS)	YES	0.17	2,107
	Zirconium Street (153rd Way / Alpine Dr)	YES	0.03	276
	Alpine Estates Total		*0.34*	*4,527*
Amber Ridge	149th Lane (Xkimo St / Zuni St)	YES	0.17	1,992
	149th Lane (Zuni St / Argon St)	YES	0.10	1,050
	Argon Street (149th Ln / Zuni St)	YES	0.06	671
	Xkimo Street (149th Ave / 149th Ln)	YES	0.09	1,289
	Xkimo Street (149th Ln / N EOP)	YES	0.03	403
	Zuni Street (149th Ave / Argon St)	YES	0.07	1,180
	Amber Ridge Total		*0.52*	*6,584*
Fox Knoll	151st Lane (E EOP / Quicksilver St)	YES	0.03	546
	151st Lane (Quicksilver St / CDS)	YES	0.07	923
	Quicksilver Street (151st Ln / CDS)	YES	0.08	968
	Fox Knoll Total		*0.18*	*2,436*
Fox Knoll 2nd	152nd Avenue (CR 57 / Uranium St)	YES	0.08	904
	151st Lane (Sodium St / CDS)	YES	0.05	626
	152nd Avenue (Uranium St / Sodium St)	YES	0.05	593
	Sodium Street (S EOP / 152nd Ave)	YES	0.09	958
	Sodium Street (152nd Ave / CDS)	YES	0.10	1,168
	Uranium Street (152nd Ave / CDS)	YES	0.08	981
	Fox Knoll 2nd Total		*0.45*	*5,230*
Haubrich Addition	151st Lane (Nowthen Blvd / W EOP)	YES	0.23	3,927
	Haubrich Addition Total		*0.23*	*3,927*
MSA - 156th Lane	156th Lane (TH 47 / E EOP)	YES	0.49	5,646
	MSA - 156th Lane Total		*0.49*	*5,646*
MSA - Sunwood Drive	Sunwood Drive (Bridge / CSAH 5)	YES	0.24	3,033
	MSA - Sunwood Drive Total		*0.24*	*3,033*
Pondvale Estates	150th Lane (CSAH 5 / E EOP)	NO	0.06	347
	Pondvale Estates Total		*0.06*	*347*
Pondvale Estates 2nd	150th Lane (W EOP / Helium St)	NO	0.05	310
	150th Lane (Helium St / E EOP)	NO	0.08	475
	Helium Street (150th Ln / N EOP)	NO	0.08	451
	Pondvale Estates 2nd Total		*0.21*	*1,236*
Section 23 Unplatted	Old Hwy 5 (Hwy 5 / Hwy 5)	No	0.25	603
	Section 23 Unplatted Total		*0.25*	*603*
Wood Pond Hills	Helium Street (146th Ave / Sunwood Dr)	YES	0.16	811
	146th Avenue (CR 5 / W EOP)	YES	0.06	319
	Krypton Street (Sunwood Dr / Termini)	YES	0.25	1,290
	Wood Pond Hills Total		*0.47*	*2,420*
Wood Pond Hills 3rd	146th Avenue (Junkite St / E EOP)	YES	0.15	757
	Wood Pond Hills 3rd Total		*0.15*	*757*
Woodlands 4th	159th Avenue (W EOP / Perodot Crt)	YES	0.03	174
	Peridot Court (159th Ave / CDS)	YES	0.04	255
	Peridot Street (159th Ave / CDS)	YES	0.20	1,121
	Woodlands 4th Total		*0.27*	*1,549*
Map Area C			**3.86**	**38,295**

Map Area D				
Subdivision	**Street**	**Concrete Curb (yes/no)**	**Length (miles)**	**CS MATERIAL (LBS)**
Affinity at the COR	West Ramsey Parkway EB (Willemite St / Center St)	YES	0.09	433
	West Ramsey Parkway WB (Willemite St / Center St)	YES	0.09	428
	Willemite Street (Sunwood Dr / West Ramsey Prkwy)	YES	0.12	672
	Affinity at the COR Total		*0.31*	*1,533*
Bunker Lake Industrrial Park	147th Lane (Jackal St / CDS)	YES	0.15	907
	Jackal Street (Bunker Lake Blvd / 147th Ln)	YES	0.10	543
	Bunker Lake Industrial Park Total		*0.25*	*1,450*
MSA - Riverdale Drive (Armstrong Blvd / Traprock Street)	Riverdale Drive (Armstrong Interchange / Alpaca St)	YES	0.21	1,266
	Riverdale Drive (Alpaca St / E EOP)	YES	0.11	675
	Riverdale Drive (W EOP / Traprock St)	YES	0.37	2,231
	MSA - Riverdale Drive (Armstrong Blvd / Traprock St) Total		*0.70*	*4,171*
MSA - Riverdale Drive (Armstrong Interchange)	Riverdale Drive (Interchange / Armstrong Blvd)	YES	0.13	893
	Riverdale Drive (Armstrong Interchange / W PC)	YES	0.17	1,222
	MSA - Riverdale Drive (Armstrong Interchange) Total		*0.30*	*2,115*
Ramsey Town Center	Center Street (Sunwood Dr / 145th Ave)	YES	0.07	1,230
	Center Street (145th Ave / E Ramsey Prkway)	YES	0.07	919
	Ramsey Town Center Total		*0.15*	*2,149*
Rivenwick	137th Avenue (Garnet St / E EOP)	YES	0.08	858
	137th Avenue (Garnet St / Hematite Cir)	YES	0.07	940
	137th Avenue (Hematite Cir / W EOP)	YES	0.04	443
	137th Lane (Garnet St / E CDS)	YES	0.05	675
	137th Lane (Garnet St / W EOP)	YES	0.11	1,122
	Garnet Street (137th Ave / E CDS)	YES	0.05	634
	Garnet Street (137th Lane / 137th Ave)	YES	0.07	728
	Garnet Street (Riverdale Dr / 137th Ln)	YES	0.09	941
	Hematite Circle (137th Ave / E CDS)	YES	0.06	779
	Rivenwick Total		*0.61*	*7,120*
Rivenwick 2nd	137th Avenue (Stub / CDS)	YES	0.02	337
	137th Avenue (E EOP / Ironstone St)	YES	0.10	1,117
	137th Avenue (Ironstone St / CDS)	YES	0.12	1,374
	137th Lane (E EOP / Ironstone St)	YES	0.08	808
	137th Lane (Ironstone St / CDS)	YES	0.03	499
	Ironstone Street (137th Ave / 137th Ln)	YES	0.07	715
			0.42	*4,850*
Map Area D			**2.74**	**23,388**

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-076

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENTS FOR BIDS FOR 2022 CRACK SEAL IMPROVEMENTS, IMPROVEMENT PROJECT #22-08

WHEREAS, the City of Ramsey can most cost-effectively maximize the life of the bituminous pavement on public streets by sealing cracks on an annual basis; and

WHEREAS, the City of Ramsey adopted a budget for 2022 including $200,000 to crack seal the bituminous pavement on numerous public street segments in support of the City's Pavement Management Program; and

WHEREAS, the City Engineer has prepared plans and specifications for the purpose of advertising for bids for the same improvements.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) The Ramsey City Council hereby approves the plans and specifications prepared by the City Engineer for the making of such improvements and authorizes the advertisement of bids for the same improvements as City Improvement Project #22-08, 2022 Crack Seal Improvements.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

CC Regular Session **5. 17.**

Meeting Date: 03/22/2022

Submitted For: Joe Feriancek, Engineering/Public Works

By: Joe Feriancek, Engineering/Public Works

Information

Title

Adopt Resolution #22-078 Accepting Proposals for Fire Station No.1 Water Service Stub

Purpose/Background:

Purpose:

The purpose of this case is to adopt Resolution #22-078 accepting proposals for Fire Station No.1 Water Service Stub.

Background:

The 2022 – 2031 10-Year Capital improvement Plan (CIP) lists extending sanitary sewer and water to Fire Station No.1 in 2022, and adding a sprinkler system in 2023. On January 25, 2022 City Council awarded a contract to North Valley, Inc. for Improvement Project #21-10, Fire Station No.1 Parking Lot Improvements. During the parking lot improvement design process, it was determined to not include extending water services with the parking lot improvement project. However, with the proposed Lynwood development, a water service from the NW corner of the Fire Station property has become a viable option.

This project extends a 6-inch water service into the Fire Station building, and extends the line past the parking lot, to avoid future excavation of the finished parking lot. The 6-inch service is sufficient for the future sprinkler system, and other building needs. The CIP will be updated to reflect the shorter future connection required to finish the water service.

Fire Station No.1 will continue to be served by the existing 2” well and on-site septic system, until such time as the remaining 100 feet of water service line is finished, and sanitary sewer service is completed. Both of which are proposed to be extended onto the Fire Station No.1 property as part of the Lynwood development. The first phase of Lynwood includes the sanitary sewer extension onto the Fire Station property, however, the water service extension will be performed with a later development phase. If the City were to not wait for the later development phase, the option still exists to connect to the proposed water service stub from an on-site source located south of the parking lot.

<u>Proposed Work</u>

- Removal of bituminous pavement, concrete walk, building floor as required.
- Install 90 lineal feet of 6” Ductile Iron Pipe and bends as necessary
- Cap both ends of pipe, marking post installed in green space at end of stub
- Patch concrete floor to match the existing floor
- Backfill excavation, temporary patch parking lot and concrete walk with class 5 aggregate
    - Parking lot and concrete walk areas will be finished as part of parking lot improvements
- Restoration of excavation area with minimum 4” topsoil and hydroseed

All work is required to be complete within 20 working days of notice to proceed issued by the City. This will ensure the water stub installation does not affect the parking lot improvements schedule.

Staff requested proposals from four contractors known to perform this type of work. Proposals were received from two of the contractors, which are tabulated below.

Fire Station No.1 Water Service Stub	
Company	**Quote**
Dave Perkins Contracting, Inc.	$15,800.01
One Call Contracting, Inc.	$31,861.00

Dave Perkins Contracting, Inc. submitted the lowest quote, which in Staff's opinion is a responsible and reasonable quote. Based on the submitted quotes, Staff recommends accepting the proposals for Fire Station No.1 Water Service Stub from Dave Perkins Contracting, Inc.

The Contractor is required to complete their work within 20 working days of the notice to proceed issued by the City.

Notification:

No notifications are required with this case.

Observations/Alternatives:

Motion to adopt Resolution #22-078 Accepting Proposals for Fire Station No.1 Water Service Stub.

Funding Source:

Funding for this work is proposed to come from the Water Utility Fund per the attached CIP Sheet.

Recommendation:

Staff recommends adopting Resolution #22-078 accepting proposals for Fire Station No.1 water service stub.

Action:

Adopt Resolution #22-078 accepting proposals for Fire Station No.1 water service stub.

Attachments

Res 22-078
Water Service RFP
CIP FS1 Water Extension
CIP FS1 Sewer Service
CIP FS1 Sprinkler System

Form Review

Inbox	Reviewed By	Date
Bruce Westby	Bruce Westby	03/17/2022 01:36 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:57 PM
Form Started By: Joe Feriancek		Started On: 03/15/2022 08:02 AM
Final Approval Date: 03/17/2022		

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-078

RESOLUTION ACCEPTING PROPOSALS FOR FIRE STATION NO.1 WATER SERVICE STUB

WHEREAS, the City proposes to extend a water service stub into Fire Station No.1; and

WHEREAS, requests for proposals were submitted to four contractors for the purpose of obtaining quotes for completing the proposed water service stub extension; and

WHEREAS, two (2) bids were received, opened, and tabulated on March 14, 2022, and the following bids were found to comply with the request for proposals; and

Contractor	**Total Quote**
Dave Perkins Contracting, Inc.	$15,800.01
One Call Contracting, Inc.	$31,861.00

WHEREAS, the quote of Dave Perkins Contracting, Inc. in the amount of $15,800.01 for said services in accordance with the prepared proposals is the lowest responsible quote and their quote shall be and hereby is accepted.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) The Mayor and City Administrator are hereby authorized and directed to enter into a contract with Dave Perkins Contracting, Inc. for said services for and on behalf of the City of Ramsey.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember ____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

REQUEST FOR PROPOSAL
FIRE STATION No.1
WATERMAIN STUB
City of Ramsey

ISSUE DATE
March 3, 2022

PROPOSAL MUST BE RECEIVED BY:
10:00 am on Monday, March 14, 2022

DELIVER PROPOSAL TO:
City of Ramsey Municipal Center
7550 Sunwood Drive NW
Ramsey, MN 55303
Attn: Marsha Weidner
763-433-9839

INTRODUCTION: The City of Ramsey (City) is requesting proposals for installation of a watermain stub into Fire Station No.1 located at 15050 Armstrong Boulevard. The work includes;

- Removal of 1-2 panels concrete curb and gutter
- Removal of 55 square yards bituminous pavement
- Removal of 8 square yards concrete walk
- Removal of concrete floor, sufficiently sized to install water service
- Installation of 90 lineal feet of 6" DIP Class 53 water service into building
    - Both ends are to be capped.
    - All pipe joints are to be rodded
- Indoor concrete floor patch, to match the existing floor
- Temporary patch of parking lot and concrete walk excavation area with class 5 aggregate.
- Restoration of excavation and temporary stockpile area with minimum 4" topsoil and hydroseed.

SCHEDULE: A written schedule of the work shall be submitted identifying all work components and showing work start and completion dates required to comply with the schedule. The installation of the water service will be completed within 20 working days of the notice to proceed issued by the City. A notice to proceed for the work is anticipated to be issued by the City on or around April 4, 2022. If work is not initiated within 7 calendar days of this notice, the City reserves the right to cancel the proposal and award to the second lowest responsible bidder.

PROPOSAL SUBMITTAL: An itemized quote shall be submitted for the proposed work using the form at the end of this Request for Proposal (RFP)

COMMUNICATION WITH THE CITY: If any requirements of this RFP are not clearly understood, the Contractor is responsible for contacting the City for further clarifications in a prompt manner. Responses to inquiries, if they change or clarify the RFP in a substantial manner, will be forwarded by addenda to the RFP.

SUBMISSION: A signed copy of the attached proposal form is requested by **10:00 a.m. Monday, March 14, 2022.** Deliver to the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey MN 55303 to the attention of Marsha Weidner, Engineering Administrative Assistant. E-mailed proposals will be accepted and may be sent to MWeidner@cityoframsey.com.

REVIEW PROCESS: Proposals received by the RFP deadline will be reviewed by Engineering Staff. The City will award each individual project to the lowest proposal. The City reserves the right to reject any or all proposals and to waive minor irregularities. The winning proposal must be presented by the City Engineer and approved by the Ramsey City Council (Council meetings are on the 2nd and 4th Tuesdays of the month); once approved, an email will be sent out awarding the proposal to the qualified vendor, at which time a Certificate of Insurance will be required prior to scheduling work.

PROPOSAL UNDERSTANDING: By submitting a proposal, the Contractor agrees to be bound to the terms and conditions herein.

COST OF PREPARATION: Under no condition will any costs of preparation of the proposal be reimbursed by the City.

LICENSE AND INSURANCE: By submitting a proposal, the Contractor affirms they shall maintain the following minimum insurance coverage while completing their work as related to this RFP in the following amounts: Commercial General Liability $1,000,000 per occurrence (written on an occurrence-based form bodily injury and property damage); automobile liability $1,000,000 per occurrence (including hired & non-owned bodily injury and property damage). The City of Ramsey shall be named as an additional insured on the Commercial General Liability insurance. Certificated of Insurance for all of the above insurance shall be filed with the City prior to the work. The Contractor also affirms they shall be licensed to perform the work in the State of Minnesota, and the work shall comply with all state and local laws.

All Contractors who work within the City of Ramsey must obtain a City Contractor's License. Licenses may be obtained through the City's building department, permits@cityoframsey.com.

WORKING HOURS: The work shall be carried out during normal working hours so as not to cause any unreasonable nuisance to affected residents and businesses. Under emergency conditions, this limitation may be waived in writing by the Engineer in conjunction with qualified local authority. Normal working hours for this work are considered to be from 7:00 a.m. to 8:00 p.m., Monday through Friday.

WORK AND STAGGING AREAS: The Contractor shall confine their work activities within City-owned properties and right of way / easement. No equipment shall be left on City streets outside normal working hours.

SPECIFICATIONS: Work shall be conducted in conformance with the specifications set forth herein and in accordance with the latest edition of the Minnesota Department of Transportation Standard Specifications for Construction which is incorporated by reference to these specifications.

TRAFFIC CONTROL: All traffic control devices and layouts shall conform and be installed in accordance to the latest addition of the Minnesota Temporary Traffic Control Field Manual.

PERMITS: The Contractor shall obtain all necessary construction permits.

PAYMENT: Invoices must be submitted to the City on a net 30-day basis, made out to the City of Ramsey Engineering Department including the project description, and must be submitted via email to accountspayable@cityoframsey.com. Payments may be made by EFT upon request, please submit EFT requests to accountspayable@cityoframsey.com. An IC 134 form will be required for final payment.

BASIS OF PAYMENT:

Mobilization – Payment shall be made on a lump sum basis for the mobilization of equipment.

6" Ductile Iron Pipe Class 53 Watermain – Payment shall be made on a per lineal foot basis as compensation for all equipment, material, and labor costs required for the installation of DIP watermain. Excavation for watermain is incidental to the DIP Watermain pay item.

Ductile Iron Fittings – Payment shall be made on a lump sum basis as compensation for all equipment, material, and labor costs required for the installation of ductile iron fittings, including but not limited to all bends, restraints, caps.

Bituminous and Concrete Removal – Payment shall be made on a lump sum basis as compensation for all equipment, material, and labor costs required for the removal of bituminous pavement, concrete walk, and concrete curb and gutter. All removals shall be saw-cut.

Aggregate Base Class 5 Temporary Patch – Payment shall be made on a lump sum basis as compensation for all equipment, material, and labor costs required for the loading, transportation, placement, and compaction of aggregate base meeting the Class 5 Ramsey gradation requirements. Temporary patch shall be a minimum thickness of 10 inches.

Indoor Concrete Remove and Replace – Payment shall be made on a lump sum basis as compensation for all equipment, material, and labor costs required for the removal and replacement of concrete floor. Replacement material shall match the existing floor thickness and appearance. All removals shall be saw-cut. Concrete floor impact area shall be minimized to the extent practical.

Restoration – Payment shall be made on a lump sum basis as compensation for restoring the excavation area with a minimum of 4" topsoil, seed, fertilizer, and hydro-mulch. Seed mix shall meet MnDOT seed mixture 25-151.

Other Items – The cost of any additional equipment, labor, materials, tools and supplies which have not been specifically identified in this section for payment, but are required to complete the project per the plans and specifications shall be considered incidental to the project.

PROPOSAL

I/We agree to furnish all materials and labor for the project(s) described above:

IP 22-01 SUNWOOD DRIVE AND WACO STREET SEWER TELEVISING

Item No.	Item Description	Unit	Quantity	Price	Extension
1	Mobilization	LS	1	_____	_____
2	6" DIP Class 53 Watermain	LF	90	_____	_____
3	Ductile Iron Fittings	LS	1	_____	_____
4	Bituminous and Concrete Removal	LS	1	_____	_____
5	Aggregate Base Class 5 Temporary Patch	LS	1	_____	_____
6	Indoor Concrete Remove and Replace	LS	1	_____	_____
7	Restoration	LS	1	_____	_____
	Fire Station No.1 Water Service Stub Total (Items 1 – 7)				_____

Contractor Name _____

Contractor Address _____

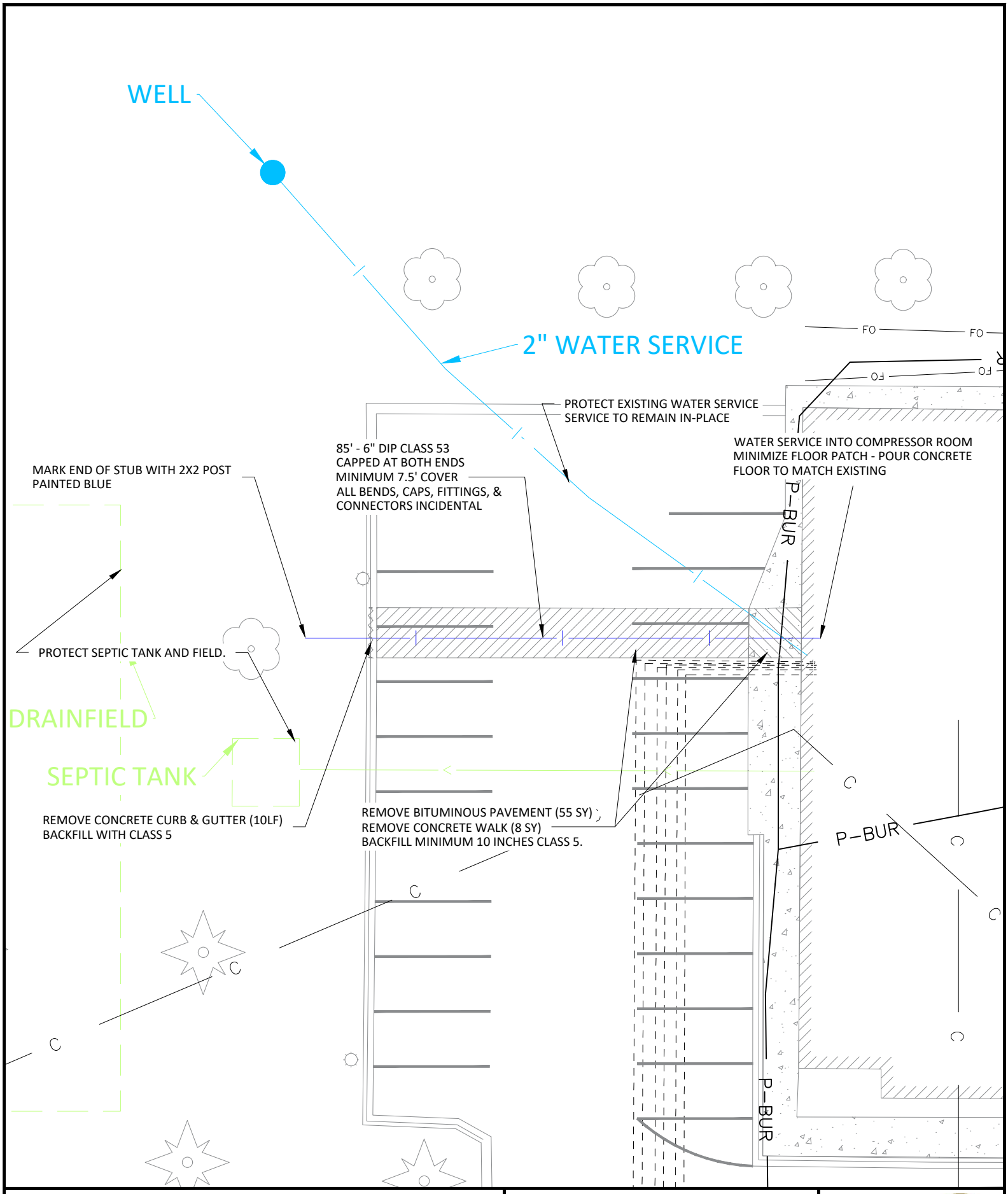
Owner or representative _____

Phone(s) _____

E-mail _____

Signature _____

Date _____



WATER SERVICE STUB
FIRE STATION No.1
15050 ARMSTRONG BOULEVARD

0 10 20 30
SCALE (FEET)

N

City of RAMSEY

Capital Improvement Program

2022 *thru* 2031

City of Ramsey, Minnesota

Project # 11-WTR-003

Project Name Fire Station #1 Extension of Water

Department Water Utility
Contact
Type Improvement
Useful Life 50 Years
Category Water Utility Improvement
Priority 2-New Addition (High)
Status Active

Total Cost $55,000

Description

Extend municipal water from parking lot into Fire Station #1 building.

Related Project 12-SEW-002 $60,000
Total Project Cost $115,000

Justification

Treated water is currently at the west end of parking lot on the property. This extension would allow for the installation of a sprinkler system within the building while also improving water quality inside of the building. The current well would be used for irrigation on the site.

Trunk charges are waived for public buildings.

Expenditures	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Improvements Other than Building Cost	55,000										55,000
Total	**55,000**										**55,000**

Funding Sources	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Water Utility Fund	55,000										55,000
Total	**55,000**										**55,000**

Capital Improvement Program

2022 *thru* 2031

City of Ramsey, Minnesota

Project # 12-SEW-002

Project Name Fire Station 1 Sanitary Sewer Service

Department Sewer Utility
Contact
Type Improvement
Useful Life 50 Years
Category Sewer Utility Improvement
Priority 2-New Addition (High)
Status Active

Total Cost $60,000

Description

Sanitary Sewer was extended to the Fire Station Property in 2011. This project will extend sanitary sewer into the fire station in conjunction with City Water. Sanitary trunk fees not waived.

Related project 11-WTR-003 of $55,000

Justification

Extending sanitary sewer will allow removal of the septic tank and drainfield.

Expenditures	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Improvements Other than Building Cost	60,000										60,000
Total	**60,000**										**60,000**

Funding Sources	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Sewer Utility Fund	60,000										60,000
Total	**60,000**										**60,000**

Capital Improvement Program

2022 *thru* 2031

City of Ramsey, Minnesota

Project # 10-BLDG-004

Project Name Sprinkler System @ Fire Station #1

Department Municipal Buildings
Contact
Type Improvement
Useful Life 20 Years
Category Municipal Building
Priority 2-New Addition (High)
Status Active

Total Cost $25,000

Description

Hookup on-site municipal water to building and install sprinkler system for entire building.

Justification

Municipal water is on site with municipal well.

Expenditures	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Building Cost/Construction		20,000									20,000
Improvements Other than Building Cost		5,000									5,000
Total		**25,000**									**25,000**

Funding Sources	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Capital Maintenance Fund		25,000									25,000
Total		**25,000**									**25,000**

CC Regular Session **7. 1.**

Meeting Date: 03/22/2022

Submitted For: Brian Hagen, Community Development

By: Brian McCann, Community Development

Information

Title:

Consider Request to Amend a Home Occupation Permit for Peace Keepers, Inc. at 6025 177th Ln NW; Case of Derek Trout

Purpose/Background:

The City received an application from Derek Trout (the “Applicant”) requesting an amendment to his administrative (Level I) Home Occupation Permit due to expansion of his firearm sales business in a detached single family home located on the property generally known as 6025 177th Lane NW (the "Subject Property"). The Home Occupation offerings have expanded beyond the Home Occupation Permit approved administratively by City Staff in 2019.

Notification:

Notifications of this proposal were sent via Standard US Mail to Property Owners within 350 feet of the Subject Property, as reflected by Anoka County Property Records. A notice was also published in the Anoka UnionHerald, the City's Official newspaper for the public hearing. All public notices were posted for the Planning Commission meeting on February 24, 2022.

Observations/Alternatives:

2019 Administrative (Level I) HOP

The Applicant is proposing to expand their current firearms Home Occupation Permit (HOP) on the Subject Property. The request is a result of the City's code enforcement process after a complaint was received regarding the business expansion. The Applicant has an administratively approved HOP from 2019, which indicates the following aspects of the business:

- Online-only sale of firearms; and
- Business trips may not exceed two (2) round trips per day; and
- Expansion of the Home Occupation will require the Applicant to reapply for the permit; and
- Firearms must be secured or attended to at all times; and
- All firearm testing must be done off-site; and
- Complaints received about the business can be brought to the City Council for possible revocation of the permit; and
- Not meeting any of the conditions can result in immediate permit revocation.

Current/Proposed Expansion (Level II required)

The Applicant is currently operating the Home Occupation in this manner, but is now seeking formal approval to amend the HOP to include the actions listed below:

- Expanding from online-only sales to in-person sales; and
- Selling ammunition and accessories; and
- Hosting Permit to Carry classes; and
- Utilizing a single Ramsey-resident employee; and
- Increasing the area of business operations by an additional 200 square feet by moving the business from the dwelling unit to a soon to be completed pole barn.

Planning Commission 2/24/2022

The Planning Commission reviewed the proposal and recommended denial of the HOP amendment during their regular meeting on February 24, 2022.

City Council - 3/8/2022

The City Council tabled this request for the March 22, 2022 City Council meeting for Staff to present a resolution approving the amended HOP with specific conditions. The revised resolution is attached to this case with the following conditions of the Permit:

1. Trainings/Classes
    1. One class every three months in a single calendar year.
    2. Qualifications tests for trainings/classes shall not be conducted onsite.
    3. No more than six (6) customer vehicles on the Subject Property during a single training session.
2. Transactions will be conducted by appointment only within the hours of operation.
3. Hours of operation may be determined by the City Council.
    1. Proposed hours of operation by the Applicant are:
        1. Wednesday - Friday: 4pm - 8pm
        2. Saturday: 10am - 6pm
4. No more than four (4) vehicle round trips per day.
5. An initial inspection will be conducted by the Police Department
6. The accessory structure building permit (RA043920) must pass a final inspection from the City's Building Division before business operations can continue.

The Applicant has reviewed and agreed with the above-listed conditions, and the attached resolution. The hours of operation will need to be determined by the City Council. Additional comments received since the City Council's regular meeting from March 8th, 2022 are also attached to the case, at the end of the correspondence attachment.

Alternatives

Alternative #1: Deny the requested Amended Home Occupation Permit. This matter was originally brought to the City's attention through the code enforcement program and concerns have been raised related to the severity of the expansion and public safety aspects. The administrative HOP would still be applicable, unless the City Council determines revocation of the Permit should occur. Planning Commission supports this alternative.

Alternative #2: Approve an Amended Home Occupation Permit. This would officially authorize the expanded business operations already occurring on the Subject Property. Furthermore, it would eliminate a code enforcement case and place conditions on the operations of the business when the accessory structure is completed. Planning Commission did state that if the Council wished to approve the expansion of the HOP, two minimum conditions related to an inspection of the site by the Police Chief occur and to limit business trips to four round trips per day with the exception of holding a permit to carry class once per calendar year quarter and six customer vehicles for the class. Additional conditions could also be considered.

Funding Source:

The Applicant is responsible for all costs related to this request.

Recommendation:

The Planning Commission recommends denying the proposed amendment to the Home Occupation Permit.

Action:

Motion to adopt Resolution #22-041 Approving an Amendment to a Home Occupation Permit at 6025 177th Lane NW

-or-

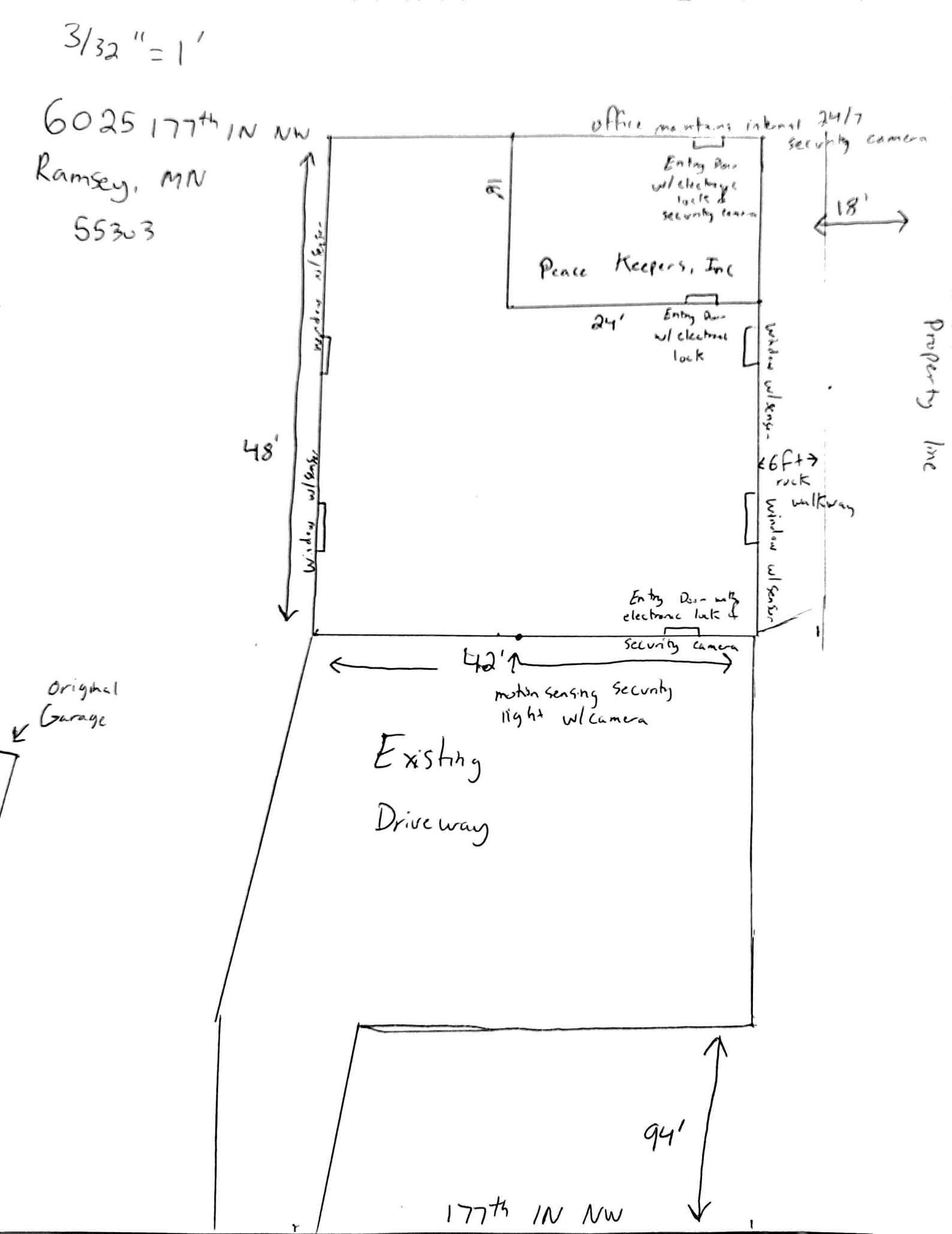
Motion to deny Resolution #22-041 Approving an Amendment to a Home Occupation Permit at 6025 177th Lane NW.

Attachments

Site Plan
Administrative HOP from 2019
New Comments Received for CC
ACTION - Resolution #22-041
Ltr to Council re Peace Keepers Inc.

Form Review

Inbox	Reviewed By	Date
Chris Anderson	Chris Anderson	03/15/2022 04:46 PM
Brian Hagen	Brian Hagen	03/15/2022 06:10 PM
Kurt Ulrich	Kurt Ulrich	03/16/2022 11:04 AM
Brian Hagen	Brian Hagen	03/17/2022 08:24 AM
Form Started By: Brian McCann		Started On: 03/10/2022 08:07 AM
Final Approval Date: 03/17/2022		


3/32" = 1'
6025 177th IN NW
Ramsey, MN
55303
office mounts internal 24/7 security camera
Entry Door w/ electronic locks & security camera
21'
18'
Peace Keepers, Inc
24'
Entry Door w/ electronic lock
Window w/ sensor
Property line
48'
Window w/ sensor
6ft rock walkway
Window w/ sensor
Entry Door with electronic lock & security camera
42'
motion sensing security light w/ camera
Original Garage
Existing Driveway
94'
177th IN NW

3/32 = 1'

N

6025 177th LN NW
RAMSEY MN 55303

125' CORNER OF PROPERTY

BACK

16'

NEW POLE BUILDING 24'

2,016 SqFt

48'

18'

PROPERTY LINE

Install silt fence around perimeter of lot or as directed by the inspector. Maintain until turf is reestablished.

Provide a 10' min. setback from the edge of the septic tank to the building and 20' min. to the edge of the drainfield.

WELL O

23'

20'

29.5'

USE

GARAGE

FRONT

42'

SILT FENCE

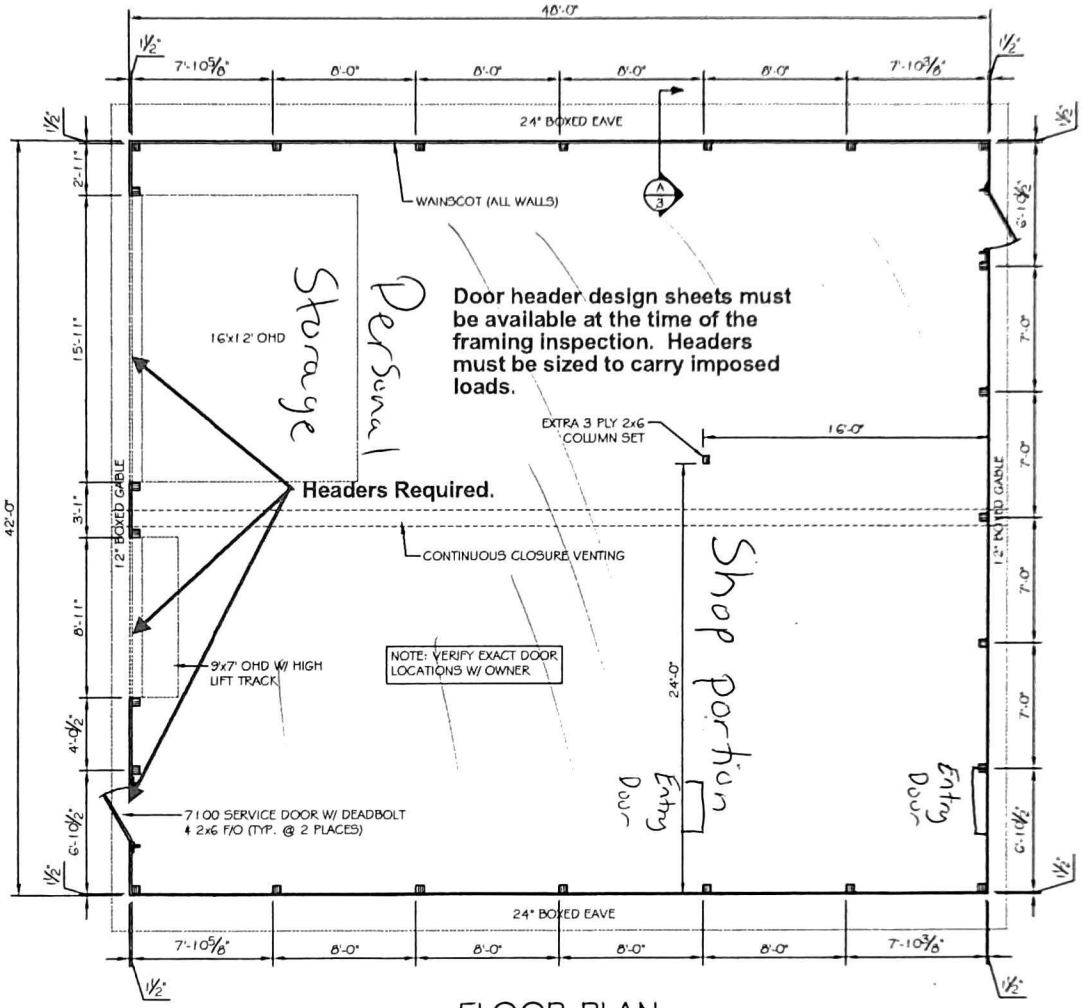
25'

85'

CORNER OF PROPERTY

DRAINAGE FIELD

City of Ramsey — Plans Reviewed for Code Compliance
Building Code: 2015 MN State Building Code
Date of Approval: 06/10/20
Permit Number:
Plan Reviewer:
Signature: Jesse Saybold
Jesse Saybold/Gof/42618



FLOOR PLAN
NOT TO SCALE
N

Northland Buildings
The Leader in Custom Built Buildings
ENGINEERING DEPARTMENT
2894 58th Street
Eau Claire, WI 54703
Fax (715) 874-4213
Office (715) 874-4211

PROJECT TITLE
DEREK TROUT
ANOKA, MN
42' x 48' x 14'

FILE NAME: I:\ACAD\DWGS\PLANREQUEST\20\LP\TROUT, DEREK.DWG

REVISIONS			
NO.	DATE	DESCRIPTION	BY
0			
1			
2			
3			

SCALE: AS NOTED
JOB NO.: 4404185
DRAWN BY: WLC
SHEET NO.: 1 of 3
DATE: 4/10/20

A HOME OCCUPATION PERMIT TO ALLOW FIREARM SALES ON THE PROPERTY LOCATED AT 6025 177TH LANE NW AND DECLARING TERMS OF PERMIT

WHEREAS, the City of Ramsey received an application from Derek Trout (the "Permittee") requesting a Home Occupation Permit (the "Permit") to operate a firearm sales business (the "Home Occupation") in a detached single family home located on the property generally known as 6025 177th Lane NW and legally described as follows:

LOT 5 BLOCK 2 GREEN VALLEY ESTATES 2ND ADDITION; SUBJECT TO EASEMENT OF RECORD

(the "Subject Property"); and

WHEREAS, Derek Trout owns and occupies the home on the Subject Property; and

WHEREAS, the Permittee shall be responsible for ensuring that the Home Occupation meets the requirements of this Permit and operates in a safe and responsible manner; and

WHEREAS, the Permittee has stated that he wishes to operate a firearms sales business (the "Home Occupation") within an office inside the home and that the Permittee is the owner of the Home Occupation and will live in the residential dwelling unit on the Subject Property; and

WHEREAS, the Permittee has stated that the Home Occupation will be conducted in one office space in the home totaling 200 square feet; and

WHEREAS, the Permittee has stated that the gross living area of the dwelling unit is approximately 2,400 square feet; and

WHEREAS, the Permittee has stated that at least 400 square feet of garage space is reserved for indoor residential parking and storage related to the residential use on the Subject Property; and

WHEREAS, the Permittee has stated that there will be no structural additions or alteration to the dwelling unit or garage for the Home Occupation use; and

WHEREAS, the Permittee has stated that the Home Occupation will not employ anyone that does not live in the dwelling unit on the Subject Property; and

WHEREAS, the Permittee has stated that few, if any, customers or clients will come to the Subject Property; and

WHEREAS, the Permittee has stated that there will likely be regular mail and package drop-offs; and

WHEREAS, the Permittee has stated that no vehicles other than a private vehicle(s) would be used in conjunction with the Home Occupation and that the property will remain in accordance with City Code Section 117-355 entitled Residential Off-Street Parking; and

WHEREAS, the Permittee has stated that supplies and materials limited to firearms and a gun safe will be stored on the Subject Property as a result of the Home Occupation; and

WHEREAS, the Permittee has applied for and received a permit with the Minnesota ATF; and

WHEREAS, the Permittee has stated they have a locked gun safe where all firearms shall be stored; and

WHEREAS, the Permittee has stated that the Home Occupation is not subject to review by Anoka County Environmental Services; and

WHEREAS, the Ramsey Police Department has reviewed this request.

NOW THEREFORE, BE IT RESOLVED BY THE ZONING ADMINISTRATOR OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

That the City of Ramsey Community Development Department grants approval of a Home Occupation Permit (the **'Permit'**) for a firearms sales business on the Subject Property contingent upon the following conditions:

1. That this agreement shall permit the operation of an online-only firearms sales business (the "Home Occupation") in the dwelling unit on the **Subject Property**.

2. That the **Permittee** is allowed one (1) non-resident employee unless otherwise permitted by City Code. Notification must be given to the City if the **Permittee** will utilize non-resident employees and the **Permittee** shall obtain a new Home Occupation Permit if non-resident employees shall be utilized.

3. That the combination of customer/client visits and/or deliveries to the **Subject Property** per standard eight (8) hour business day may not exceed two (2) round trips.

4. The **Permittee** has stated that the majority of sales are done online, if this or any of the recital stated above changes, the **Permittee** shall reapply for a Home Occupation Permit with the City.

5. That the **Permittee** agrees to comply with Chapter 117, Article II, Division 6, Subdivision 1 of City Code, titled "Signs." The **Permittee** shall apply for any sign with the City of Ramsey.

6. That the **Permittee** agrees there will be no exterior evidence of the **Home Occupation** permitted on the **Subject Property** unless in compliance with Chapter 117-351 (Home Occupations) of City Code.

7. That the **Permittee** is responsible to verify and ensure that the structures(s) is compliant with all applicable state and local codes.

8. That should the **Permittee** die or should the **Subject Property** be sold, the **Permit** shall be automatically terminated, except that in the case of death, should a surviving spouse or child, residing at the same address, desire to continue the **Home Occupation**, written notice to that effect shall be given to the Zoning Administrator and the City Council may authorize continuation of the **Permit** without further hearing.

9. The **Permittee** shall reside on the **Subject Property;** if the **Permittee** does not reside on the **Subject Property**, the **Permit** shall be automatically terminated.

10. That the **Permittee** agrees that if the operation expands, they will notify the City of Ramsey and reapply for a **Permit**.

11. That adequate water supply and on-site sewage disposal facilities shall be the responsibility of the **Permittee**.

12. The **Permittee** shall be responsible for obtaining and having in full force and effect all applicable State, County, and City licenses. The **Permittee** must receive proper permitting through the ATF.

13. The **Permittee** shall be responsible for all costs incurred in the administration and enforcement of this **Permit**.

14. That the **Permittee** agrees that all drop-offs shall only be from USPS or other typical express delivery outfits that operate in residential areas.

15. That the City Administrator, or his/her designee, shall have the right to inspect the **Subject Property** for compliance and safety purposes annually or at any time, upon reasonable request to the **Permittee**.

16. That the **Permittee** agrees to take additional measures to secure the firearms for online sales, which must include a gun safe.

17. That the **Permittee** agrees to secure all firearms and will not leave firearms unattended. The **Permittee** agrees that when the **Permittee** is not in the vicinity of the firearms, they will be secured and stored properly. The **Permittee** agrees to notify the City of Ramsey Police Department and Community Development Department of any thefts or vandalism.

18. That this **Permit** does not give the **Permittee** or anyone onsite the authorization to test or discharge/shoot firearms onsite. All testing must be done off-site in a permitted location.

19. That if the City receives concerns or complaints from neighbors about traffic, noise, disruption to the neighborhood, or public nuisance concerns, the City will bring the permit forward for City Council review and possible revocation.

20. That not meeting any of the conditions listed above is grounds for immediate permit revocation.

PERMITTEE:

Derek Trout hereby acknowledges receipt of this **Permit** and has reviewed the conditions of this **Permit** and has agreed to comply with the terms of this **Permit**.

Derek Trout

STATE OF MINNESOTA)
) ss.
COUNTY OF Anoka)

On this 9 day of Sept, 2019, before me a Notary Public, personally appeared Derek Trout, to me known to be those described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

Notary Public

JESSE ALLEN WHITE
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2020

CITY OF RAMSEY:

By: CM'Guire
Zoning Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing was acknowledged before me this 9th day of September 2019, by Chloe McGuire, Zoning Administrator of the City of Ramsey, a Municipal Corporation under the laws of the State of Minnesota, on behalf of the Municipal Corporation.

JOANN E SHAW
Notary Public
Minnesota
My Commission Expires January 31, 2020

Joann E Shaw
Notary Public

The document drafted by:
The City of Ramsey
7550 Sunwood Dr NW
Ramsey, Minnesota 55303

Email received 03/09/2022

Mr. Anderson, Mr. Hagen, Mr. McCann, Mayor Kuzma and Councilmembers:

RE: 6025 177th Lane NW, (Peacekeepers)

I just wanted to express the deep frustration and dismissive lack of neighbor concerns Council relayed last night.

We felt our legitimate concerns were not acknowledged and that Council did not look at this from an unbiased factual point.

Applicant has legitimately failed conditions of his HOP Level I; but yet City Staff and Council have still failed to address those facts. Shouldn't Applicant have to comply with his Level I before moving forward with a Level II?

The meeting seemed to deviate from the facts.

1. Commercial business in a residential area
2. Failure to comply with Level I, stating on-line only (see HOP I Conditions)
3. Safety of small children, dogs playing, and people walking; Applicant's wife and clients drive too fast for the neighborhood. The gun and building safety is a given.
4. The neighborhood is unlit, no street lights, outskirt, residential area

It's no longer a small business as the Applicant validates. Council's own statements that HOP's are to help small businesses get started with the hope for them to move to a more commercial setting.

This amended HOP level II request and it's original Level I HOP do the neighbors a great injustice and the City a great disservice.

Cordially,
Kelly Schmidt

Note: We would ask for these less invasive, neighbor impact conditions at a minimal.

1. The business be put on a 6 month trial period, if violations are met and corrected, inspections passed, then reapply for an amended Level II
2. The business be limited to standard business hours (8-5 M-F) Item 3 noncompliance
3. One Saturday a month 8-1 pm (ex. 1st Saturday)
4. Per Planning Commission, 6 car parking at pole building
5. Appointments could be outside the scope above, as only one vehicle at a time

Attachments: Applicant's conditional HOP Level I

Address petition to Deny HOP Level II

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WHEREAS, the Permittee has stated that the Home Occupation will be conducted in one office space in the home totaling 200 square feet; and

WHEREAS, the Permittee has stated that the gross living area of the dwelling unit is approximately 2,400 square feet; and

WHEREAS, the Permittee has stated that at least 400 square feet of garage space is reserved for indoor residential parking and storage related to the residential use on the Subject Property; and

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WHEREAS, the Ramsey Police Department has reviewed this request.

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11. That adequate water supply and on-site sewage disposal facilities shall be the responsibility of the **Permittee**.

12. The **Permittee** shall be responsible for obtaining and having in full force and effect all applicable State, County, and City licenses. The **Permittee** must receive proper permitting through the ATF.

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15. That the City Administrator, or his/her designee, shall have the right to inspect the **Subject Property** for compliance and safety purposes annually or at any time, upon reasonable request to the **Permittee**.

16. That the **Permittee** agrees to take additional measures to secure the firearms for online sales, which must include a gun safe.

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18. That this **Permit** does not give the **Permittee** or anyone onsite the authorization to test or discharge/shoot firearms onsite. All testing must be done off-site in a permitted location.

19. That if the City receives concerns or complaints from neighbors about traffic, noise, disruption to the neighborhood, or public nuisance concerns, the City will bring the permit forward for City Council review and possible revocation.

20. That not meeting any of the conditions listed above is grounds for immediate permit revocation.

PERMITTEE:

Derek Trout hereby acknowledges receipt of this **Permit** and has reviewed the conditions of this **Permit** and has agreed to comply with the terms of this **Permit**.

Derek Trout

STATE OF MINNESOTA)
) ss.
COUNTY OF Anoka)

On this 9 day of Sept, 2019, before me a Notary Public, personally appeared Derek Trout, to me known to be those described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

Notary Public

JESSE ALLEN WHITE
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2020

CITY OF RAMSEY:

By: CM'Guire
Zoning Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing was acknowledged before me this 9th day of September 2019, by Chloe McGuire, Zoning Administrator of the City of Ramsey, a Municipal Corporation under the laws of the State of Minnesota, on behalf of the Municipal Corporation.

JOANN E SHAW
Notary Public
Minnesota
My Commission Expires January 31, 2020

Joann E Shaw
Notary Public

The document drafted by:
The City of Ramsey
7550 Sunwood Dr NW
Ramsey, Minnesota 55303

6025 - 177th Lane NW 3/9/22
Neighborhood request/petition
to
Deny Home Occupation Level II request

13 Deny
2 Approve
1 Applicant
1 Stay out of it
3 Vacation

6000 177th Lane NW	Kelly & Mike Schmidt
5936 177th Lane NW	Mike & Mary Mass
6001 177th Lane NW	Arnie & Denise Cox
6024 177th Lane NW	Phil & Sandy Fleming
6100 177th Lane NW	Ashley Walsh
17760 Sodium St NW	Bob & Jeanne Hoffman
17836 Sodium St NW	Soren Kuehn
17852 Sodium St NW	Luke & Wendy Nelson
6112 178th Lane NW	Eric & Laura Renna
6011 178th Lane NW	Dave & Kathleen Nelson
6003 178th Lane NW	Mike & Deborah Kemp
17826 Potassium St NW	Brian & Kathryn Heigl
17757 Postassium St NW	Cheri Johnson

From:	Schmidt
To:	Mark Kuzma; Chris Riley; Matt Woestehoff; Dan Specht; Debra Musgrove; Chris Anderson; Brian Hagen; Brian McCann
Subject:	6025 177th Lane NW
Date:	Monday, March 14, 2022 11:17:17 AM
Attachments:	Conditional Use Permit (PDF) 202202181038486912.pdf

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City Staff, Mayor Kuzma and Councilmembers:

I have to bring this up once more, as it is written that HOP1 and HOP2 in the HOP City Guide, Item 3, of the Home Occupation Process that:

Properties located within at least 350 feet of the subject property will be notified of the request
and the public hearing date.

This statement does not differentiate between Level I and/or Level II, in which the process was neglected and not followed correctly for the original HOP I. No neighbor notification was done.

I respectfully request that since the process failed at a City level in 2019 and with so much opposition, that this should be reconsidered and rejected.

We are well aware that staff has stated no notification was/is necessary for a HOP level I, but it clearly states both levels will need Item 3 notification and public hearings before the process is proposed to Council; which neglected due process.

Cordially

Kelly Schmidt

Attached: City of Ramsey Home Occupant Permit Guide (March 2016 revision)

To Whom it May Concern,

Good afternoon, I would like the opportunity to address a few things before the Mayor and City Council makes their official decisions regarding Derek Trout's Level 1 and Level 2 HOP permits.

With all the amendments and stipulations that are being considered and requested to be able to come to agreement on this approval I urge you to consider if he should be getting approved for this permit at all. Even with these additional conditions being added many of us in the neighborhood feel there are numerous concerns that have yet to be addressed by the City Council.

I must be very honest and upfront that it was disappointing to watch as only one of the Council members directly addressed the very serious concerns with Mr. Trout continuing to repeatedly violate his current permit and even some conditions of the level 2 HOP. These violations have occurred for over two months and are ongoing. He has been given two additional extensions to correct these violations since his 1st violation was documented on January 24th, 2022, and was originally given 14 days to correct these code violations. I am confused how he can be considered for approval for the next level permit if he has such little regard for the codes and regulations the city has set forth for the Level 1 permit that he agreed to (and failed to) abide by. There is photographic, documentation, written and verbal testimony and evidence given by numerous Ramsey citizens of this on-going behavior. Thus far he has had no accountability for violating the codes and regulations and continues to take advantage of this regularly. It seems counterintuitive to approve the next level permit.

What Mr. Trout is proposing and applying for is not a small home business endeavor. I strongly believe that when it is moved to a larger standing building detached from the house and a significant increase in product and in-person sales transactions are expected this should be looked at as a larger business and even walking the fine line to a commercial business endeavor on home/residential zoned land. This opens the door for anyone to have a separate building for a large or commercial business on their residential, home zoned property. Hopefully the Council will take this into consideration when making the decisions to approve or deny the Level 2 permit and whether to leave the Level 1 HOP permit in place.

I would finally like to re-address the safety and security concerns. I respectfully disagree that this is not the same as a gun collector or someone who simply has guns in their home. This is a very large storage facility stocking firearms, ammunition, and more. It is inviting and welcoming in strangers into a small, secluded residential neighborhood to look at and purchase large scale firearms and ammunition. As appreciative as I am of all Military Service members and the honor they bring to our country, Mr. Trout's military status, certifications, and education on gun handling and firearms training are irrelevant when considering his ability run a safe and secure business in a pole barn that is detached from his home occupancy on his residential lot. Even if he takes all the safety measures expected and even goes above and beyond those expectations there is no way of controlling the unknown and uncontrollable variables that are being brought into our neighborhood regularly. This is not a high security brick and mortar building in a high traffic, well light area. The risk is significantly higher for there to be danger, accidental incidents, and security issues for surrounding neighbors if his building was to get broken into or there was careless traffic coming in and out. We should not feel unsafe or anxious living in our own homes. My children should not feel anxious playing outside of the fence in our own backyard. My children should be able to walk/bike/scooter around the block without wondering if someone is speeding around the four blind corners we have. We acknowledge your time is incredibly valuable but please I urge you to take a look at our neighborhood for yourself and see if this is an appropriate and safe place to have a firearms, ammunition, and firearms training business.

We are not asking you to take away Mr. Trout's rights to own and operate a small in-home business or a larger commercial business. We are asking that you hold him accountable to upholding the codes and conditions of the permit he currently has and if he is looking to expand his small home business to take the appropriate route in finding a brick and mortar building in an appropriate and safe commercially zoned place to have his firearms business.

Thank you for taking your time to hear me out and for having the patience and understanding in listening to my and others' feedback on this matter. My hope is that we can all come together to make this work for everyone in the neighborhood.

From:	Eric Renna
To:	Chris Anderson; Brian McCann; Mark Kuzma; Ryan Heineman; Chelsee Howell; Matt Woestehoff; Dan Specht; Debra Musgrove; Chris Riley
Subject:	Peacekeepers Inc LLC
Date:	Monday, March 14, 2022 3:29:29 PM

Good afternoon City leaders,
I am writing this saying I am opposed to this HOP Level 2 permit for Peace Keepers Inc. The applicant who wants to expand into a pole barn has not abided by the conditions of the Level 1 HOP going back as far as 2019. So your answer is to just approve him for a level 2 HOP. Out of the 20 houses in our neighborhood only 2 other households besides Mr. Trout are in favor. I feel that we are not being heard or listened to and only Mr. Trout's position is being considered by some of the City Council members. The City Council keeps trying to compare what other approved Level 1 or 2 HOP's in the city currently and what you has been done for them. Every HOP is different and should be looked at as an individual entity. After doing more research, all of the other HOP permits approved are not operating in the same capacity that Mr. Trout is or conducting business in the same manner of the extensions he is applying for in his level 2 HOP permit. It is irresponsible of some of the City Council members to not acknowledge or address that there is a more security risk for a firearms and ammunition shop detached from the owner's home dwelling than there is for a piano teacher doing lessons out of her home. It also was brought up in the meeting what if he was a private collector and had that many guns or more. The difference is in that it would not be public knowledge that there are a large amounts of firearms and live ammunition in the house or in a building as well as added traffic/vehicles and strangers coming and going out of the neighborhood. The applicant has stated that he does not have it public with an address but I have attached a screenshot taken today of google stating there is a gun shop. I have also submitted other photos and documentation showing that he has had his address on his Facebook page and his webpage that has since been taken down. Also It was brought up by a couple council members about his military background and service. I as well as others are thankful for his service; many of us have family members past and current in the service. This should not be a determining factor in this case, if anything the service teaches you to have the utmost honor and respect for the regulations and authority. Mr. Trouts actions, behavior, and own statements have proven to be the opposite. In closing, I do hope you reconsider granting the level 2 HOP as it is not what most of the Ramsey citizens in this neighborhood want. Thank you for your time and consideration.

Eric Renna

Peace Keepers, Inc.

5.0 ★★★★★ (1)

Gun shop · 4 min

Directions | Start | Call

OVERVIEW | UPDATES | REVIEWS | ABOUT

6025 177th Ln NW, Ramsey, MN 55303

Health & safety: Appointment required

https://m.facebook.com/PeaceKeepersM...

Suggest an edit

See all

5.0

★★★★★

(1)

See all reviews

Add photos

Questions & answers

12:49 PM, Feb 14



Peace Keepers, Inc.

5.0 (4) · Local Business

Closed now

Ramsey, Minnesota

Like

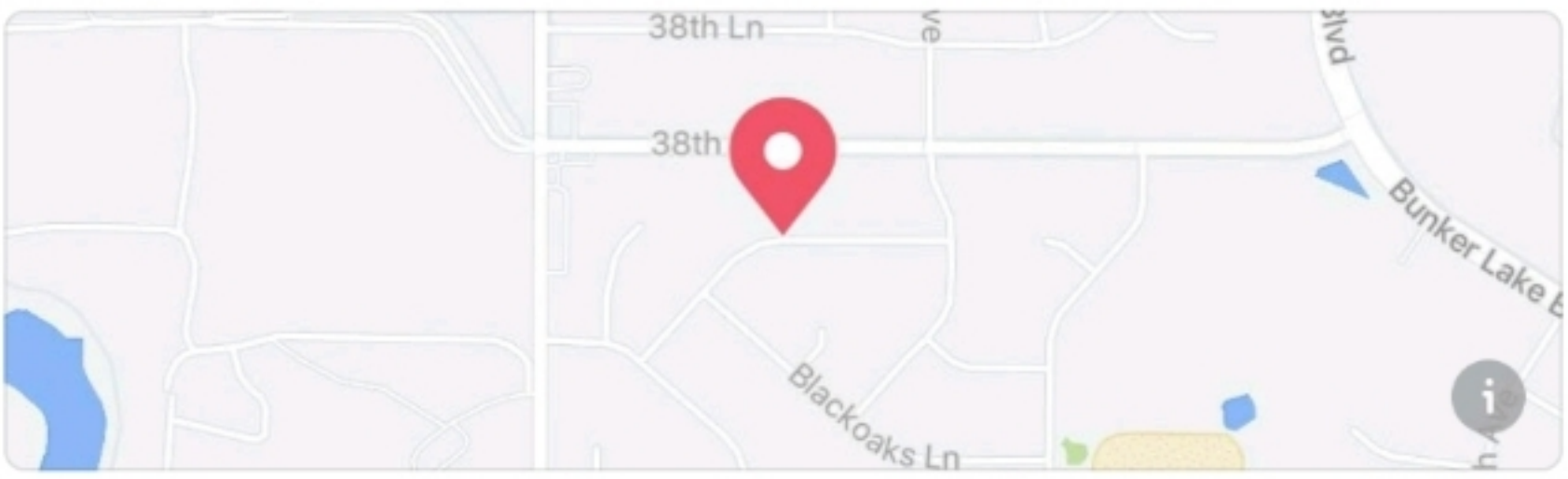
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1,124 people like this

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Ramsey, MN 55303 GET DIRECTIONS

1 person checked in here

http://peace-keepers.square.site/

Typically replies within a few hours

Send message

(763) 339-2679

Local Business

Closed now · 5 PM - 8 PM

Monday	**CLOSED**
Tuesday	CLOSED
Wednesday	5 PM - 8 PM
Thursday	CLOSED
Friday	5 PM - 8 PM
Saturday	10 AM - 8 PM
Sunday	10 AM - 8 PM

Peace-Keepers.square.site

Permit To Carry - OSS

This event has ended

MN Permit To Carry Course. Includes tax and range fees.

— 1 +

This event is in the past.

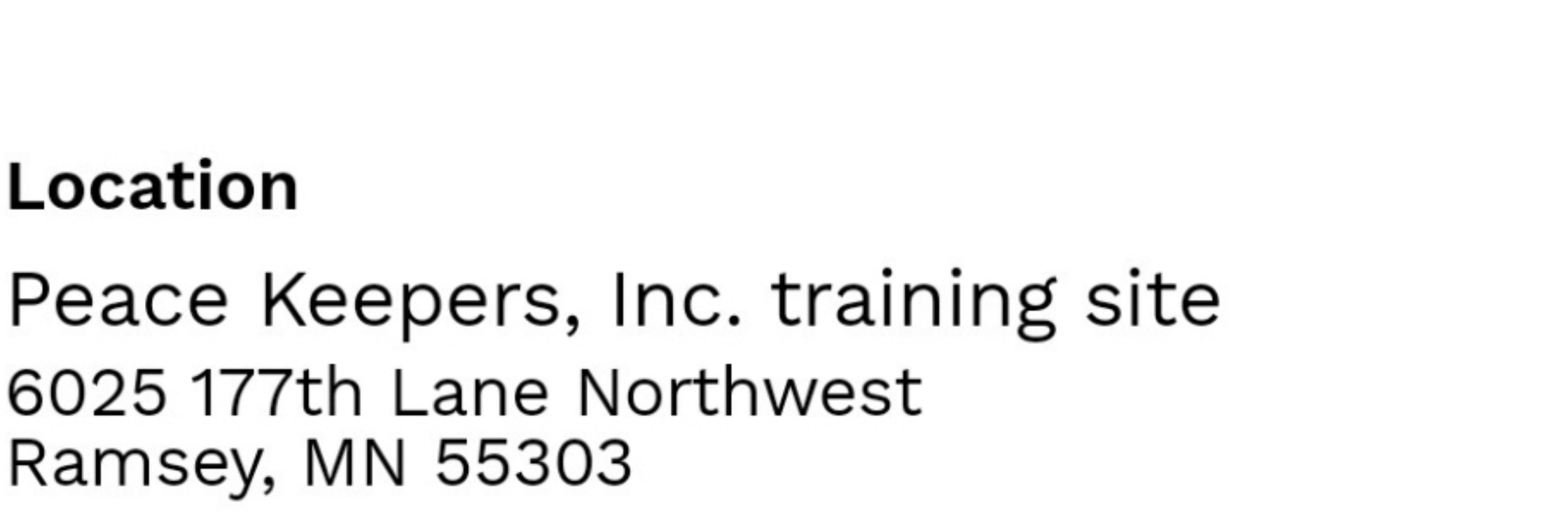
Date & Time

Sat, Oct 30

5:00 AM - 6:00 AM CST

Location

Peace Keepers, Inc. training site
6025 177th Lane Northwest
Ramsey, MN 55303





Ramsey

Minnesota 55303

Snow · 28°F
9:59 AM

Directions | Save | Nearby | Send to your phone | Share

Quick facts

Ramsey is a suburb 22 miles north-northwest of downtown Minneapolis in Anoka County, Minnesota, United States. The population was 23,668 at the 2010 census. It is a northwest suburb of the Twin Cities. Wikipedia

Hotels

About pricing



Comfort Suites
4.2 ★
3 stars



Regency Inn & Suit...
2.6 ★
1 stars



Americ
3.9 ★
2 stars

View more hotels



178th Ln NW
178th Ln NW
178th Ln NW
178th Ln NW
178th Ln NW
Potassium St NW
Sodium St NW
Sodium St NW
Potassium St NW
Sodium St NW
Peace Keepers, Inc
Gun shop
177th Ln NW
177th Ln NW
177th Ln NW
177th Ln NW
177th Ln NW
177th Ln NW
177th Ln NW
St Francis Blvd NW
47
Google



PEACE KEEPERS
FIREARMS & TRAINING



.380acp Winchester Silvertip

$24.99

1

Only 4 remaining

How to get it

Store pickup

Peace Keepers

6025 177th Ln NW Ramsey, MN

Add to Cart $24.99



10:29

PEACE KEEPERS
FIREARMS & TRAINING



DAVIDSON'S GuaranteeD LIFETIME REPLACEMENT

Blue Line Solutions ISSC Omni

$279.00

1

Only 1 remaining

How to get it

Store pickup

Peace Keepers

6025 177th Ln NW Ramsey, MN

G Pay

Description

Add to Cart $279.00

Brand: ISSC

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-041

A RESOLUTION APPROVING AN AMENDMENT TO A HOME OCCUPATION PERMIT AT 6025 177TH LANE NW

WHEREAS, the City of Ramsey (the "**City**") received an application from Derek Trout (the "**Permittee**") requesting an amendment to his existing Home Occupation Permit (the "**Permit**") due to expansion of his firearm sales business (the "**Home Occupation**") in a detached single family home located on the property generally known as 6025 177th Lane NW and legally described as follows:

Lot 5 Block 2 Green Valley Estates 2nd Addition; subject to easement of record, Anoka County, Minnesota

(the "**Subject Property**"); and

WHEREAS, the **City** approved an administrative Home Occupation Permit in 2019 for online firearm sales on the **Subject Property**; and

WHEREAS, the **Permittee** owns and occupies the home on the **Subject Property**; and

WHEREAS, the **Permittee** has expanded and advertised operations of the **Home Occupation** that were not approved in the administrative Home Occupation Permit from 2019; and

WHEREAS, **City** staff were informed of the **Home Occupation** expansion through the **City**'s code enforcement process; and

WHEREAS, the **Permittee** has expanded the **Home Occupation** square footage by an additional 200 square feet, increasing from the original 200 square feet of the home to 400 square feet; and

WHEREAS, the **Permittee** has stated that the **Home Occupation** currently employs a single Ramsey resident that does not live in the dwelling unit on the **Subject Property**; and

WHEREAS, the **Permittee** has stated that the **Home Occupation** currently advertises and hosts Permit to Carry classes on the **Subject Property**; and

WHEREAS, the **Permittee** has stated that the **Home Occupation** will conduct business in the newly built pole barn on the **Subject Property**; and

WHEREAS, the **Permittee** has stated that the **Home Occupation** is conducting in-person sales and actions with customers or clients at the **Subject Property**, an additional expansion of the Home Occupation Permit; and

WHEREAS, the **Permittee** has stated that the **Home Occupation** has expanded the storage of firearms to storing and selling ammunition and accessories, in addition to firearms on the **Subject Property**; and

WHEREAS, the Ramsey Police Department have reviewed this request and do not have any concerns with the Home Occupation expansion; and

WHEREAS, the Ramsey Planning Commission reviewed the request and recommended the Ramsey City Council deny the amendment to the Home Occupation Permit on February 24, 2022;

WHEREAS, the Ramsey City Council tabled the request on March 8, 2022 with direction to staff to prepare an approval to amend the existing administrative Home Occupation Permit;

WHERAS, the Permittee has reviewed the requirements of this Home Occupation Permit and agreed to its terms;

WHERAS, the Ramsey City Council approved the amendment to the Home Occupation Permit on March 22, 2022.

NOW THEREFORE, BE IT RESOLVED BY THE ZONING ADMINISTRATOR OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) That the Ramsey City Council approves an amendment to the Home Occupation Permit (the **'Permit'**) for a firearms sales business on the Subject Property contingent on the following:

    a. That this agreement shall permit the operation of firearms, ammunition, and accessory sales business (the "**Home Occupation**") within the accessory structure upon completion of the structure, with Permit to Carry classes on the **Subject Property**.

    b. That the **Permittee** will be allowed to utilize one (1) non-resident employee. Any additional non-resident employees will require the **Permittee** to obtain a new Home Occupation Permit.

    c. That the combination of customer/client visits and/or deliveries to the **Subject Property** per business day may not exceed four (4) round trips.

    d. That the hours of operation are limited to __:00 am to __:00 pm Wednesday through Friday, and __:00 am to __:00 pm on Saturdays).

    e. That business transactions shall be conducted by appointment only within the listed hours of operation.

f. Permit to Carry classes may occur once per quarter within a single calendar year on the **Subject Property**. A maximum of six (6) customer vehicles may be allowed on the **Subject Property** during a single class. All vehicles shall be parked on the property on a proper surface.

g. That the **Permittee** agrees to comply with Chapter 117, Article II, Division 6, Subdivision 1 of Ramsey City Code, titled "Signs."

h. That the **Permittee** agrees there will be no exterior evidence of the **Home Occupation** permitted on the **Subject Property** unless in compliance with Chapter 117-351 (Home Occupations) of Ramsey City Code.

i. That the **Permittee** is responsible to verify and ensure that the structures(s) is compliant with all applicable state and local codes.

j. That the building permit (RA043920) for the accessory structure must pass a final inspection from the City's Building Division before business operations can continue.

k. That should the **Permittee** die or should the **Subject Property** be sold, the **Permit** shall be automatically terminated, except that in the case of death, should a surviving spouse or child, residing at the same address, desire to continue the **Home Occupation**, written notice to that effect shall be given to the Zoning Administrator and the Ramsey City Council may authorize continuation of the **Permit** without further hearing.

l. The **Permittee** shall reside on the **Subject Property;** if the **Permittee** does not reside on the **Subject Property**, the **Permit** shall be automatically terminated.

m. That the **Permittee** agrees that the operation will not expand without prior approval by the **City**.

n. That adequate water supply and on-site sewage disposal facilities shall be the responsibility of the **Permittee**.

o. The **Permittee** shall be responsible for obtaining and having in full force and effect all applicable State, County, and **City** licenses. The **Permittee** must receive proper permitting through the ATF.

p. The **Permittee** shall be responsible for all costs incurred in the administration and enforcement of this **Permit**.

q. That the **Permittee** agrees that all drop-offs shall only be from USPS or other typical express delivery outfits that operate in residential areas.

r. That the Ramsey City Administrator, or his/her designee, shall have the right to inspect the **Subject Property** for compliance and safety purposes annually or at any time, upon reasonable request to the **Permittee**.

s. That the Ramsey Police Department shall conduct an inspection of the premises prior to continuation of business operations. Installation of necessary security improvements shall be required.

t. That the **Permittee** agrees to take additional measures to secure the firearms, which must include a gun safe. Additional security requirements recommended by the Ramsey Police Department must be implemented, if any.

u. That the **Permittee** agrees to secure all firearms and will not leave firearms unattended. The **Permittee** agrees that when the **Permittee** is not in the vicinity of the firearms, they will be secured and stored properly. The **Permittee** agrees to notify the City of Ramsey Police Department and Community Development Department of any thefts or vandalism.

v. That this **Permit** does not give the **Permittee** or anyone onsite the authorization to test or discharge/shoot firearms onsite. All testing must be done off-site in a permitted location.

w. That no firearm will leave the property unsecured, uncased, or the case unlocked.

x. That if the **City** receives or identifies concerns about traffic, noise, disruption to the neighborhood, or public nuisance concerns and they are verified by the **City**, the **Permit** shall be brought forward to the Ramsey City Council for review and possible revocation.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

21 Mar, 2022
Dear City Council Members,

Peace Keepers, Inc, a veteran-owned Ramsey business, is looking to move its business operations into a larger, more-secure location on the same property. Peace Keepers, Inc operates in accordance with all Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations. The proposed permit I have applied for is in accordance with City of Ramsey code and regulations. As stated in the Planning Commission Meeting on 24 Feb, 2022, retail is legal on residential property and is currently happening at other home-businesses. Furthermore, a Home Occupation Permit allows for operations to be conducted on any portion of the addressed property, not solely restricted to the home or dwelling. The major reason I am here today is to move into a slightly larger space to conduct operations, providing a more suitable area for myself. The permit requires me to receive city approval to conduct operations in a space larger than 10% of my home's square footage; in this case, larger than 240 square feet. The operation I am requesting is under 350 square feet. The permit I am applying for allows up to 8 round-trip visits per day; I am requesting a maximum of 4, with one day every quarter allowing for 6 round trips to conduct the classroom portion of a Minnesota Permit to Carry class. These classes are classroom-only, with all firearms handling being completed at a designated shooting range such as Total Defense. The permit requested allows for exterior evidence of a business; I am not requesting any exterior evidence. I have recently completed a business plan with the Ramsey planning department and have taken many neighbor's concerns into account when writing the plan. These concerns include limiting my hours of operations, limiting my days of operations, limiting the amounts of additional traffic, ensuring all items are cased upon exiting the building, the safety of my neighbors and their children and more. I have taken all of these concerns into great consideration and have shown such in my business plan.

Peace Keepers, Inc is not looking to conduct business to the point of re-zoning the property. I am not requesting open hours of operations; I am requesting by-appointment only. My address is intentionally not listed on my Facebook page, it only shows Ramsey, MN. I do not have signage displayed to indicate there is a business operating on this property. I look to respect the privacy of my neighbors.

Within the city of Ramsey, there are 7 other home-based Federal Firearms Licensees (FFL). I am not requesting to do anything these businesses do not already do. I am in fact requesting to do less than these businesses do. It's simple to see the city has a proven history of allowing such businesses to conduct the activities which I am applying to do. Of these additional home-based FFL's, 4 hold manufacturers of firearms licenses, which allow them to not only sell firearms, but also manufacture them. Additionally, these businesses are allowed to transfer firearms to and from individuals and perform gunsmithing activities.

Peace Keepers, Inc has a history of proven safety. I hold certifications in firearms training from the Minnesota Bureau of Criminal Apprehension (BCA) and the United States Army. I have been certified through the state of Minnesota to conduct hunter's safety courses. I have worked and assisted people just old enough to hunt, senior citizens and ages everywhere in between. I further have extensive certifications in ammunition handling and safety. Peace Keepers, Inc has gone above and beyond all legal safe-keeping of firearms, including 24/7 video surveillance of all firearms, automatic-

locks, fire-proof firearms storage and multiple security systems. Peace Keepers, Inc further has received an inspection from the Ramsey Chief of Police and has met or exceeded all requirements.

I realize there are complaints and concerns from neighbors. Many of these concerns are valid and I have made every action to ensure these concerns are taken care of. That includes ensuring there is no visible sign of a business on this property. Multiple levels of security on every firearm. I have never posted the business address to my social media. I have ensured all hours are posted and defined as "by appointment only." All pictures of my business operations presented to the council have been pulled from videos posted to my social media page, which have only been to show available merchandise. The only complaint I have officially received from the city of Ramsey was that I was operating without a Home Occupation Permit. I made an immediate effort to correct this by providing the city with my Home Occupation Permit and applying for the Level II Home Occupation Permit.

However, many of these concerns are not valid whatsoever. I realize there are pictures being taken of my property constantly, including pictures of my vehicles, my fiance's vehicle, friends' vehicles and even vehicles of city officials. This is in direct violation of Ramsey city ordinance 21-10, section 34-133. One picture that was submitted to city council goes as far as to state I was walking to my building with an unpictured vehicle in my driveway; in the picture you can clearly see it is nothing more than me walking on my property. According to Chief of Police, Jeff Katers, one resident claimed I was selling illicit drugs from my house. Chief Katers assured the resident that was not the case. There have been claims that residents have heard gun shots from my property, but no police report was ever filed. I have never had a weapon discharged on my property. I have read complaints that there are multiple vehicles coming and going 5 days a week. My ATF acquisition and disposition record shows that is far from true. Including many firearms transactions where the firearm was shipped to another FFL, I have seen less than 1 transaction per day. Any shipped firearm transaction does not require any vehicle coming to my property. It was further stated that I have a "grab-bin" of ammunition—I have never had a "grab-bin" of ammunition. I have complaints reaching as far as stating that my fiancé did not actually have a bridal shower. I can provide pictures from the bridal shower to the council upon request, but I would prefer not to make her pictures public. Complaints also state that my fiancé does not have a rental agreement—she is my fiancé. Many of these complaints are not only not valid, but these are borderline harassment. I have even received calls from other Ramsey home-based Federal Firearms Licensees over the past week which state that a complainant has harassed them over their licenses and slandered me. In the past week, I have seen social media posts that are lies and misleading information about me, my business and even Home Occupation Permits. The extent to which I have been lied about and harassed is simply unbelievable.

What I am requesting of the city council is simple—to follow along with established Ramsey practices of allowing a legal business to conduct legal activities in a legal manner.

Thank you,
Derek Trout
President,
Peace Keepers, Inc

CC Regular Session **7. 2.**

Meeting Date: 03/22/2022

By: Chris Anderson, Community Development

Information

Title:

Adopt Ordinance #22-15 Rezoning a Portion of the Property Located at 7633 161st Avenue NW to Public/Quasi-Public (Project No. 22-107); Case of PACT Charter School

Purpose/Background:

The City has received an application from JB Vang Partners (the "Applicant"), on behalf of PACT Charter School, for a Sketch Plan related to a proposed new, second school campus to be located at 7633 161st Avenue NW (the "Subject Property"). The Subject Property is presently owned by The Church of Saint Katharine Drexel (the "Property Owner"). The application also included requests for a Zoning Amendment and a Comprehensive Plan Amendment based on the proposed use and current zoning and future land use guidance.

On March 8, 2022, the City Council reviewed the Sketch Plan and adopted Resolution #22-050, approving a Comprehensive Plan Amendment to re-guide the Subject Property from Low Density Residential to Public/Institutional. This action was contingent upon approval of a Preliminary Plat for PACT Charter School. The City Council also introduced Ordinance #22-15 to rezone the Subject Property from R-1 Residential (MUSA) - 80 to Public/Quasi Public.

Notification:

Staff attempted to notify property owners within 700 feet of the Subject Property, as reflected in the Anoka County Property Records, of the request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment and the Public Hearing to be held by the Planning Commission on February 24, 2022. The mailing also included an invitation to a Public Open House, also held on February 24, 2022, where property owners could learn more about the project and ask questions of the Applicant in a less formal setting. Finally, a notice of the Public Hearing was also published in the Anoka County UnionHerald, the City's official newspaper. No additional notice is required.

Time Frame/Observations/Alternatives:

Background Information

The Subject Property is approximately thirty-three (33) acres in size and is currently zoned R-1 Residential (MUSA) - 80. The Subject Property is at the northwest corner of the intersection of Variolite Street and 161st Avenue and abuts Central Park to the west. Properties to the east (across Variolite Street) are zoned R-1 Residential (MUSA) - 80 and range in size from about 0.31 acres to 1.46 acres. This area is guided as Low Density Residential in the 2040 Comprehensive Plan. The properties to the north and south (across 161st Avenue) are zoned R-1 Residential (Rural Developing) and range in size from about 1.1 acres up to about 2.57 acres. These properties are guided as Rural Developing in the 2040 Comprehensive Plan. The property to the west (Central Park) is about 37 acres in size, is zoned Public/Quasi-Public and is guided as Park.

General Project Summary

PACT Charter School (hereinafter referred to as "PACT") is seeking to construct a new, second school campus that would be located on the Subject Property and would serve grades 6-12. PACT would retain their existing campus in The COR for students in grades K-5. The proposed school would be approximately 115,000 square feet in size and would include an athletic stadium and track. Please note that the attached exhibits are conceptual; formal Site Plan review would occur at a future step in the review process. The project is being reviewed under the B-1 General Business District bulk standards.

Sketch Plan
The Sketch Plan proposes to split the Subject Property into Lot 1, Block 1 (for the school campus), which would be approximately eighteen (18) acres in size. The remainder of the Subject Property, which would be retained by The Church of Saint Katharine Drexel, would be split into two (2) outlots, one about 8 acres in size and the other about 6.5 acres in size. At some future point, the Property Owner does intend to construct a church. That will require a new plat to convert the outlot(s) into a buildable parcel, a Conditional Use Permit (churches are a Conditional Use in the R-1 District), and a Site Plan.

Concept Plan
The Concept Plan shows an access point off of Variolite Street and two access points on 161st Avenue. If the access off Variolite Street remains (potential concerns with sight lines based on existing topography and the likely need for turn lanes), a Cross Access Easement will be necessary as it would cross over the Property Owner's parcel. Per the project narrative, buses would access the school from 161st Avenue while student drop-off would utilize the ingress/egress access from Variolite Street. Staff has informed the Applicant that a full Traffic Study, taking into account not only the proposed school but also the future church, would be required if the project moves forward.

Per the B-1 General Business District, the minimum structure and parking/maneuvering area setbacks, where adjacent to residentially zoned parcels, is thirty-five (35) feet. The parking/maneuvering areas shall maintain a setback of at least twenty (20) feet from public road right-of-way. There are no specific parking standards for schools in City Code. Thus, Staff has requested a Parking Study (again, would be required if the project moves forward) to verify that the proposed parking (over 200 stalls) is sufficient.

The Concept Plan also includes a football/athletic field and track, with stadium style seating, in the northwest corner of the Subject Property. North of the proposed athletic field is a residential neighborhood. The future Site Plan submittal will need to include detailed information about any proposed lighting and PA system. A bufferyard of at least forty (40) feet will be required along the northern boundary of the school site, which shall include additional plantings (calculated as a minimum of at least 30% of the required plantings). Furthermore, due to these proposed improvements, Staff has indicated that a Noise Study and Lighting Analysis must also accompany the Applicant's plan submittal, should the project move forward.

Parks Staff are looking at opportunities to create some shared parking and access between the school and Central Park. They are also exploring the potential, if space permits, to create a 'flex-use' field.

Comprehensive Plan Amendment
The Applicant has applied for a Comprehensive Plan Amendment (CPA). The Subject Property is guided as Low Density Residential on the Future Land Use Map in the 2040 Comprehensive Plan, which areas are intended for residential development ranging from 3-4 units per acre. The CPA would re-guide the eighteen (18) acres to Public/Institutional, which is intended for, among other uses, schools. Staff has contacted the Metropolitan Council to discuss the potential for this CPA and there were no major red flags or concerns that were raised.

The properties to the east (across Variolite Street) are guided as Low Density Residential. The property to the west (Central Park) is guided as Park. The properties to the north and south are guided as Rural Developing. As previously noted, on March 8, 2022, the City Council did adopt Resolution #22-050 approving the Comprehensive Plan Amendment, contingent upon approval of a Preliminary Plat for PACT.

Zoning Amendment
The Subject Property is currently zoned as R-1 Residential (MUSA) - 80, which does not identify schools as a permitted, conditional, or accessory use. Thus, a Zoning Amendment has been requested by the Applicant to rezone the eighteen (18) acres for the school to Public/Quasi Public, which does identify public and private schools as a permitted use. The surrounding properties are zoned R-1 Residential (MUSA) - 80 (east of Variolite Street), Public/Quasi-Public (west of Subject Property), and R-1 Residential (Rural Developing) (north and south of Subject Property).

Meetings
An Open House was held on February 24, 2022 from 5:30-6:30pm. This was intended to provide residents an

opportunity to learn more about the proposed project, ask questions, and/or raise concerns in a less formal setting than the official public hearing. The comments from this Open House are attached to the case.

The Planning Commission conducted a Public Hearing on this proposal on February 24, 2022. Numerous written and verbal comments were received (all attached to the case, written comments as one attachment, verbal comments are reflected in the draft meeting minutes). The Environmental Policy Board (EPB) also reviewed this proposal on February 28, 2022 where additional written and verbal comments were received (again, all attached to this case in similar fashion as outlined previously).

The City Council considered the Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment on March 8, 2022, where additional public comments were received. Ultimately, the City Council approved the Comprehensive Plan Amendment and introduced Ordinance #22-15 to rezone the Subject Property to Public/Quasi-Public. Per the City's Charter, the Ordinance is now eligible for adoption.

Alternatives

Alternative 1: Adopt Ordinance #22-15 to rezone eighteen (18) acres of the Subject Property from R-1 Residential (MUSA) - 80 to Public/Quasi-Public, contingent upon approval of a Preliminary Plat for PACT. Rezoning a portion of the Subject Property to Public/Quasi-Public is necessary if PACT Charter School is to proceed with engineering plans for site development. The contingency provides some assurance that if PACT for some reason no longer pursued this site, the zoning designation would 'revert' back to R-1 Residential (MUSA) - 80.

Alternative 2: Do not adopt Ordinance #22-15. Should the Ordinance not be adopted, the zoning would remain as R-1 Residential (MUSA) - 80 and the PACT project would not be permissible on the Subject Property. Development of civil engineering plans, along with various studies related to traffic, noise, lights, etc., will allow the City to review if the project meets the standards of City Code. If not, or if PACT does not implement necessary mitigation measures based on the various studies, the project could still be denied.

Funding Source:

All costs associated with this request of the responsibility of the Applicant.

Recommendation:

The Planning Commission, by a 3-1 vote, recommended that the City Council approve the Comprehensive Plan Amendment and Zoning Amendment, contingent upon approval of a Preliminary Plat. This would allow the project to move to the next step and develop the detailed plans (and studies) necessary to address many of the concerns raised.

The Environmental Policy Board, by a 5-0 vote, recommended that the City Council deny the Comprehensive Plan Amendment and the Zoning Amendment.

Outcome/Action:

Motion to waive the Charter requirement to read the Ordinance aloud and adopt Ordinance #22-15 rezoning the western eighteen (18) acres of the Subject Property to Public/Quasi-Public contingent upon approval of a Preliminary Plat for PACT.

Roll Call Vote:

Councilmember Heineman
Councilmember Musgrove
Councilmember Specht
Councilmember Howell
Councilmember Woestehoff
Councilmember Riley
Mayor Kuzma

Attachments

Site Location Map
Project Narrative
Site Survey
Sketch Plan / Preliminary Plat
Concept Plan
Open House Comments
Compilation of All Public Comments Received
Draft Planning Commission Meeting Minutes Dated February 24, 2022
Draft Environmental Policy Board Meeting Minutes Dated February 28, 2022
Draft City Council Meeting Minutes Dated March 8, 2022
Ordinance #22-15: Zoning Amendment
Summary background on Loral I Armstong Delaney Central Park and Adjacent parcel

Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	03/17/2022 09:12 AM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:53 PM
Form Started By: Chris Anderson		Started On: 03/11/2022 07:58 AM
Final Approval Date: 03/17/2022		



Site Location Map

7633 161ST AVE NW

16-32-25-24-0002

Legend

Site

Parcels

N

Print Date: February 17, 2022

0 1,000 2,000 Feet

February 1, 2022

To: Chris Anderson, City Planner at Ramsey

From: PACT Charter School

MEMO: PACT CHARTER SCHOOL – PROJECT NARRATIVE – SKETCH PLAN

PROJECT NARRATIVE

PACT Charter Schools (PACT) is a K-12 public charter school that opened in August 1994 in Anoka, MN. PACT moved it's location to Ramsey in 2004. PACT holds a rich history of being the eighth charter school to be established in the state of Minnesota. It is currently in its twenty-seventh year of operation in the school year of 2020-2021 and serves 670 students in grades K through 12. Enrollment has been unable to expand for the last number of years due to the current facility's building constraints. PACT has an extensive waitlist which is driving the need for a building expansion.

PACT Charter Schools proposes to acquire approximately 18 acres located at 7633 161st Ave NW, Ramsey, MN 55303 to construct a new schoolhouse approximately 115,000 square feet. This new facility will be designed to accommodate grades six through twelve. The schools existing campus will then be home to kindergarten through fifth grades. Minor interior renovations are being planned at their existing building to better accommodate these lower grade levels.

Student enrollment at the new facility is planned to reach 734 students over a 5-year period with approximately 517 students grades sixth through twelfth anticipated in its first year of operation in the Fall of 2023 at the new schoolhouse facility. PACT Charter School anticipates most of its student population will use **Bus** drop-off and pick-up, **Parent** drop-off and pick-up and **Student** drivers. PACT anticipates 65% (478 students) of the students will utilize approximately 12 traditional, yellow, full-size or short-size buses for school transit at this time. PACT anticipates 20% (147 students) will be parent drop off and pick up and the remaining 15% (111 students) will be student drivers. PACT anticipates these estimates to be conservative provided there are extracurricular activities occurring after standard school hours which decrease peak demand periods during standard school hours.

SCHOOL OPERATIONS

PACT operations will include a 9-month academic calendar from August to May with standard school hours of operations between 7:30AM to 4:00PM. Student drop-off & pick-up periods will be between the hours of 7:30AM to 8:00AM and 3:05PM to 3:35PM, respectively. The first 15-minutes of each morning and afternoon period is the peak demand window and it is anticipated to be similar for the new facility.

SITE CIRCULATION

The proposed site plan has been designed to segregate **Bus/Student** and **Parent** "transactions" in through 161st Ave entrance and Variolite Street respectively.

Buses would utilize the southernmost, proposed surface parking lot via east and west curb cuts along 161st Avenue.

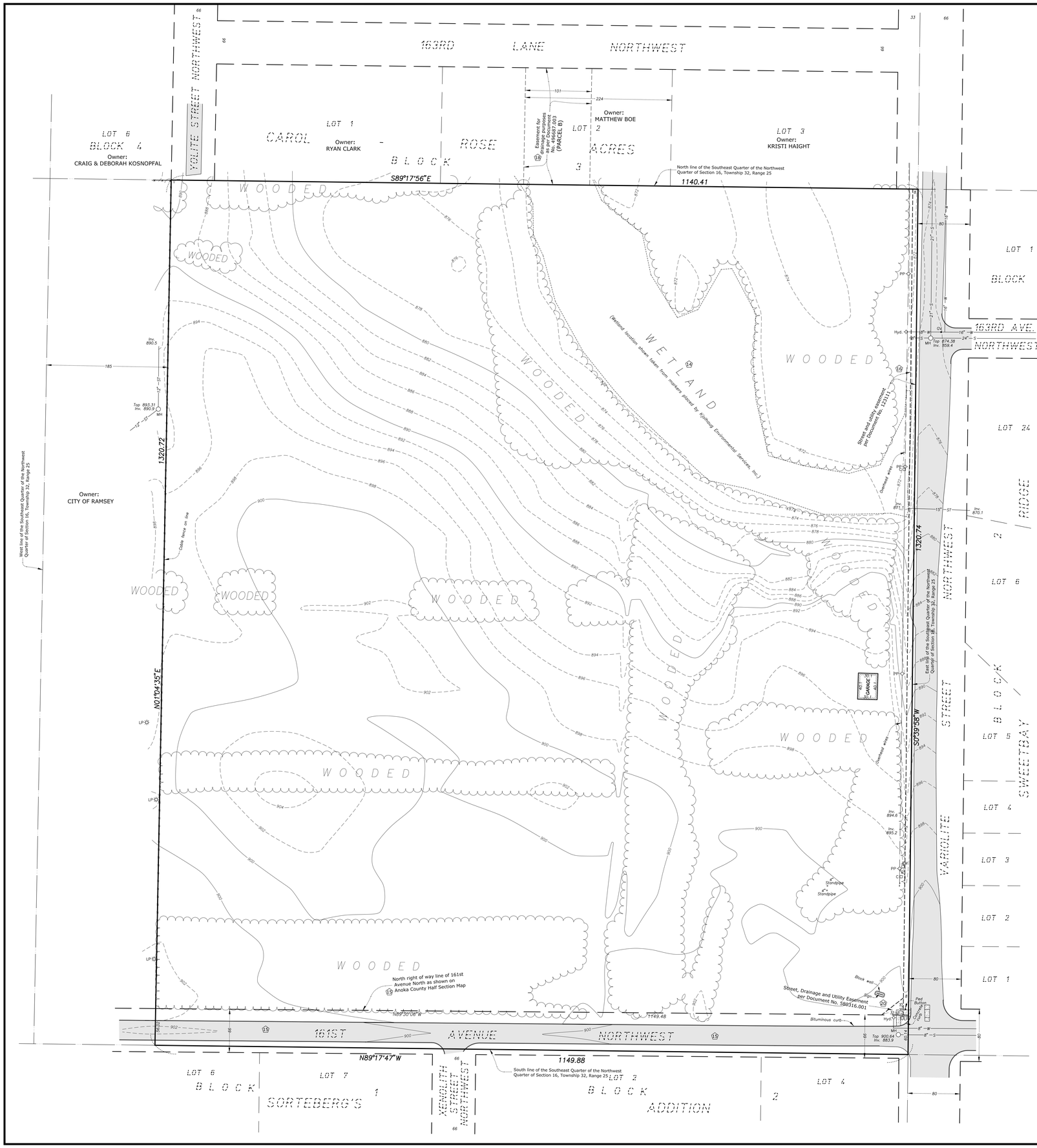
Parent pick-up and drop-off will utilize easternmost, proposed curb cut along Variolite Street. Vehicles would utilize this curb cut for both ingress and egress.

Student drivers will utilize the westernmost, proposed curb cut along 161st Avenue for both ingress and egress.

ALTA/NSPS Land Title Survey for:

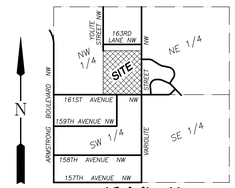
PCS BUILDING COMPANY

at 7633 161st Avenue Northwest
Ramsey, Minnesota



NOTES

* Bearings shown are based on the Anoka County Coordinate System.
* Utilities shown are from information furnished by the City of Ramsey and respective utility companies in response to Gopher State One Call Ticket No. 220030507 and are verified where possible.
* Contact Gopher State One Call for utility locations before any construction shall begin. Phone 651-454-0002.
* Areas: 1,512,412 square feet (34.72 acres) including street right of way.
  1,435,122 square feet (32.95 acres) excluding street right of way.
* Zoning: R-1 MUSA.
* This property is located in Flood Zone X (area determined to be outside the 0.2% annual chance floodplain) per Flood Insurance Rate Map Number 27003C0165E dated December 16, 2015.



Vicinity Map
Section 16, Township 32, Range 25
No Scale

NOTES CORRESPONDING TO SCHEDULE B, PART II, STEWART TITLE GUARANTY COMPANY COMMITMENT NUMBER 654832 DATED JANUARY 20, 2022

Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17, 19, 21, 22 and 23 are not addressed on this survey.

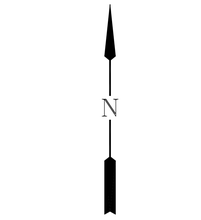
Item 14 - Subject to wetland over a portion of the subject property as shown by available maps. A preliminary wetland delineation has been marked and is shown on the survey.

Item 15 - Subject to roads as shown by available maps. 161st Avenue Northwest is shown as a 66 foot right of way on Anoka County Half Section Maps and is shown on the survey.

Item 16 - Grant of Easement for street and utility purposes in favor of the City of Ramsey, a Minnesota municipal corporation, dated May 7, 1982, filed October 14, 1982 as Document Number 123111 is shown on the survey.

Item 18 - Terms and conditions of Drainage Easement Agreement dated July 17, 2006, filed November 18, 2008 as Document Number 496687.003 is shown on the survey.

Item 20 - Street, Drainage and Utility Easement in favor of the City of Ramsey, a Minnesota municipal corporation, dated November 4, 2020, filed November 9, 2020 as Document Number 580316.001 is shown on the survey.



LEGEND

- S — Sanitary Sewer
- ST — Storm Sewer
- W — Watermain
- Hyd. — Hydrant
- GV — Gate Valve
- MH — Manhole
- Inv. — Invert Elevation
- PP — Power Pole
- LP — Light Pole
- E — Electrical Transformer
- C — Communications Pedestal
- EM — Electric Meter
- Concrete Surface
- Bituminous Surface
- Cable Fence

UTILITY STATEMENT

The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated, although he does certify that they are shown as accurately as possible from information available. The surveyor has not physically located the underground utilities.

PROPERTY DESCRIPTION

Parcel A:

That part of the Southeast Quarter of the Northwest Quarter lying East of the West 185 feet of said Southeast Quarter of the Northwest Quarter, Section 16, Township 32, Range 25, Anoka County, Minnesota.

Parcel B:

Appurtenant easement for drainage purposes as contained in Drainage Easement Agreement dated July 17, 2006, filed November 18, 2008 as Document Number 496687.003.

Torrens Property

CERTIFICATION

To PCS Building Company; The Church of Saint Katharine Drexel, Ramsey, Minnesota; Stewart Title Guaranty Company and Land Title, Inc.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 6(a), 7(a), 7(b)(1), 7(c), 8, 9, 11(a) and 13 of Table A thereof. The fieldwork was completed on January 14, 2022.

Dated this 11th day of February, 2022

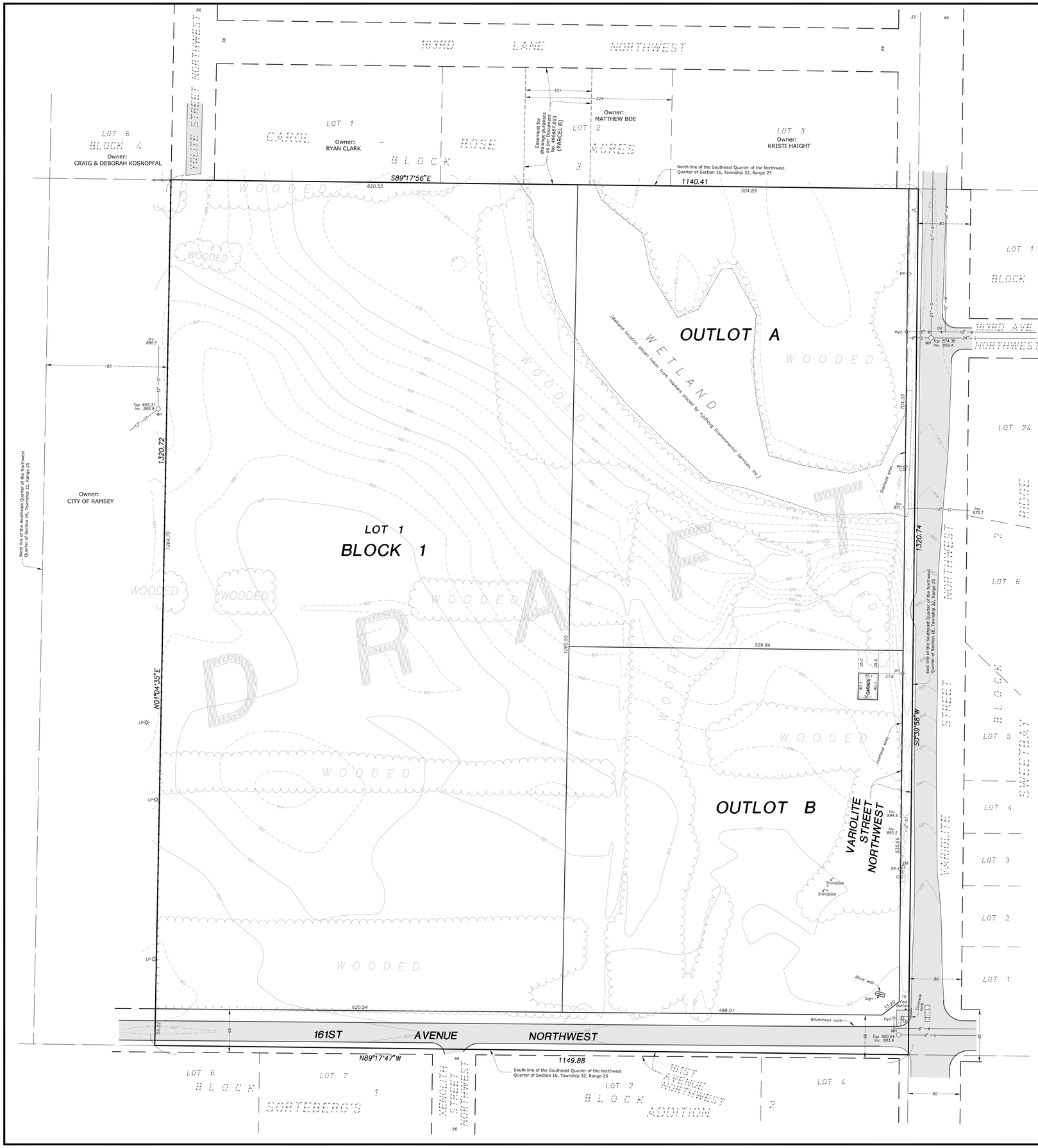
REHDER & ASSOCIATES, INC.

Gary C. Huber, Land Surveyor
Minnesota License No. 22036

Rehder and Associates, Inc.
CIVIL ENGINEERS AND LAND SURVEYORS
3440 Federal Drive • Suite 110 • Eagan, Minnesota • Phone (651) 452-5051

JOB: 224-3291.010

Preliminary Plat of:
PACT ADDITION

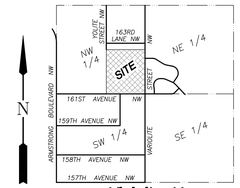


AREAS

Total: 1,512,412 square feet (34.72 acres)
Lot 1, Block 1: 784,080 square feet (18.00 acres)
Outlot A: 357,464 square feet (8.21 acres)
Outlot B: 284,918 square feet (6.54 acres)

NOTES

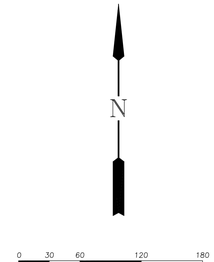
* Bearings shown are based on the Anoka County Coordinate System.
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* Contact Gopher State One Call for utility locations before any construction shall begin. Phone 651-454-0002.
* Area = 1,445,639 square feet (33.19 acres).
* Existing Zoning: R-1 MUSA.
* Proposed Zoning for Lot 1, Block 1: Public/Quasi-Public.
* This property is located in Flood Zone X (area determined to be outside the 0.2% annual chance floodplain) per Flood Insurance Rate Map Number 27003C0165E dated December 16, 2015.



Vicinity Map
Section 16, Township 32, Range 25
No Scale

UTILITY STATEMENT

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- PP — Power Pole
- LP — Light Pole
- E — Electrical Transformer
- C — Communications Pedestal
- EM — Electric Meter
- Concrete Surface
- Bituminous Surface
- Cable Fence

OWNER

The Church of Saint Katharine Drexel
7101 143rd Avenue Northwest
Ramsey, Minnesota 55303
Attention: Father Paul Janoszeski
Email: pjaroszeski@stkdoc.org

DEVELOPER

PCS Building Company
7250 East Ramsey Parkway Northwest
Ramsey, Minnesota 55303
Attention: Josh Nyquist
Email: jnyquist@pactcharter.org

ARCHITECT

Pope Architects
1295 Bandana Square
Suite 200
St. Paul, Minnesota 55108
Phone: 651-789-1638
Attention: Raphael Lister
Email: rlister@popearch.com

ENGINEER

Larson Engineering
3524 Labore Road
White Bear Lake, MInnesota 55110
Attention: Eric Meyer
Phone: 651-888-8112
Email: emeyer@larsonengr.com

SURVEYOR

Rehder & Associates, Inc.
3440 Federal Drive
Suite 110
Eagan, Minnesota 55122
Attention: Greg Gentz
Phone: 651-337-6726
Email: ggentz@rehder.com

PROPERTY DESCRIPTION

Parcel A:

That part of the Southeast Quarter of the Northwest Quarter lying East of the West 185 feet of said Southeast Quarter of the Northwest Quarter, Section 16, Township 32, Range 25, Anoka County, Minnesota.

Parcel B:

Appurtenant easement for drainage purposes as contained in Drainage Easement Agreement dated July 17, 2006, filed November 18, 2008 as Document Number 496687.003.

Torrens Property

I hereby certify that this preliminary plat was prepared by me or under my direction and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 11th day of February, 2022

REHDER & ASSOCIATES, INC.

Gary C. Huber, Land Surveyor
Minnesota License No. 22036

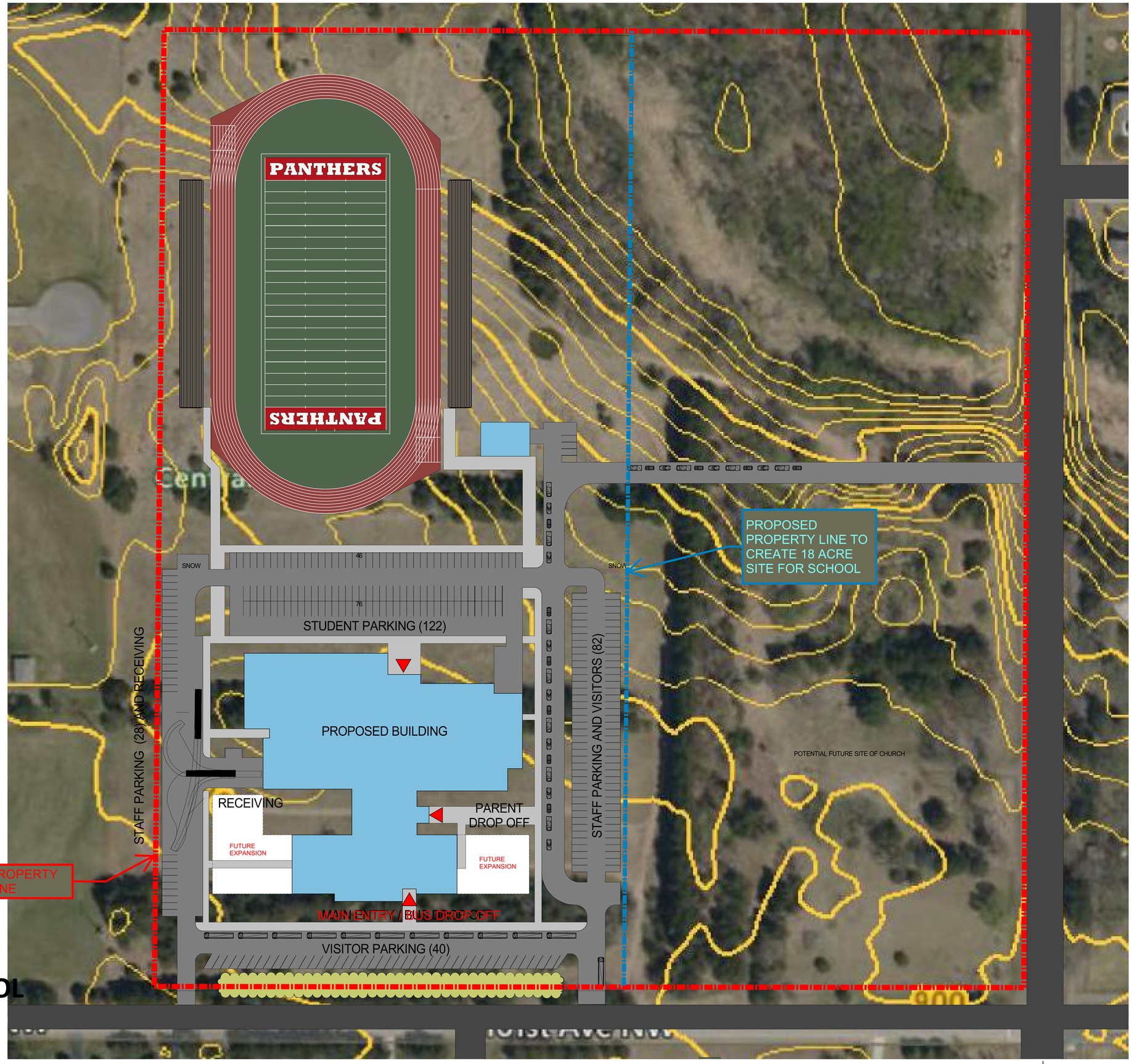
Rehder and Associates, Inc.
CIVIL ENGINEERS AND LAND SURVEYORS
3440 Federal Drive • Suite 110 • Eagan, Minnesota • Phone (651) 452-5051

JOB: 224-3291.010

DEPARTMENT LEGEND

- CLASSROOMS
- ART / SCIENCE CLASSROOMS
- AUDITORIUM
- PHYSICAL EDUCATION / ATHLETICS
- KITCHEN
- ADMIN
- MEDIA
- CIRCULATION
- BUILDING SUPPORT SERVICES

- NO WORK THIS AREA



PACT CHARTER SCHOOL

POPE ARCHITECTS

RAMSEY, MN

01/31/22 | COMM#41815-22000

1 SD2.5A ARCHITECTURAL SITE PLAN
1" = 50'-0"

NORTH

February 24, 2022

City Hall - Itasca Room

RE: PACT – OPEN HOUSE COMMENTS – POST CARD & PLANS

POST CARD COMMENTS:

1. Paul Rustad
   15540 Marmoset St, Ramsey, MN 55303
   "I oppose the rezoning of the parcel for a school. Too much traffic and current roads are in adequate to facilitate a school of this size."

2. Anonymous
   "I feel like the safety of the residents should be assured before you rezone. What is PACT going to do to mitigate the impact of this school on the adjoining neighborhood."

3. Anonymous
   "Are you going to let all the residents on 161st Ave rezone commercial after you rezone for the school"

4. Anonymous
   "Already a problem with speed on 161st. Traffic control – Armstrong and Variolite. Who's paying for infrastructure? Sewer, water, roads. Will property owners lose land to widen roads? Compensation (arrow pointing to owners). Noise, noise, noise. Destruction of a rural neighborhood. Increase in traffic. Will we have access to details like location of driveways, etc, before this is a done deal? I am totally against the idea!"

5. Bryce
   "I live in the neighborhood off Variolite and I really do not like the idea of a school going in at this location. The extra traffic of cars and buses bring an extra burden to the roads and neighborhood. Not to mention the beautiful area/lot that would be destroyed and wildlife chased out. I am NOT against the school, but I am against the location. There are so many other places it could go. Anywhere by the COR off Sunwood between Armstrong and Ramsey Blvd for starters. So many open areas. Please strongly consider a different location! Thank you, Bryce"

6. Anonymous
   "I live on 161st Ave NW. My address is 7620 161st on the corner of Variolite. Right now I don't want a school going. I don't want city water and sewer going in. I don't need anymore traffic on 161st and Variolite, and the widening the road."

7. Anonymous
   "No rezoning! Leave it residential. Pick another location"

WRITTEN COMMENTS ON PLANS

1. Anonymous
   "Ownership? Randy address"

2. Anonymous
   "1. Traffic concerns. Road expansion if needed congestion. 2. Want the school in different location. Not in a ress are!"

3. Anonymous
   "will this be extended for stadium parking?"

4. Anonymous
   "Can neighborhood access sewer and water?"

5. Anonymous
   "Safety concern. Traffic. Access with park west."

February 24, 2022

City of Ramsey
City Council
Planning Commission Members

Dear Sirs and Madams,

This letter is in support of a “no” vote on the proposal to change the zoning from low density to zoning needed for building a PACT school for the parcel of land which was donated for the purpose of building a church on said land.

My concerns mostly revolve around the concept of community. What is the “look” the city is striving to present to its residents as well as outsiders? I would hope it is as a community that plans for the future as the aging/graying of America ensures the need for senior housing and senior community centers, provides free, safe indoor and outdoor physical activity and community recreation centers as the health of a community is intimately tied to the physical and mental health of its people; a community that serves all people from cradle to grave allocating its limited resources fairly and wisely; a community that looks forward well into this century being respectful of the past Ramsey, balancing preservation of the environment and developing open spaces for hiking/biking paths while cautiously and deliberately expanding commercial growth where and when it’s needed.

In my opinion this parcel of land is too small to adequately support a high school with it’s attendant need for new roads, sewer, and parking lots, as well as increased noise and traffic. Rather, this land could be used to better the community by serving a larger population, such as building a much-needed community recreation center or improving the park by providing safer playground equipment.

This proposal places the needs of outside persons over the real needs of Ramsey residents. Ramsey could use many things such as a public high school, community center(s), nature-inspired trails and parks that could be used by all, and more affordable housing to increase the tax base of the city.

I do not currently live in Ramsey, but I hope to retire there within a couple years because it is a beautiful and growing community of which I would like to be a part. I know that cities need to grow and develop, but it should be a thoughtful expansion based on data (eg. Environmental impact statements), the needs of many people over the wants of a few, future looking instead of in-the-moment decisions, and fiscally responsible. I hope that you will carefully consider my concerns and vote “no” on the proposal to change the zoning of this piece of land. If you have any questions or concerns, please feel free to contact me. Thank you for your time and service to the residents of Ramsey.

Sincerely,

Dr. Linda J. Bowers
Professor

From: Robert & Kelsie Buchanan
To: Brian Hagen; Brian Walker
Subject: PACT build
Date: Thursday, February 24, 2022 2:28:16 PM

To whom it may concern,

I wanted to state my SUPPORT for PACT secondary being built at the Central Park location. After researching multiple locations within Ramsey, this plat offered the most opportunity that PACT needs and deserves. Other locations looked at wouldn't work for various reasons, such as utility issues, space issues, cost per square foot, etc. This will be a great addition to Ramsey, and offer many benefits to our community.
Looking forward to seeing this move forward!

Kelsie buchanan
6738 153rd LN NW Ramsey, MN 55303

From:	Jessica Busch
To:	Brian Hagen; Dan Specht; Chris Riley; Debra Musgrove; Chelsee Howell; Mark Kuzma; Matt Woestehoff; Ryan Heineman
Subject:	PACT Charter Secondary school
Date:	Thursday, February 24, 2022 10:18:44 AM
Attachments:	image001.png

Good morning,

I apologize for including so many but I wanted to make sure my voice was heard regarding some concerns mostly around the possible building of the new PACT Charter Secondary school.

My husband and I moved to Ramsey back in 2005 right after getting married. I had never heard of Ramsey before but my husband and I got all excited that we found an affordable house on a few acres. We never thought we would stay more than a couple of years, this was just going to be our starter home. Over the years we grew to absolutely love Ramsey! Ramsey was a perfect mix of that private rural feeling with wildlife in your backyard but close enough to conveniences in neighboring cities to have everything you needed.

The population since we moved here has exploded due to all the hosing developments. I am very sad every time I see more and more housing developments. At one point in history I thought I remembered that Ramsey had a minimum 1 acre lot requirement. If Ramsey would consider keeping the lots larger such as 1 acre or more, I think existing residents would be more understanding of the growth. It would keep our more rural feel and really show a uniqueness that Ramsey used to have. If we keep the pace this is going, we are just like every other city in the end

My 4 kids attend PACT Charter School and we absolutely love it. To be honest, if Ramsey keeps building homes, PACT is the one thing keeping me here in Ramsey. If it wasn't for this school, we would have moved out farther to a more undevelopment city where we could have more land and housing developments weren't going up on every corner. PACT is a fantastic school, giving families a choice. Parents should not be stuck with sending their kids to whatever school district they are in. We need schools that create competition amongst each other so they are forced to always try hard to be the best in education. That is what is great about charter schools. They raise the bar on education standards when done right. PACT has been a great member of this community and has put a lot of time and effort into selecting the best place for their secondary school expansion. If you really listen to the residents, they are concerned about traffic and more housing developments. The current zoning for the proposed land PACT wants to build on is going to add a ton of houses which also creates more traffic and upset residents (if not used for the school). The underlining theme here is they don't want anything built. I think adding a school and the future church are a great alternative use for the land that will serve our community well. I believe this sale will give the church the funds they need to build as well. Also, most schools do appear to be in residential neighborhoods so I don't think this should be an issue. No one wants their kids going to school in a busy commercial/retail area with heavier traffic. PACT kids have great character and this is held to a high standard in the school. This is not a large high school, its actually 6-12 grade and I do not believe it will have a big negative impact. I believe this will be a great opportunity for Ramsey Residents to have choice school in their neighborhood they can open enroll in. I also believe this will create more reasons for people to want to live in Ramsey and probably increase home values even

more. PACT has a large waiting list and this allows them to serve many more families.

I hope the city will consider voting yes to rezone this land so PACT can build this school.

Thank you for your time

Jessica Busch
[redacted]

Phone: 763.225.9744
[redacted]

IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain E-mail messages to clients of MTS may contain information that is confidential and legally privileged Please do not read, copy, forward, or store this message unless you are an intended recipient of it If you have received this message in error, please forward it to the sender and delete it completely from your computer system

From: Beth Charles
To: Brian Hagen
Subject: Pact Charter School
Date: Thursday, February 24, 2022 11:28:00 AM

I just wanted to write in as I can't attend the meeting tonight to show my support for Pact. I believe that having choice of school is great. And that it provides amazing connections for the community. As a future parent, I want my children to be in a growing school that people are trying to get into. I think this growth is huge and would be great for Ramsey as a community!

Beth Charles
14400 Quicksilver St. NW
Ramsey, MN 55303

--
Beth Charles
[redacted]
p: 612.625.7007 | e: [redacted]

From: Danielle Holder
To: Brian McCann
Cc: Ramsey Planning
Subject: RE-zoning of the property located at Variolite and 161st Avenue please forward to the planning commission
Date: Wednesday, February 23, 2022 4:10:14 PM

To whom it may concern:

I am writing in opposition to the proposed rezoning at the corner of 161st Avenue and Variolite. There needs to be a significant amount of study into the impact of this rezoning to the community and the safety of that type of use. This request should be denied until this study has been done.

This area is not typical of this type of use. It is non typical for school use because it is not safe for the users. Even though the applicant seems willing to accept the unsafe traffic conditions this presents to the people who need to get to and from the building every day, is the City of Ramsey and its taxpayers willing to accept playing catchup with the safety improvements in this intersection. No improvements suitable for this area are likely to make this area safe. Are we willing to accept a few crashes as the inevitable on this intersection or as the traffic drives though the residential road the parcel is accessed from.

Do we have an idea what the cost is to the taxpayers that would not be needed but for this use? The current improvements planned for 161st avenue and variolite were not designed with this increased traffic in mind. When we are reacting to the safety concerns this traffic brings are we going to be assessing the applicant for those costs or all of the taxpayers of the City of Ramsey.

Typically zoning is intended for reasonable transition from one type of area to another. It is meant to protect areas from non consistant use that disrupts the quiet enjoyment for at least the zoned use of their land. This is a completely different use and no other area rezoned to allow for school has such a striking difference. None of our schools are built in areas where there isn't direct access to a main road and do not exit onto a rural residential street. This is not consistent. Is it right that we should change how we transition zoning because we want this school?

A school may be good for Ramsey but we need to consider is this a safe area for these students, staff and teachers to get in and out of the school. Is it safe for these residents, the adjoining neighborhoods. When considering the rezoning, I would urge you to determine the merits of this location and not the merits of a school in the community. Putting a school in an unsafe location means that we value a school above safety for that school.

I am urging this commission to deny this application pending a full safety study on the effects of this traffic on Variolite and 161st Ave, a residential road and the roads in the adjoining

residential neighborhoods. I would also request that if this is moved forward that the commission look to ways to minimize the impact on the surround neighborhood as far as the size of this school and request to build a full stadium which would not be consistent with surrounding use.

Thank you

Danielle Holder
If needed, please request my additional contact info under separate cover as I do not wish it to be made public.

From: Danielle Miller
To: Brian Hagen; Brian Walker
Subject: PACT Charter School Expansion
Date: Thursday, February 24, 2022 3:35:37 PM

Hello, my name is Danielle Miller and my husband and I just moved to Ramsey this fall and have 2 children at PACT charter school. We specifically moved here because our kids got into PACT and because we heard PACT would be expanding soon, which is a high value for us, as we'd prefer if they attended a slightly larger middle school/high school. We are very excited about the proposed secondary building location as it is close to our home.

We believe PACT is a huge draw for the Ramsey area and will continue to grow interest in the community and area, which is a great thing for anyone who owns property here.

We will be very disappointed if the small amount of opposition ends up preventing PACT from completing its current growth plan. Ramsey needs a full and robust secondary school with decent class offerings, and that can only happen with its current growth plan.

Thank you,
Danielle Miller
Ramsey resident

From: Bridget Gessner
To: Ramsey Planning
Subject: Proposed Pact High School
Date: Wednesday, February 23, 2022 1:52:09 PM

To Whom it May Concern,

I am writing about the idea of Pact High School being built on the corner of 161st & Variolite.
I have numerous concerns, traffic, roads, noise and taxes.
We live across from Central Park and cannot imagine any more traffic and noise than what already exists along this route. This side of town seems to be what is left of 2 acre lots and the bit of rural area that is left. Is there a better place closer to the COR that would be more suitable?

Thanks

The Gessners

From: Jake9856
To: Chris Anderson
Subject: School adjacent to Central Park
Date: Tuesday, February 22, 2022 12:29:35 PM

Chris Anderson
Senior Planner
City of Ramsey

I am writing to voice my opposition to approval of a high school adjacent to Central Park. This is a rural area of Ramsey and a high school would have a detrimental effect on the character of the area. A high school would bring activity and traffic to the area during the day and the evening .The activity would be year round and would affect the peace and quiet of this rural area. Please forward my opinion to the planning commission.

Karen Jacob
8451 166th Circle NW
Ramsey, MN 55303

From: Jill Kusler
To: Brian Walker; Brian Hagen
Subject: PACT Charter School expansion
Date: Thursday, February 24, 2022 12:34:18 PM

Hello,
I am writing to you as I understand there is a meeting regarding the expansion of PACT Charter school coming up.
I grew up in the city of Ramsey and currently reside in Oak Grove with my husband and two daughters. Our daughters both attend PACT Charter school. Our oldest is in 11th grade and youngest is in 8th grade. We would love for the school to be able to expand for multiple reasons. More room for additional classes to expand their curriculum. Also more room to allow other children to attend the school. We were fortunate to get accepted to the school when my oldest was just starting Kindergarten. I know many families on the wait list who would love to get in. I feel the expansion would be beneficial to the city of Ramsey and it's residents.

Sincerely,

Jill Kusler

From:	Melissa Livgard
To:	Brian Hagen; Chris Anderson; Brian McCann; Nicole Laubach; Colleen Lasher
Subject:	PACT Charter School Concerns
Date:	Thursday, February 24, 2022 3:34:45 PM

I am writing this to express that I do not want PACT charter school to build off 161st. I live on the other side of Armstrong in the neighborhood by the Armstrong Kennels. Living in this area we are already impacted by sports at Central, traffic when people go up north during the summer and for two weekends we are severely impacted by the Game Fair. I feel that an addition of a school would only exacerbate this and for nine months during the year. Some people on the Ramsey Facebook page were saying how much Ramsey needs a high school, this is not s public school and will not impact Anoka High School's enrollment. This is a charter school that students must apply for and be chosen by a lottery system, Ramsey residents do not get preferential enrollment. There was a court case, Look vs. PACT in 2008 where the courts determined that residents do not get preferential enrollment. For all we know none of the student at this proposed school could be from Ramsey.

I ask the planning commission how they are going to address the impact to traffic and safety. I see cars multiple times a week pass me on the shoulder when I am turning west on 161st. I am concerned that the increase in traffic will be a safety concern not only for pedestrians in the area but motorists. I have had close calls crossing Armstrong in the current crosswalk, and if this school is built crossing the street would be like playing chicken with the extra vehicles.

I have lived in Ramsey for many years and I like the rural atmosphere in the area of Central Park. I ask how the neighbors, whose house backs up to Central, feel about their view changing from trees and neighbors to looking at a high school football field and back of a school building. I would guess that they never guessed that that land would be sold and a school and football field would be built. This is a residential area and should stay that way.

I am not against PACT being built in Ramsey, not just next to Central Park.

I would also like to know if the members of the Planning Commission plan to share their affiliation to PACT: do you plan on your kids to attend PACT, do your children go there, are your children alumni, are you alumni? I am also disappointed that I first learned of this on the Ramsey Facebook Community Page, it feels that letter to residents within a mile be sent out prior. Dan Specht stated that the land has a contingent or pending sale, unfortunately this feels like this is a done deal with no opportunity for the residents in the area to have any input.

Thank you from a concerned resident of Ramsey,
Melissa Livgard

To whom it may concern,

I am writing in opposition to the proposed rezoning of the property located at the intersection of 161st Ave and Variolite Street adjacent to Central Park. There are a number of reasons why the rezoning of this parcel should not be allowed. Among them traffic and safety, inconsistency of zoning for this use and environmental concerns. I would like you to also consider disruption of use that will be inflicted upon the adjoining and nearby residents.

I have looked to the 2 other schools in the City of Ramsey to see what similar areas zoned for this use look like. I was unable to get complete statistics on the other schools in short notice. My estimates are closest estimates based on calls to the district, the schools and internet resources. I have attached arial layouts from the 2 already constructed schools and the proposed PACT school.

Both Brookside and Ramsey have access point only along County Highway 5 also known as Nowthen Blvd. Both schools have access which allow safe access in and out for busses. PACT has 2 access point along a residential street. This access is contemplated for busses to enter and exit the parcel within feet of a residential driveway. A potential for a secondary access thru an adjoining parcel is not guaranteed. Even if the access is obtained thru the adjoining parcel to Variolite, that road is also not designed to handle this volume of traffic. In addition, there is nothing to stop any traffic from the school from turning back onto the residential road of 161st Ave NW. Both Brookside and Ramsey have access direct to County Highway 5, a County Highway designed for this type of use. PACT currently has residential street and possible a larger street neither designed for or likely to provide reasonable sightlines for the incoming and exiting traffic. PACT will need to have traffic from the school proceed through a number of smaller roads before coming to a collector street.

The residential street of 161st Ave NW cannot handle the increased traffic unless it is expanded significantly. A cost that would not be necessary but for the rezoning of this parcel. Currently the roads that may become secondary roads for PACT traffic, Xenolith St and 159th Avenue are likely to see increased volume of traffic and safety concerns if this parcel is rezoned. Will the city be adding sidewalks to these roads so that those residents can be safe on their street? Will the cost for this improvement be borne by the taxpayers or the applicant? It is unlikely these roads would need improvement of this type but for increased traffic. The current schools in the city have been located on roads designed for this this type of traffic and the greatest possible safety they still face challenges. This parcel does not have the benefit of direct access to a collector street thereby pushing the burden of the traffic and the lack of safe road conditions onto the local residents and the cost of redesigning these roads to the taxpayers. A traffic study needs to look at this as well.

Another difference that should be pointed out is that since PACT will be a high school there needs to be considerations for students driving to the school. This is an additional traffic source not seen in elementary schools that should be receiving students via bussing and walking. PACT services statewide students not just local students so traffic from parent drop off may be increased based on lack of availability of bussing. This means additional traffic in the form of individual cars. The resulting traffic will come in the form of twice a day traffic at the beginning and end of the day as well as sporadic traffic all day five days a week. It will also include special events and sporting events consisting of spectators and visitors these event tend to be larger more frequent and generate

In addition to the traffic from the proposed school and possible church information from the agenda contemplates expansion of the park use that will also increase traffic. No study has yet looked at the current expanding traffic from Central Park let alone expanding traffic from the park a new school and a church. The proposed church will also have traffic impacts both on Sundays and possible for daily mass as is advertised on their current website. What happens if all of the uses on the residential street of 161st

Ave begin having events scheduled at the same time? Once this property is rezoned can the school increase the size or volume of traffic? The current anticipated amount of traffic may increase over time and with evolving use. This traffic impact from all of the proposed uses needs to be studied and the application should be denied until such study can be done, including looking at safe sightlines on Variolite and the capacity of 161st Avenue.

Brookside is built on nearly 35 acres and is 135,000 square feet. Ramsey Elementary is built on 52 acres, Ramsey Elementary is similar to Brookside I was unable to get an estimate. PACT Charter school will be built on 18 acres (51% of the size of Brookside's land) 115,000 estimated square feet (85% of the size of Brookside), but they proposed future enlargement. This mean there will be no buffer form the school on the proposed parcel. PACT has residential properties both north and south of the improvements with insufficient buffer. Because there is no buffer within the parcel the adjoining neighborhoods will also be affected. The parcel sketch shows near complete coverage of the parcel with improvements and expansions.

Both Ramsey and Brookside have a playground and possible gym use during the day outside. PACT will have a stadium built up to residential backyards. Since they are not prohibited from using flood lights they are a possibility at some point similar to the ones in central park. Bringing noise and light pollution to both the adjacent backyard and nearby houses in the neighborhood to the North.

A comparison to the safety concerns for the rezoning and building of brookside should be looked at prior to the rezoning of this parcel. This is a similar sized yet not similarly situated school. The commission should be looking into the challenges that these schools face even in their more advantageous locations before concluding that the proposed area can handle this type of rezoning. This zoning is not consistent with the uses currently in Ramsey and not consistent with the development of the surrounding area.

I would also like to address environmental concerns regarding the proposed rezoning. The current sketch plan shows near complete coverage of the 18 acres with improvements. Since this proposed development will remove a significant amount of natural drainage on the parcel where is the accumulated water will have nowhere to go. Brookside has a large drainage pond located by its paved areas. If the school is constructed as proposed there will be nowhere to build a stormwater retention pond. I would talk about where are they going to put the snow from the parking lot but that is a concern, they will face. The melting of that snow however is our problem along with salting of the parking lots. Without natural drainage this would require a large easement on adjoining land to handle the runoff. I have heard that we will have storm sewer coming to the area. However, the taxpayers should not be paying for the storm sewer construction and maintenance for runoff solely caused by rezoning and building of this school on a parcel of land not sufficient to handle this runoff. In addition, if they were to use adjoining public lands for drainage the cost to maintain the drainage and the loss of use to the residents of Ramsey should be compensated. The school is used for education statewide the costs should not be borne exclusively by the taxpayers of this city for the limited number of students that attend from this city.

I am requesting the city consider the effects of the lack of space to create drainage and the contamination cause by the additional salts that will go into the storm sewer instead of some filtering by natural drainage. I don't know if the City of Ramsey has any standards for this but a consultation with the Minnesota Pollution Control Agency would be a good step to see what we should be considering in terms of required drainage. This parcel does not have sufficient space to accommodate large scale natural drainage.

I am urging the committee to recommend that this rezoning application be denied pending study of these issues. If this rezoning is approved, I would request significant limits be placed on the size of the building on this property. It should also be looked at if the traffic for daily use and increased Sunday use

at the church site would create an additional burden to the roads. Some things to consider are add larger buffer area, smaller building, access only through Variolite and safety study as to the traffic effects on Variolite and 161st avenue as well as surrounding roads. The stadium in the backyards should not be allowed to have lighting that close to the residential dwelling and have limitation on the hours and number of times per year that they can host large events. Requiring some flagging whenever a large volume of traffic is anticipated such as arrival times and dismissal times for the school and the church with the cost borne by the party that causes it to be necessary. Also, it should be verified that the sound intrusion to the adjoining property owners will have sufficient buffers if a stadium is built so as not to form a nuisance from any PA or crowd or ancillary devices the crowd brings. The residents of this community have a right to enjoy their property free from excessive intrusion into their daily life even if the city rezones. As a resident across from the large events in the park, I can also speak to the disruption this puts on normal use of my property and ability to sleep when the floodlights are on until 10p.m. and throughout the night when they forget to turn them off. Not to mentions the shouting air horns and sirens. The traffic also poses a danger entering and exiting my driveway when a large number of vehicles are arriving for an event at Central Park. These events already pose a traffic issue on the road. Even if the road is upgraded it will not change the number of vehicles traveling on the road and therefor will not make it safer. This rezoning will just increase traffic.

The residents of this neighborhood have to bear the disruption of expansion of central park and its accompanying traffic swarms during events held at the park and noise and light pollution from the park. The city is considering rezoning a parcel that is zoned residential for a school to be built. The residents of this neighborhood will then be subject to additional days per year of traffic swarms on the residential street and additional noise, light and environmental pollution. The school being proposed would be built on a parcel that is too small to provide any buffer to the residential properties and there is no mitigation that would be sufficient to handle the traffic if the school was built at this size when compared to other similar schools in the area while accounting for scale.

The effects of this project and sufficient controls on the scope have not been studied sufficiently to safeguard the rights of the public and adjoining property owners and the safety of the existing residents. The adjoining owners are now going to suffer significantly more negative effects than other similarly situation residents where properties have been rezoned for this purpose.

We as a community may want to have a school built but first we need to know if this location can sustain that development without a significant outlay of public resources to keep up with the safety challenges this location brings. This rezoning is not appropriate until it can be shown that the upgrades can keep up with the proposed use, that the city has funds to keep up with the upgrades. It should also be estimated how much the infrastructure upgrades for this use will cost the taxpayers and weather they can be completed by the time the building is opened. I am urging the Planning Commission to recommend denying this permit pending additional study. I am further urging those of you with a connection to PACT to separate your desire for an expansion to PACT focus on the appropriateness of this rezoning application and remove yourself from voting on this application. This isn't a case about weather a school is a good thing but weather this is the right thing for the City of Ramsey and its residents to rezone this parcel.

Sincerely

Jeffrey Lubarski
7826 161st Avenue NW
Ramsey MN 55303

Anoka County Parcel Viewer



Parcel Information: Approx. Acres: 52.94

23-32-25-43-0003 Commissioner: MATT LOOK

15000 NOWTHEN BLVD NW

RAMSEY

MN 55303

Plat:

Owner Information:

ka County GIS	1:4,800	Date: 2/22/2022

claimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be

Anoka County Parcel Viewer



Parcel Information: Approx. Acres: 34.16

10-32-25-13-0009 Commissioner: MATT LOOK

17003 NOWTHEN BLVD NW

RAMSEY

MN 55303

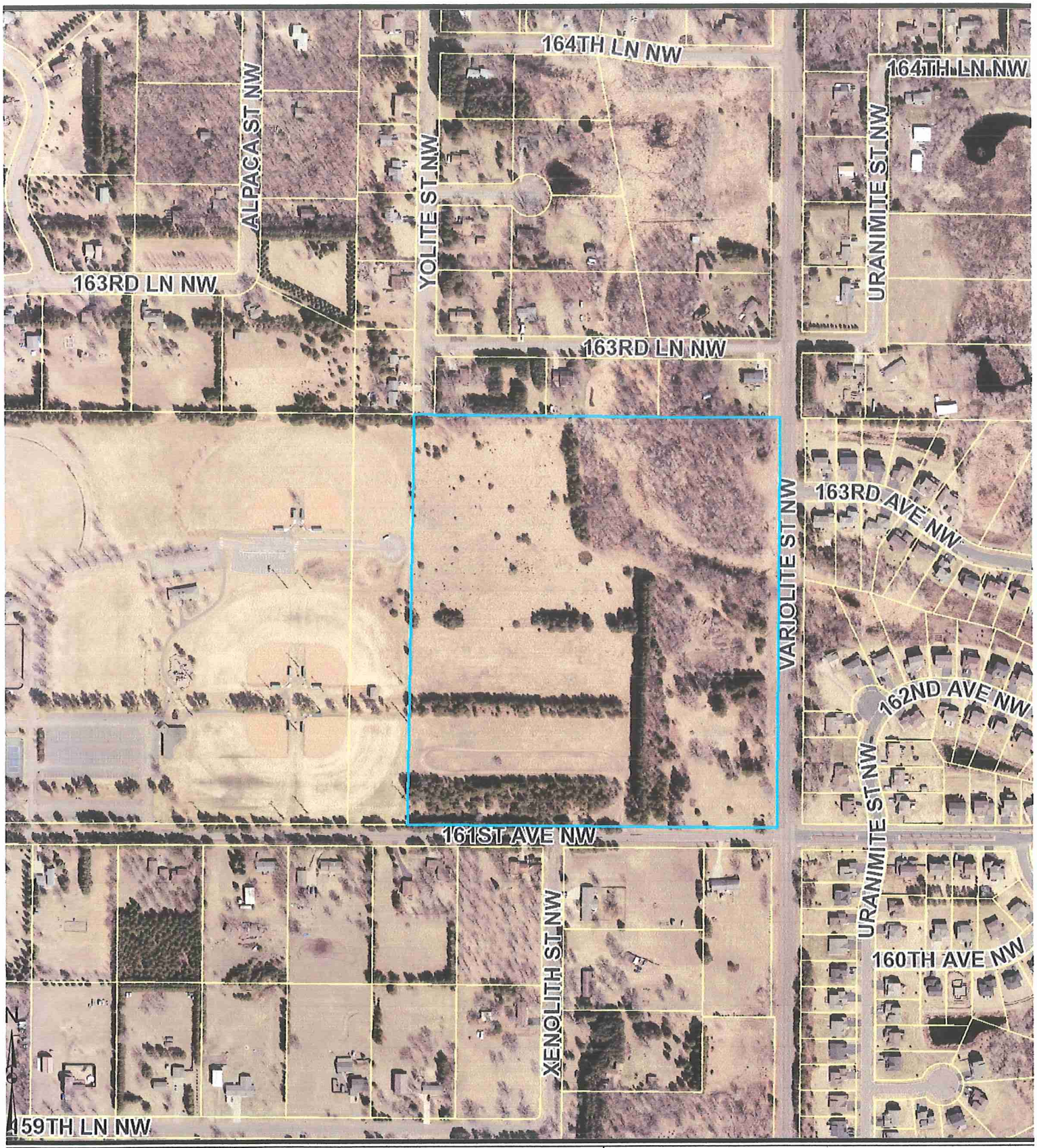
Plat: ANOKA HENNEPIN 2ND ADDITION

Owner Information:

ka County GIS	1:4,800	Date: 2/22/2022

claimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be

Anoka County Parcel Viewer



Parcel Information:
16-32-25-24-0002
7633 161ST AVE NW
RAMSEY
MN 55303
Plat:

Approx. Acres: 33.18
Commissioner: MATT LOOK

Owner Information:

ka County GIS	1:4,800	Date: 2/22/2022

claimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be

From: Michalena Holder
To: Ramsey Planning
Subject: Opposition to re zoning at 161stAve and Variolite.
Date: Thursday, February 24, 2022 3:08:02 PM

I am writing this email in opposition to the re-zoning of the land located at 161st avenue and Variolite. I believe that this area is an inappropriate location for this school and I would not feel safe for my child to go to or from this building. The traffic conditions in this area are not conducive to school type traffic. I feel that the council should only be considering areas where the infrastructure is already deemed safe for this type of traffic in order to keep our taxes from going up. Please deny this application unless there is sufficient study to determine the safety of the students, staff and public and also the tax impact of the infrastructure needed for this rezoning.

Sincerely
Michalena Holder

From: Donna Mattson
To: Ramsey Planning Commission
Subject: Pact Charter High School
Date: February 24, 2022

To whom it may concern,

I'm addressing the public notice we received. I have major concerns in regards to the proposed large Charter School being planned to be located across the street from our home.

We are very much opposed to this School Plan being approved for location at 7633 161st Ave NW Ramsey MN 55303.

My family has lived in our home for 40 years on this beautiful tree lined street. With the Park across the street we know the pros of enjoying the park and the cons of the traffic and noise it provides. These cons would only be greatly increased with out any pros for our family and most of the families on our street.

I have gone on the Ramsey City website and read through the attachments on the Planning Commission site. I have grave concerns that the road, water and sewer are not addressed to the extent that it will impact us and our neighborhood financially. How and where would the school connect. I would hope the intent is not to run this down our street. This is a cost that should be openly shown to be incurred by the School and not the tens of thousands of dollars that would be forced on us and our neighbors to bare for water and sewer we are zoned not to have and do not want or need. Also no detailed plan is shown for road improvements to access the school off of 161st Ave. How would that even work without widening the road and impacting our yards and tree lined street.

Again we are very much against this school plan and hope you take serious consideration of the negative impact this will cause to our neighborhood and the people who live here. As a tax payer of 40 years in this city I would expect only your best from you.

Due to personal reasons we will not be able to attend. I ask that this letter be read and my issues be addressed.

Sincerely,



Donna and Winston Mattson
7808 161st Ave NW
Ramsey MN 55303
612-210-4167

From: Matt Woestehoff
To: Brian Hagen; Kurt Ulrich
Subject: Fwd: Rezoning Amendment for proposed new school facility
Date: Thursday, February 24, 2022 11:43:01 AM

FYI, this was received and I did not see you on the email and wanted to get it on record.

Thanks,
Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: ashley pflager <ashleypflager@gmail.com>
Subject: Rezoning Amendment for proposed new school facility
Date: February 24, 2022 at 11:30:07 AM CST
To: chowell@cityoframsey.com, mkuzma@cityoframsey.com, criley@cityoframsey.com, rheineman@cityoframsey.com, mwoestehoff@cityoframsey.com

To Whom it may concern,

I am writing to you about the proposal for rezoning the land adjacent to Central Park. It is my understanding that there will be a hearing on Thursday February 24th for residents of Ramsey to discuss the rezoning of this land. Unfortunately, I am unable to attend in person or via the virtual meeting, so I am hoping this letter finds itself in the appropriate hands regarding concerns for the development of this land parcel.

As a resident of Ramsey for more than twenty years, I have seen the progress and change of this beautiful city. When my husband and I first moved to Ramsey we were in love with the "country feel." Beautiful parks, majestic forests, and an extensive trail system. Sadly, we have watched the horizon of Ramsey change. Land developers have snatched up the land and built houses on top of one another. I understand with growth there also comes development. I also have noticed that Ramsey seems to have lost focus on what this City used to be known for, large land lots, nature parks and trails, quiet neighborhoods. Rezoning residential land for other purposes is the exact opposite of what Ramsey strives to be. Ramsey needs more homes to increase land value and have the money to improve the whole of our town, a community center, better parks and trails, more public schools. With such a beautiful landscape, Ramsey should be proud of how much natural and untouched earth we have. We are unlike any other suburb of the metro area in that we still have undeveloped land, and many of our residents were drawn to this area because of this.

We live a few houses away from Central Park and in the twenty years we have lived here there has been no upgrade to the playground equipment. Central Park is a major hub for local city sport tournaments in the summer months as well as practice facility for spring and fall sports for the Anoka/Hennepin area sports teams. There are wonderful soccer and football fields, baseball fields with new dugouts, and new tennis courts. Central Park has the potential to bring revenue to the city with a Parks and Recreation program, employment opportunities for our young youth, and summer camp programs for the residents of Ramsey. It would be wonderful as a local resident to see the Park expand with an upgraded playground or splash pad. The nearby Lennar homes neighborhood house hundreds of young families that could utilize this expansion. Unfortunately, these residents will not have equal opportunity to utilize the PACT school seeing as it is a lottery system and proximity does not warrant priority. One single charter school will not improve the class sizes of our local public schools. Once single school will not benefit the whole city of Ramsey.

Regarding the zoning issue of the proposed PACT Charter High School. It is my understanding that the proposed location for the new school is insufficient in many ways. There is not enough current land for future expansion possibilities. There must be contiguous acreage whenever possible and land for expansion of the campus. The land currently proposed for this school is 18 acres and the requirements for a k-12 or small high school would require 30-40 acres. In addition to the under sizing of the land is the issue of traffic. The proposed location for this school is not on an arterial roadway. The land was initially zoned for residential purposes. The adjacent roads are insufficient to handle the increased traffic from not only new developments north on Variolite Street, but also sports such as baseball, soccer, and football, that use Central Park in Spring, Summer, and Fall. Not to mention that the cost to residents for the reconstruction of 161st street with sidewalks and city sewer/water doesn't benefit all of Ramsey, just those on that road. Putting money into the Park would benefit the greater good.

We live 5 houses away from the proposed building site, yet we are not in the Anoka/Hennepin school district. PACT schools would provide transportation only within Anoka/Hennepin school district boundaries. Why put a school at the very edge of the district boundaries? We already have bus traffic from Anoka/Hennepin schools as well as Elk River schools. I watch the buses follow one another through the neighborhood. It seems futile to add a third bussing route to these neighborhoods. It would make more sense for PACT to build more centrally located to either their elementary school or more central within the transportation limits.

Has there been a traffic study to account for increase travel from the new construction of the new neighborhood north on Variolite? As well as church traffic, high school traffic, football game traffic, bus routes from three districts, and fall/spring sports utilizing Central Park?

Have there been studies done for drainage?

A PACT Charter expansion is a wonderful idea and would be a fine addition to the City

of Ramsey. The proposed location for the high school is not ideal and it would behoove the City to entertain other areas for a proposed location. There are many areas of Ramsey that can accommodate the expansion for PACT that would not require rezoning land that is already zoned residential. The residents of the surrounding neighborhoods are not in favor of the proposal. We would rather see Ramsey expand the parks system and use that land for bike trails or walking trails. Update the playground. Create a parks and recreation program within the city that can not only create jobs for our youth, but also create revenue for the city. Keep Ramsey pristine in nature. The loyal Ramsey residents don't want to see the landscape of our beautiful town get replaced with buildings and box houses.

Finally, upon doing a bit of research, it appears that several members of the city council have affiliations with PACT. I would hope these members would recuse themselves from voting on this matter as it is a conflict of interest.

Thank you for your time,

Ashley Pflager

Ramsey resident

From:	ashley pflager
To:	Chris Anderson; Debra Musgrove; Dan Specht; Nicole Laubach; Brian McCann
Subject:	Zoning amendment and proposed new school
Date:	Thursday, February 24, 2022 11:41:00 AM

To Whom it may concern,

I am writing to you about the proposal for rezoning the land adjacent to Central Park. It is my understanding that there will be a hearing on Thursday February 24th for residents of Ramsey to discuss the rezoning of this land. Unfortunately, I am unable to attend in person or via the virtual meeting, so I am hoping this letter finds itself in the appropriate hands regarding concerns for the development of this land parcel.

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Have there been studies done for drainage?

A PACT Charter expansion is a wonderful idea and would be a fine addition to the City of Ramsey. The proposed location for the high school is not ideal and it would behoove the City to entertain other areas for a proposed location. There are many areas of Ramsey that can accommodate the expansion for PACT that would not require rezoning land that is already zoned residential. The residents of the surrounding neighborhoods are not in favor of the proposal. We would rather see Ramsey expand the parks system and use that land for bike trails or walking trails. Update the playground. Create a parks and recreation program within the city that can not only create jobs for our youth, but also create revenue for the city. Keep Ramsey pristine in nature. The loyal Ramsey residents don't want to see the landscape of our beautiful town get replaced with buildings and box houses.

Finally, upon doing a bit of research, it appears that several members of the city council have affiliations with PACT. I would hope these members would recuse themselves from voting on this matter as it is a conflict of interest.

Thank you for your time,

Ashley Pflager

Ramsey resident

From: Alison Pust
To: Brian Hagen; Brian Walker
Subject: PACT Charter School
Date: Thursday, February 24, 2022 3:17:24 PM

Hello!

I'm a Ramsey resident (6051 145th LN NW). My husband and I have 4 children. We moved to Ramsey last year specifically because of our desire to send our children to a charter school. As a resident, and mother to school age children, I fully support the new secondary school building. I believe it will add tremendous value to the city of Ramsey and its families.

Alison Pust

From: Matt Woestehoff
To: Brian Hagen; Kurt Ulrich
Subject: Fwd: New PACT high school project
Date: Thursday, February 24, 2022 11:44:24 AM

Please see below as well-

Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Rob Miller <robmillermn@msn.com>
Subject: New PACT high school project
Date: February 24, 2022 at 11:43:41 AM CST
To: "mkuzma@cityoframsey.com" <mkuzma@cityoframsey.com>, "criley@cityoframsey.com" <criley@cityoframsey.com>, "chowell@cityoframsey.com" <chowell@cityoframsey.com>, "rheineman@cityoframsey.com" <rheineman@cityoframsey.com>, "mwoestehoff@cityoframsey.com" <mwoestehoff@cityoframsey.com>, "dspecht@cityoframsey.com" <dspecht@cityoframsey.com>, "dmusgrove@cityoframsey.com" <dmusgrove@cityoframsey.com>

Dear City Council,

We are writing to inform you of our support for this project. We live in the Woodlands and we will be impacted by this project.

There has been a lot of social media discussion around the use of the land, the traffic, and the safety of this project if it were to move forward.

The use of the land in question although it does not conform to the current zoning should be amended to allow for it. It is very obvious that the desire of the original owner was to have it as a community asset. A church or school is the same asset in my definition. This use helps both projects. I believe the church needs the funds to move forward and the school can facilitate that. Both are advocates for community use.

Traffic, We drive on Varolite several times a day and never see much traffic nor do we see high speeds. We also walk along this road and 161st in front of the

proposed project area. Again we feel very safe as pedestrians in this area.

Safety, We believe there isn't a project that will take into account safety and security of the area more then a school. Schools are meant to be in neighborhoods surrounded by residents, not industrial parks. We believe that planning and engineering staff will be confident and concise in their planning and recommendations that will allow for all safety concerns to be addressed. We also believe that 161st will have to be improved for this project and is long overdue for this. This is the exactly the kind of project that can spur those improvements.

We do not have children attending this school so we are speaking from a position of support for the greater community as a whole. It is our vision that the council sees this project as being overwhelming beneficial to the community as a whole. It is our hope that the answer to those who say "not in my back yard" will be then where? Where do you put a school that benefits all and abuts a park? Where is a better use then in a neighborhood close to residents who could use it? The answer surely can't be a commercial or industrial area.

Respectfully,

Kim and Rob Miller
15831 Peridot st NW
Ramsey, MN 55303

Get Outlook for iOS

From: Brian Ratajczak
To: Brian McCann
Cc: Ramsey Planning
Subject: Pact Charter High School
Date: Thursday, February 17, 2022 5:30:57 PM

To whom it may concern,

I will not be able to make the public hearing on this topic so I am writing you my concerns.

We received a notice of a rather large high school being planned in our residential neighborhood directly across the street from our house.

This is one of the last things that we would ever want to see across our street.

The main reason we chose to live in the area where we are is because of the larger lots, residential neighborhood and quiet streets.

I have no idea how a large high school would fit into this neighborhood without impacting everything that we appreciate about this area.

There would need to be logistical changes that I am sure we would see in our taxes – all for a school that my kids cannot even go to.

We are very much against such a large school being built in this neighborhood.

We appreciate your consideration

Brian and Karyn Ratajczak

If you like – please feel free to contact me direct – 612-419-9046

Thank you

[redacted]

Brian Ratajczak | [redacted]
[redacted]
[redacted] | [redacted]

From: Brenda Sorgdrager
To: Brian Hagen; Brian Walker
Subject: PACT expansion
Date: Thursday, February 24, 2022 1:59:20 PM

Hello,

I just wanted to reach out as a Ramsey resident to voice my opinion. I believe the expansion of PACT will be a good long-term investment for our community.

Thank you,

Brenda Sorgdrager
763-221-2387

Every action in our lives touches on some chord that will vibrate in eternity.
~Edwin Hubbel Chapin

From: Sarah Sullivan
To: Brian Walker; Brian Hagen
Subject: PACT Secondary School
Date: Thursday, February 24, 2022 2:43:56 PM

I am unable to attend a meeting tonight when PACT Secondary school will be brought up.

I am a Ramsey Resident and also a PACT mom with a current K, 2nd grader and future sibling as well. Prior to even attending PACT I had planned on my kids attending Spectrum for secondary due to some reviews from other parents I knew. The word of the street was elementary is amazing but secondary is really lacking and Spectrum would give them more opportunities.

Now fast forward and our family is loving PACT, my kids are thriving and I really don't want to pull them out when they get to secondary. This expansion would give PACT kids more opportunities, expanded curriculum choices, with still keeping their standards of excellence, yet stay close to their current location (convent when having multiple kids in different grades).

Please consider approving the expansion of PACT secondary. We love the new future location and possibilities.

Sarah Groebner
9431 176th Ave Ramsey

From: Alyssa Vaughn
To: Ramsey Planning; Nicole Laubach; Chris Anderson; Brian McCann; Brian Hagen
Subject: PACT Charter School
Date: Monday, February 21, 2022 1:36:59 PM

Hello,

Forgive me if this email ends up in the wrong spot, I could not find a definitive contact on the city website. I am not able to attend the meeting on Thursday but I still wanted my opinion heard as I have seen many negative comments on the Ramsey community page on Facebook and often times negative comments can outweigh the positive. I was ecstatic when I received an email from PACT charter about their expansion and the opportunity for so many more kids to be able to attend. As I'm sure you are aware they have a long wait list of kids wanting to attend the school but are unable to accept everyone. I know MANY families who have tried for years to get their kids into PACT but have been unsuccessful. This is the perfect opportunity for them to be able to reach more students, improve what they are able to offer students AND for Ramsey to finally have an option for high school. I desperately want to get my kids into PACT and am currently waiting to see if my oldest will be accepted into Kindergarten or if they will run out of space before we get an offer. I have watched Ramsey build an obscene amount of housing in the past 3 years, packing people into the city like sardines but I have not seen anything of value added. I am sympathetic to those who are in opposition to the PACT campus, however I feel that many people in Ramsey are not in favor of change even if it is for the better. Most all of the negative comments are understandably from those who live in the neighborhood. I understand that they are concerned about traffic in their neighborhood, however this is something that can and has happened in many cities. There are many schools that are built in neighborhoods and while I get this is not ideal for those who live there I would like to think that the city will take into consideration their concerns and work with PACT and the neighbors to come up with a solution to the increased traffic that will make this option a safe one to move forward with. I hope PACT will be able to move forward with their new campus so that Ramsey can invest in the future of the children who live here. Thank you for your time.

Sincerely,

Alyssa Vaughn

[redacted]

[redacted] (651) 287-1100

[redacted]

From: Scott Wiyninger
To: Brian Hagen
Subject: PACT School Expansion Plans
Date: Thursday, February 24, 2022 11:49:49 AM

Hello Brian,

My wife and I (and our four children) moved to Ramsey in October because we wanted to be close to our kid's school, PACT. We understand that there is some resident concern about the location the school is proposing for the new secondary school. While this is understandable, we believe that PACT has demonstrated itself to be a respectful and community-focused school. One of the core values taught throughout the year is the concept of being a good citizen and that continues to be demonstrated by students, teachers, and parents.

We ask that you approve the planning process for PACT to move forward with the location they've chosen and begin to expand the school (and our community) as quickly as possible.

Thank you!

--
Scott Wiyninger
763.300.1735
scott@wiyninger.us

From: Kurt Ulrich
To: Brian Hagen
Subject: FW: PACT proposed building site
Date: Tuesday, March 1, 2022 8:26:27 AM

Brian,

Please respond and record the comments below.

Thanks,

Kurt

-----Original Message-----
From: Bev Kleckner <hellothere999@icloud.com>
Sent: Monday, February 28, 2022 7:40 PM
To: Ryan Heineman <RHeineman@ci.ramsey.mn.us>; Mark Kuzma <mkuzma@ci.ramsey.mn.us>; Chelsee Howell <CHowell@ci.ramsey.mn.us>; Debra Musgrove <DMusgrove@ci.ramsey.mn.us>; Dan Specht <dspecht@ci.ramsey.mn.us>; Chris Riley <criley@ci.ramsey.mn.us>; Matt Woestehoff <MWoestehoff@ci.ramsey.mn.us>; Kurt Ulrich <kulrich@ci.ramsey.mn.us>
Subject: Re: PACT proposed building site

Sent from my iPhone

> On Feb 28, 2022, at 3:34 PM, Bev Kleckner <hellothere999@icloud.com> wrote:
>
> I OPPOSE the building of PACT charter school in the proposed location.
>
> If they are going to spend 25 million on a school for 600 students then build it in a location that would allow expansion in the future. Not to mention this is not the right location for a school. With the 100's and 100's of houses being built in Ramsey right now, it would be better if the City purchased the land and expand Central Park to accommodate the rapid growth of families and the land would benefit the entire community not just 600 students who may not even live in Ramsey.
>
> Where is the infrastructure for our large City parks as the City continues to grow?
>
> Taking prime park space and cramming a school on 18 acres is not the right decision.
>
> Do the right thing for the City of Ramsey.
>
> Concerned Ramsey resident,
>
>

From:	Matt Woestehoff
To:	Brian Hagen; Kurt Ulrich
Subject:	Fwd: Consider Request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment Related to a Proposed Second School Campus for PACT Charter School on the Property Located at 7633 161st Ave NW (Project No. 22-107); Case of PACT Charter School
Date:	Sunday, February 27, 2022 5:29:32 PM
Attachments:	image001.png image002.png

Hi Brian-

I chatted with this resident and they gave permission to enter their email into the public record for the upcoming case. Can you make sure his comments are added?

Thanks!
Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: <sam.maeder@gmail.com>
Subject: Consider Request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment Related to a Proposed Second School Campus for PACT Charter School on the Property Located at 7633 161st Ave NW (Project No. 22-107); Case of PACT Charter School
Date: February 27, 2022 at 12:26:53 PM CST
To: <mwoestehoff@cityoframsey.com>

Good afternoon, Councilman!

I am writing based on the result of the decision for the recommendation to approve the zoning change for the agenda item noted in the subject. As a resident of your ward, and a resident in the vicinity of the proposed school, I request that you consider what the residents in that area are asking for. Which seems to quite loudly be that the school look at another plot in Ramsey than the once considered that wouldn't need to be rezoned.

As a resident who went to the public hearing, there was a lot of requests from people in the neighborhood to reconsider because of the affect it would have on them. Whether it's from traffic, noise, or lighting concerns, it seemed largely dismissed by those who have an interest in this project. As my council member for my ward I write you for two things.

1. To urge council members who have bias to abstain from voting as there is clear bias

for them.
2. To vote against the rezoning for this plan. The location is not the right location, and several people in the community have voiced concerns.

The only people that seem to be for this are those with children in Pact, and those who have interest in the school being built.

Additionally, arguments regarding “safety” of the students of Pact seem to be grossly fabricated. The COR has plenty of land much closer to the current Pact school that would provide safety, being much closer to emergency services. And would reduce the risk of motor vehicle accidents for teens driving younger family members to the Elementary school before going to school. Having them drive another couple miles on high-speed busy roadways does not seem like there is actual consideration for student safety being considered.

I hope this message finds you well, and that you take the concerns of the residents of your ward seriously when making a decision on this matter.



Samuel Maeder
| **mobile:** 612-346-7211
| **email:** sam.maeder@gmail.com

16410 Quartz St NW
Ramsey, MN 55303

I am writing to you today, as a concerned community member of Ramsey. I have lived in the Sweet Bay Ridge development since 2009. When we decided to build our home, we looked for land in various cities across Anoka County and fell in love with the peaceful, rural wooded area in Ramsey. We were excited with Central Park close by for our children to play and for us to take walks. I have enjoyed watching the deer come to my backyard to visit through the years. I have felt for the most part, this neighborhood is safe, but we have had a few incidents of vandalization and speeders on Variolite through the years. We voiced our concerns about the safety of our children crossing Variolite, due to speeding and a slight hill between 161st & 163rd, which makes it difficult to see an approaching car or pedestrian. The city conducted a traffic study. Just recently, the road was repaved to make it narrower and to include a crosswalk with flashers.

I recently heard about the possibility of rezoning, 7633 161st Avenue, to make it a lot for public/institutional and no longer residential. When we bought our land to build, we were very aware of the future home of St. Katharine Drexel and were okay with having a church close to our home. My family built our home, knowing this quiet, residential, wooded area was zoned for a church and homes. We never thought an area by a city park would become a location for a business. We already have had concerns about the speeding down Variolite, and the view obstruction of the hill and now you are adding more traffic to our area. According to the plan, the traffic pattern will be going down Variolite, 161st and 163rd. I wanted to make you aware that 161st and 163rd are both entrances/exits to our development. I am wondering how we will get out of our development for work/school during the high peak school hours when both roads will be used. Will you be using taxpayer money to tear up our newly paved road to add a stoplight, turn lanes, and other accommodations for buses and traffic volume? Has the money you put forth in repaving Variolite, now gone to waste? How will buses make a left-hand turn onto 161st if traffic is coming down Variolite after dropping off kids? How will 2 large residential developments exit in the morning when we only have one road, Variolite to drive down. I also believe another new development, off Variolite, with approximately 150 homes, may also be exiting onto Variolite.

I also want to address the increase in noise and lighting that will occur when the stadium is placed in a middle of a residential area. Because this land is located on higher ground then Sweet Bay Ridge, we currently have the noise of Central Park when they have sporting events on the weekends and weeknights. Now by adding a stadium, we will not only have the increase of noise and traffic for the park, but should you decide to vote yes, it will be adding even more noise, lights, and traffic to our residential neighborhood. We may never get a break and will lose the rural feel of Ramsey. I am in no way opposed to PACT charter school expanding and building, but I do not feel this small residential neighborhood is equipped for increase traffic & noise. I drive around the COR and off Hwy 10 to see many signs for sale on empty lots. The COR is off Hwy 10 and roads are already constructed for high volume. I understand by voting yes to have this lot rezoned, you are helping a church who desperately wants to build and a school in the same situation. I would like for you to consider how this will affect the environment of Ramsey. I feel it would be beneficial to look over the last traffic study that was conducted and consider the ultimate cost of repairing roads, sewer, etc. before you vote. I am asking for you to please listen to the concerned residents in this area who will be affected of your decision on a daily basis. Thank you for your time.

Rebecca Marcoux

From: Amanda Patrow
To: Chris Anderson
Subject: Proposed PACT charter school
Date: Tuesday, March 1, 2022 2:15:57 PM

Good afternoon, my name is Amanda Patrow. I live on 163rd Ave and Varolite in the sweet bay neighborhood. I have a lot of the same concerns as some of the other residents that live in this area about, building a school and stadium. The biggest things that will affect me is the traffic and the noise. The stadium is going to be loud for a lot of the residents in the area, I'm guessing the will have some sort of intercom systems for announcing and the lights shining through the neighborhood. We can already hear some noise from Central Park when the fans are cheering but other than that we don't hear any announcing. We are worried with the new stadium is is going to cause lots of noise to our quiet neighborhood.

Second, I pick up my son from school everyday. He has cerebral palsy, he is in a wheelchair, non verbal and tube fed. He attends Ramsey Elementary for there center base program. I leave my house about 3:30everyday to pick him up at 3:45. I exit 163rd Ave onto Varolite. I am really concerned about what traffic I will be running into at that time. Sure, I could drive through the neighborhood and exit on 161st but will be the same problem trying to enter Varolite, same thing with 159th. Every exit and enter road into our neighborhood connections to Varolite. We have no other choice! I don't want my son sitting at school wondering and waiting for me because I got stuck in traffic on Varolite and then again on alpine! I really hope that you will take me and my neighborhood into consideration when you make your choice about this school. We strongly feel that there is a better location for a school and it is not in a residential neighborhood.

Thanks,
Amanda Patrow

From: charlie7751
To: Chris Anderson
Subject: Opposed
Date: Monday, February 28, 2022 2:16:25 PM

We are Opposed to the rezoning.We moved to Ramsey 30+ Years ago. It is no longer country living. We are opposed to the Pact School bringing in more traffic the location is all wrong.This is a residential Area.

We live on 166th and Alpaca are property has be run into multitude times since Alpaca has been put Threw. As a Ramsey resident do you believe this will increase our quality of life or take away.

Charles and Judith Canesi

From: Danielle Holder
To: Chris Anderson
Subject: Opposition to the rezoning located at 7633 161st Ave NW
Date: Monday, February 28, 2022 11:57:01 AM

Hello Chris,
Thank you for agreeing to forward this to the EPB

To whom it may concern, I am writing in opposition to the proposed rezoning. Re-zonng in this area is likely to cause environmental hardships to the neighboring residents. I suspect even beyond.

My first concern is that this plan indicates a large amount of impervious surfaces. Once the lot is covered it will create a large amount of runoff that will need to be dealt with. Since the site is small and unlikely to accommodate a stormwater retention area that water will either flood adjoining neighboring properties and roads. Flooding and ground saturation are seasonal nuisance problems now but likely to worsen as the area is covered by buildings.

All or nearly all the residential properties adjoining this construction are serviced by Well and Septic, we are concerned for possible contamination of our soils and waters. These wells are fairly shallow and could become contaminated should flooding occur by organic matter, salt, pesticides and herbicide and vehicle fluids like gas or oil. The number of cars parking on the requested land will be greater than likely a housing development as the property is zoned now. Also different is that the runoff from one big development is likely to collect in one area. This is also true for housing that is on a well and septic are generally less likely to spray chemicals on whatever green area they have left.

I am also asking you to consider the noise and light pollution that the neighborhood would experience should the stadium and field be developed. It is unlikely that any mitigating factors can be implemented to control the noise and light from a stadium. Also at issue would be the surface pollution, natural grass would require large amounts of spraying to be kept up, artificial turf may break down contaminating soils.

There is insufficient reason to believe that this development can be built and safeguard the environment as well. There is no amount of design changes that can make this reasonable. We zone for this very reason so we have some natural areas to act as filters for our pollution. Once this project gets moved forward even for study we are no longer being proactive on our environment we are being reactive to a problem. Please recommend the City Council vote no on moving forward.

Thank you,
Danielle Holder
7826 161st Ave NW
Ramsey MN 55303

From: Donna Mattson
To: Chris Anderson
Subject: Corrected email / PACT School
Date: Monday, February 28, 2022 3:12:57 PM

Chris Anderson, (I corrected this email to say storm sewer not water)

I'm writing in regards to 7633 161st Ave NW proposed PACT Charter School planned for our residential neighborhood.

I live right across the street and I'm opposed to this school being built at this location due to the negative impact it will have on our properties. The site plan shows building the lot to maximum to the point of over building. The storm sewer will harm our wells and septic systems. The city should not be forcing us into a situation where we would need city water and sewer which we don't need for want. I have owned and lived here since they built this neighborhood 40 years ago. All the wells were installed at 80 feet and this would negatively impact them and our sewers. Also I don't want our tree lined street destroyed by the road work the School would require. Trees are the only site and sound buffer we have from Central Park.

Please do not approve #5 Policy Board Business # 1 on the EPB Agenda for Monday, February 28, 2022.

Sincerely,

Donna Mattson
7808 161st Ave NW
Ramsey MN 55303

From: Matt Woestehoff
To: Chris Anderson
Cc: Brian Hagen
Subject: Fwd: AGAINST the PACT project rezoning
Date: Monday, February 28, 2022 5:31:33 PM
Attachments: image002.png

Chris,

Please see the below to be added to the summation of the EPB case if possible as part of the public comments.

Thanks!
Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Jason Patrow [redacted]
Subject: AGAINST the PACT project rezoning
Date: February 28, 2022 at 5:20:44 PM CST
To: "mwoestehoff@cityoframsey.com" <mwoestehoff@cityoframsey.com>

Matt,

For a number of reasons myself and all of my neighbors are against the rezoning of the property the PACT is proposing for their new school location just west of Variolite and north of 161st Ave. NW.

For the meeting tonight (2/28/2022) our environmental concerns are as follows:

- The lack of space for a retention pond for containing all of the runoff from the site.
- The very bright lights that will be shining through our neighborhood.
- The noise pollution from load speakers.
- The damage done to the ecosystem of the wetlands.
- The water level in the spring time behind some of our homes gets very high already and any added water to the system could push it into our homes.
- The added runoff from having to widen the roads do to the added traffic.

- The added noise and air pollution from the added traffic.
- Harm and displacement of the wildlife in the area.
- Has a study been done by the Army Corp of Engineers on the impact to the federal flood plain and wetlands.
- Has it been reviewed by a Hydrologist for any impacts to the wetlands, private wells and septic system functions.

There are probably more concerns that will come up with time but we found out about this in short notice.

Thanks,

JASON PATROW
[redacted]

This email is intended to be a privileged or confidential communication. If you have received it by mistake then distributing or
copying it is prohibited and you are required to delete it and notify the sender. Email sent to or from sender may be retained
by sender.

From: ashley pflager
To: Chris Anderson
Subject: re: EAP meeting tonight
Date: Monday, February 28, 2022 5:18:34 PM

Dear Madam and Sirs,

I am writing a letter of concern regarding the proposed PACT High School and Stadium. I was made aware of an EAP meeting this evening February 28, 2022. I am unable to attend with such short notice, so hopefully this letter will find its way into the appropriate hands.

This meeting is regarding the environmental concerns related to the proposed rezoning of the land adjacent to Central Park in Ramsey. This land was intended for the use of single family homes. The land is adjacent to swamp land and the neighborhood to the north is downhill from the proposed building site. The homes to the north have private wells. There is great concern for runoff from the proposed building site, not only during construction but as well as future use of chemicals to treat the grounds. It can impact drinking water as well as the protected wetlands. Can the water table support the demands of a high school and irrigation system as well as an additional 300 homes ½ mile north? There are hundreds of mature trees on that property as well as young white spruce trees that are going to be bulldozed. Hundreds of butterflies and other pollinators inhabit that land. The school cannot possibly replace the maturity of a forest of that caliber in our lifetime, no matter what they propose.

I can write a thousand reasons why putting a high school and football stadium in a residential neighborhood has dire consequences to the land and our environment, but quite frankly I don't think anyone will even read this letter. There are so many dirty politics involved in this deal and I feel like the residents are wasting their time and energy to fight a losing battle. Every single one of the City Council members have direct involvement with either the church or the school. There has been no mention of any of the city council members recusing themselves from the hearing on March 8, 2022. As far as we all know, this deal is done and the only reason the city of Ramsey is holding these public meetings and hearings is of legal formality.

The residents will continue to show up to meetings. We will continue to write letters. We will go above the city council and go to the county, and then the state. The city should represent the residents of Ramsey. We are the taxpayers, and we should have a voice. There is no benefit to either the students of PACT or the residents nearby the proposed building site. There is simply not enough land, no matter how much of a deal the church is giving to the school. You cannot shoehorn this project legally. All involved will be exposed.

Good day,

Resident of Ramsey since 2000

From:	Jason Patrow
To:	Brian Hagen; Ryan Heineman; Matt Woestehoff; Mark Kuzma; Chelsee Howell; Debra Musgrove; Dan Specht; Chris Riley; Chris Anderson
Cc:	ramseyrezoningwatch@gmail.com
Subject:	PACT School Proposal (Project No. 22-107)
Date:	Wednesday, March 2, 2022 3:19:42 PM

City Board Members,

Good afternoon, my name is Jason Patrow. My family and I live off of Variolite and 163Ave.

We are extremely concerned about the impacts of bringing a school into our neighborhood. We live in a quiet area with not a lot of traffic, it is very peaceful.

We understand that it's important for PACT to expand and that they would benefit greatly from another school. The problem is, the location that they want to build it on. It's currently zoned for residential and the roads are not equipped to handle the amount of traffic that a school would bring especially with buses existing off of Variolite.

Below is a list of concerns we have:

- The amount of traffic twice a day even with road improvements would cripple our neighborhood. The only way in or out of our neighborhood is on Variolite. It would dramatically interfere with the response time of emergency vehicles to our neighborhood during those time should the need ever arise.
- The current site plan for the school doesn't allow for enough space for the 12 buses they require which could put the safety of the student at risk.
- There is not nearly enough room for the student drop off and pickup which will push traffic back out onto Variolite or 161st causing even more traffic problems.
- The proposed entrance and exit road to the north for pickup and drop off would be a blind spot for traffic do to the hill and its location. This will cause many accidents and possible death in that location. Those of us that live here know how bad it already is at the intersection of 161st & Variolite.
- The lack of space for a retention pond for containing all of the runoff from the site. If an underground vault system was to be used there is no storm sewers to carry it away after it was treated. From personal experience and dealing with this type of system, I know the cost associated with it. Our company just proposed installing one for capturing the contents of a tanker truck and the cost was reaching $175,000. The system here would need to be much larger.
- The very bright lights that will be shining through our neighborhood.
- The noise pollution from load speakers.
- The roof top HVAC units for these types of facilities run all night long and are very load.
- The damage done to the ecosystem of the wetlands.
- The water level in the spring time behind some of our homes gets very high already and any added water to the system could push it into our homes.
- The added runoff from having to widen the roads do to the added traffic.

- The added noise and air pollution from the added traffic.
- Harm and displacement of the wildlife in the area.
- Has a study been done by the Army Corp of Engineers on the impact to the federal flood plain and wetlands.
- Has it been reviewed by a Hydrologist for any impacts to the wetlands, private wells and septic system functions.
- There should be a comprehensive traffic study that includes the future development to the north, PACT school & church with the consideration of all of the events that happen at central park.
- Why is the school not following the recommendations from Minnesota's "**Guide For Planning School Construction Projects**" document. This proposal clearly does not fit many of the guidelines laid out for student and public safety and site selection.
- How is it going to affect our already struggling water system?

Driving around Ramsey, we see lots of signs for land for sale in areas that could handle a school that's not in a neighborhood setting. There are lots that are specifically equipped to handle this type of facility which may cost more for the property but eliminates all of the very expensive infrastructure cost. In the end, it would be much more cost effective, safer for the students and public and shorten their construction schedule.

As for the church, I'm certain with the right approach, we could help them find a developer that would be willing to give them a fair price for the land to build some single family homes and build on our community.

Thank you for taking the time to listen to us but please consider a different location.

Sincerely,
Jason Patrow

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: Proposed PCHS development
Date: Thursday, March 3, 2022 10:22:46 AM

See below -

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Lucas <laho2018@gmail.com>
Subject: Proposed PCHS development
Date: March 3, 2022 at 10:18:03 AM CST
To: mwoestehoff@cityoframsey.com

Good afternoon to you, my fellow Ramsey residents and delegates of the citizens. First off I want to say, This is the first time I've written correspondence to any government entity so that is telling of my dedication and interest in the following topic.
I have lived in Ramsey since my 1988 conception. I have seen Ramsey change in ways I never expected or imagined but I have vowed to make Ramsey home for my own Family. Until recently, when that has been under threat by my own backyard being ripped and torn up for development of a school. The main thing I love about this city is the balance between urban and rural. We enjoy the clean streams, ponds and rivers here along with the plethora of wildlife within the community but many in our city council and city hall want to erase that in hopes of putting a few dollars into the city pockets, adding a pretty title on a resume or luring more people here when we cannot even support the current population. The proposed development of the new pact charter HS sits approximately 1300' from my door and but just behind this site is a large wetland and woodland which is at immense risk of being contaminated and destroyed. The roads and paths in this area do not support the increased vehicle and foot traffic that follow and The new woodlands neighborhood across the street, full of young families and children are at risk with increased teen drivers coming and going. I cannot stress enough that this proposed location would be horrible for this community and I question the integrity and reasoning of anyone supporting this cause. stand with your fellow residents and neighbors, we voted you in for this exact scenario so I beg you, don't let me or this community down. It's easy to vote for something happening in someone else's yard but think of it as your own. I want to continue calling this city home but I also stand by my word and conviction which means I will be leaving this city if this

project comes to fruition and I can assure you, I'm not the only one. It's time to stop pissing on the feet of the lifelong Ramsey residents to appease a new crowd. Stop changing this city for the worst when the best part of it is before your very eyes. I pray you have the courage and strength to do what's right for the city and it's people.

With respect and love,
Lucas and Kayla Aho and family

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: Pact Charter School
Date: Wednesday, March 2, 2022 7:33:16 PM

Hi Brian-

Another one for you.

Best,
Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Tom Johnson <tomer4511@gmail.com>
Subject: Pact Charter School
Date: March 2, 2022 at 7:32:16 PM CST
To: rheineman@cityoframsey.com, mwoestehoff@cityoframsey.com, mkuzma@cityoframsey.com, chowell@cityoframsey.com, dmusgrove@cityoframsey.com, dspecht@cityoframsey.com, criley@cityoframsey.com

To whom it may concern,

I am writing this email in regards to the proposed pact charter school, and the effects it will have on the residents living nearby. I have lived in the sweetbay ridge neighborhood since spring of 2015. Living in ramsey has been nothing short of paradise, but hearing of the proposal of the school was a real shock to all of us. Our neighborhood has always been a peaceful place, almost like being up north, very quiet, lots of nature and wildlife, and relaxing, after working in the cities during the week for work. This will all change with the building of a new school. Wildlife will be pushed further north, trees cut down the "up north" feel with diminish. The first issue is the traffic, every household in our neighborhood has kids or grandkids, which all like to play outside, rides bikes etc, with a new school being built with traffic twice a day, 5 days a week, it will no longer safe for children to ride on the path along variolite or go to central park. As many of you know variolite was deteriorating for quite some time dodging potholes and going 5 miles per hour to avoid damage to cars. Now we finally got our new road, that was not constucted to sustain the amount of traffic a school would bring. Also we all know that right after the school is built the church with the money

from the sale of the land will then build the parish they have been dreaming about for several years. With the traffic of school days and weekends with the church, it just is not a very feasible site to construct. Another concern that many have is the sound and lights of the stadium, bringing up my earlier note the "quiet up north feel" will be lost. I have a good friend that lives a few blocks from coon rapids high school and on friday nights even being blocks away the noise is almost unbearable. Another question is what was been proposed as far a containing water runoff? at the meeting on monday, they had said that there is really not enough room for a retention pond, so the options are either let it flow into the wetland raising the water level in the neighboring backyards potentially flooding basements and ruining backyards. Another option that I was told was underground tanks which come with a hefty price tag. Now with that being said The state of MN recommends a minimum of 30 plus acres for a high school wouldnt it make more sense for the school to look at other plots of land with more space for expansion and not in an area so densly populated. We all know there is plenty of land for sale in ramsey much larger and able to accomodate for a school. Dont get me wrong I think the idea of a school is a nice addition to ramsey but I think the city, pact and katherine drexal need to all think about how it will effect neighboring communities. Now i know that a few of you have ties to pact or katherine drexal, but i ask you to please look past that and think about "us" as residents of ramsey. The school will happen with time just not on the land that was proposed. I know you have probably received a pile of emails regarding this issue, and think its the same song and dance, but its all of us as a community coming together and trying to keep ramsey and our neighborhoods the place it was when we all decided to land here and call this it our homes. I look forward to seeing you all on tuesday the 8th and again please look beyond the big picture and think about the residents and how it will affect us and the wildlife

thank you

Tom Johnson
resident of sweetbay ridge

From: Kayla Arseneau
To: Brian Hagen
Cc: Stephen Arseneau
Subject: In Favor: Secondary campus near Central Park
Date: Monday, March 7, 2022 10:42:30 AM

Hi, Brian!

My husband and I will be unable to attend the meeting coming up on Thursday, so wanted to send you a note that our family is in favor of the Secondary campus near Central Park.

Our oldest currently attends PACT (1st Grade), and we look forward to seeing what the future holds for this expansion! Having a secondary campus will be incredibly important to the current and future children that attend/will attend PACT.

This will also be a fantastic opportunity for those that are continuously moving into Ramsey (housing expansion on Armstrong, etc.)

Sincerely,
Kayla & Stephen Arseneau

From: Jackie Barthel
To: Brian Hagen
Subject: PACT Charter School Expansion
Date: Monday, March 7, 2022 8:49:23 PM

Hello,
I am writing to you today as a Ramsey resident and PACT Charter parent. I have 3 boys, one graduated from PACT in 2020, one a junior at Anoka High School and one a 7th grader with Autism at PACT.

Of course I support the expansion as a PACT parent, this School has changed the lives of my children. After fighting for help for Yeats for my oldest at AH I was told, we just don't have the resources to help him (he didn't need enough help). My youngest has been there since kindergarten and the school has been unbelievable.

Now, more importantly you want to hear what I have to say as a Ramsey resident. We live off Armstrong just down the way from the proposed school. I understand the objections on the table are traffic and the need for a "public" high school. My children waited to get in to PACT, one of the things we hear the most from our Anoka and Ramsey friends is it's so hard to get into PACT. They wish their kids could go but can't get in. These are our sports friends, our church friends....residents of Anoka and Ramsey - waiting to get into their LOCAL Charter School. Wanting something different than the Anoka Hennipen School district. Many settling on attending Spectrum in Elk River, because their LOCAL Charter School has a waiting list a mile long.

Now, with children at both an AH high school and PACT Charter - I can say my favorite thing about PACT is the character based learning. Intentional focus on being good humans! That is not to say some teachers within other districts do not teach good values, but it is intentional at PACT. What a great thing to be instilling good character qualities into our Ramsey children.

This expansion will not only keep people in Ramsey, it will bring people to Ramsey and instill good character qualities into our Ramsey children!

Kindest Regards
Jackie Barthel

Sent via the Samsung Galaxy Note10+ 5G, an AT&T 5G smartphone
Get Outlook for Android

From:	Linda Bowers
To:	Chelsee Howell; Mark Kuzma; Chris Riley; Ryan Heineman; Matt Woestehoff; Debra Musgrove; Dan Specht; Nicole Laubach; Brian McCann; Brian Hagen; Chris Anderson
Subject:	Proposed zoning change
Date:	Tuesday, March 8, 2022 3:28:05 PM
Attachments:	Ramsey.docx

March 8, 2022

City of Ramsey
City Council

Dear Sirs and Madams,

Please see the attached letter in support of a “no” vote on the proposal to change the zoning from low density to zoning needed for building a PACT school for the parcel of land which was donated for the purpose of building a church on said land.

Thank you for your time.

Dr. Linda J. Bowers

March 8, 2022

City of Ramsey
City Council

Dear Sirs and Madams,

This letter is in support of a “no” vote on the proposal to change the zoning from low density to zoning needed for building a PACT school for the parcel of land which was donated for the purpose of building a church on said land.

The environmental impact group found that it is not a viable option to build a high school on this land and I concur with them. Replacing large trees with small immature trees does not offset the large footprint of removing mature trees; it will take many decades before the new trees are mature. I believe there are also issues with drainage and water pollution for the nearby residents as well as an increase in traffic not supported by infrastructure. I believe the council would be wise to adopt their findings and astonished and dismayed if they voted against these findings. That to me would reek of a “done deal” and “this is just for show and due diligence” aspect to this situation which is most unfortunate.

This tract of land is zoned for low density use; a high school is the antithesis of low density. High schools bring not only buses but teenagers driving cars, additional vehicles for faculty and staff, visitors, and vendors. Building a stadium would bring noise and light pollution, and an even larger increase in traffic. Parking would be problematic at best.

The point about it being close to the elementary school is specious at best and wanting a high school in a residential area because of safety concerns is laughable. Safe for who? It does not matter one whit if the elementary and high school are in proximity except for the few who are attending there. It has no bearing on the rest of Ramsey residents. The presence of a high school with teenagers will change a safe, quiet residential area into a noisy, polluted, and perhaps dangerous area. High school students are not known for their mature attitudes and well-thought-out decision-making capabilities. You can expect bad behavior, speeding, and crime to follow unless you are wearing rose-colored glasses and living in 1955. I taught young adults for 40 years and although I loved it and them; I don’t have any delusions about their levels of maturity and thoughtfulness. Frankly, putting a high school in a residential area is a poorly thought-out short-sighted idea. One wonders if the council has researched this area with an eye toward the next 50-75 years and the impact that education trends, the aging of America, population growth and diversity trends, etc. have on community development.

I like the idea of a church built on that land and perhaps some sort of community center. For example, an indoor walking area, gyms, spot for gathering, and community theater. Or add onto the existing park, making it a state-of-the-art facility.

I find it more than interesting that communication about this proposal was not given wider audience and longer time between meeting notices. This reflects poorly on those who don’t understand the residents of Ramsey who work, have children, are ill or physically challenged, or out of town etc. Most people cannot just rearrange their schedule at the drop of a hat without significant planning involved.

I believe elected officials should be held accountable for their actions and/or inactions, transparency or underhandedness, communication skills or arrogance, be leaders for **all** community residents, and voted in to or out of office when necessary. I would assume that the council members would function at the highest level of ethics and responsibility and recuse themselves from voting whether a perceived or true conflict of interest exists.

Thank you for your time and the opportunity to weigh in on this proposal.

Dr. Linda J. Bowers
Professor Emeritus

This is my previous letter from February:

February 24, 2022

City of Ramsey
City Council
Planning Commission

Dear Sirs and Madams,

This letter is in support of a “no” vote on the proposal to change the zoning from low density to zoning needed for building a PACT school for the parcel of land which was donated for the purpose of building a church on said land.

My concerns mostly revolve around the concept of community. What is the “look” the city is striving to present to its residents as well as outsiders? I would hope it is as a community that plans for the future as the aging/graying of America ensures the need for senior housing and senior community centers, provides free, safe indoor and outdoor physical activity and community recreation centers as the health of a community is intimately tied to the physical and mental health of its people; a community that serves all people from cradle to grave allocating its limited resources fairly and wisely; a community that looks forward well into this century being respectful of the past Ramsey, balancing preservation of the environment and developing open spaces for hiking/biking paths while cautiously and deliberately expanding commercial growth where and when it’s needed.

In my opinion this parcel of land is too small to adequately support a high school with it’s attendant need for new roads, sewer, and parking lots, as well as increased noise and traffic. Rather, this land could be used to better the community by serving a larger population, such as building a much-needed community recreation center or improving the park by providing safer playground equipment.

This proposal places the needs of outside persons over the real needs of Ramsey residents. Ramsey could use many things such as a public high school, community center(s), nature-inspired trails and parks that could be used by all, and more affordable housing to increase the tax base of the city.

I do not currently live in Ramsey, but I hope to retire there within a couple years because it is a beautiful and growing community of which I would like to be a part. I know that cities need to grow and develop, but it should be a thoughtful expansion based on data (eg. Environmental impact statements), the needs of many people over the wants of a few, future looking instead of in-the-moment decisions, and fiscally responsible. I hope that you will carefully consider my concerns and vote “no” on the proposal to change the zoning of this piece of land. If you have any questions or concerns, please feel free to contact me. Thank you for your time and service to the residents of Ramsey.

Sincerely,

Dr. Linda J. Bowers
Professor Emeritus

From: Char Barney
To: Brian Hagen
Subject: PACT Expansion
Date: Monday, March 7, 2022 5:57:35 PM

Hi Brian,

As a resident of Ramsey I would like to see the PACT high school expansion. With so many homes going into Ramsey there will be a need in this area. I also believe that in addition to the PACT high school expansion, there needs to be a big consideration for another high school and another elementary school to fit the capacity of students in this area.

Thank you,
Charlotte Barney

From: Carmen Thomas
To: Brian Hagen
Subject: PACT secondary building
Date: Monday, March 7, 2022 5:20:49 PM

Good Afternoon,

I am a parent of two pact students. I would love to see the secondary school plan move forward. I believe our school brings great enrichment and opportunities to our community. Please consider granting their request for building by central park.

Best regards,
Carmen Thomas

From: Trey Case
To: Brian Hagen
Subject: PACT Secondary campus
Date: Monday, March 7, 2022 3:16:47 PM

I think the project could have fantastic benefits to residents near Central Park. Home values tend to rise when they are near schools. I grew up here, built my family home here, and of course watched it grow. I can't think of a better addition to our community than the PACT Secondary Campus.

Trey Case

From: Chris Thomas
To: Brian Hagen
Subject: Pact Charter School secondary location support
Date: Monday, March 7, 2022 5:17:15 PM

Both my children attend Pact Charter School and I support their need for expansion.

Sincerely,
Chris Thomas

From:	Amber Cuevas
To:	Chris Anderson; Matt Woestehoff; Ryan Heineman; Mark Kuzma; Chelsee Howell; Debra Musgrove; Dan Specht; Chris Riley
Subject:	Re: PACT school and rezoning
Date:	Monday, March 7, 2022 12:00:30 PM

Hi again!
I apologize. I sent that on accident. As I wrote, I wanted to share my opinions on the school being built in a residential neighborhood. I live in Sweetbay Ridge.

My first concern is that variolite is already busy. There are many children, pedestrians, and bicyclists that use that road. Not to mention, I really do not want extra traffic right by my house. Our road just got fixed. How long before it is damaged now and we have to pay for another one? While the taxes are not my main concern, the traffic where our children are is not desired. Remember, they have to be outside and walk to their bus stops at these times.

The noise pollution is something I am also dreading. On the occasional night where there are games at central park, I can hear it from my house. A stadium will be awful. I like the quiet of my neighborhood. One of the many beautiful things about Ramsey is that this neighborhood is not built up like others. Variolite and Armstrong are beautiful roads. The value of the area will go down. Furthermore, Variolite is loud enough as is, the extra traffic further adding to noise is undesireable.

Lastly, I am concerned about the environmental aspects. The fact that the Environmental Committee recommended that it not go through speaks volumes. There are so many places a school can be built in Ramsey where drainage and out environment will not be harmed.

Thank you for listening to my concerns. I hope you strongly consider who this school will affect long term instead of the current parents of the school that will be happy about their convenience for the next couple of years.

Sincerely,
Amber Cuevas

> On 03/07/2022 11:50 AM Amber Cuevas <amber.cuevas@comcast.net> wrote:
>
> Hello,
> I wanted to share my opinion regarding this school being built in a residential area. While there are many concerns among my neighbors, I have three biggest concerns.

From: Jordanna Dombrovskis
To: Brian Hagen
Subject: Pact expansion
Date: Monday, March 7, 2022 10:21:55 AM

Good Morning,

I'm am writing in support of the expansion of Pact Charter. I feel this will have a positive impact on Ramsey in regards to the growth of our community. Since this school serves youth in other cities, it may bring more business to our community.

Thanks,

Jordanna Dombrovskis
Get Outlook for Android

From: Jeffrey.Henry
To: Brian Hagen
Subject: PACT Charter Expansion (Proposed)
Date: Monday, March 7, 2022 1:25:20 PM

Mr. Hagen –

My family and I have been residents of Ramsey, MN since 2003. One of the best parts of our community has been the growth and opportunities created over the last couple decades. I wanted to reach out today and ask that you support this incredible community by moving this project forward. Not only does this give great choices for learning in our area…but adds substantial stability and jobs in a very uncertain time.

Thank you for your time…and take care!!!!

Jeff Henry
[redacted]
Jeffrey.Henry@Target.com

From: Bridget Kirkpatrick
To: Brian Hagen
Cc: Cory Kirkpatrick
Subject: Ramsey Residents PACT Expansion Feedback
Date: Monday, March 7, 2022 3:11:28 PM

Good afternoon.
My husband Cory and I have been Ramsey residents for 8 years (14561 Sunfish Lake Dr). We specifically moved to this area because of PACT Charter School and the positive impact that it was having on our son. We wanted to live closer to the school in order to volunteer at the school and build community for our family.
That son is now graduating this year and we also have a 10 year old son in the 5th grade at PACT.

The school and its focus on character development has made an impactful difference in our children. We are excited that our younger son will likely, if the school can grow a bit, have more opportunities to explore more diverse subjects that are currently not offered.

We hope that when you vote on the expansion ballot question that you will please consider the support for this expansion coming from this family of Ramsey constituents.

We will try to attend the meeting Tuesday evening to contribute our opinions in person. We do however, ironically, have a volunteer time scheduled at the school to help with our boy's basketball sectionals game that starts at 8 PM.

Thank you for taking the time to read this. Also, you have my permission to share this publicly if you would like to.

My best,
Bridget Kirkpatrick
CC Cory Kirkpatrick

From: Kelly LaFrance
To: Brian Hagen
Cc: Josh Nyquist
Subject: Support for the Expansion of PACT Charter School
Date: Monday, March 7, 2022 12:14:54 PM

Hello. My name is Kelly LaFrance. I live here in Ramsey. I have had 3 children attend Pact all from Kindergarten. My oldest graduated from Pact last year and my other two are currently in 8th and 9th grade. I have been involved with the school by volunteering and being on several committees. My children have been in several sports and extra curricular activities as well.
I love that Pact has smaller class sizes, great staff, parents are involved, great values and missions. I love having some Fridays off and starting in August and ending in May.
Pact and the families that attend there would greatly benefit Pact expanding and opening a separate secondary school. I believe elementary and secondary should be separate. I think having a field and opening up options for classes and sports would be spectacular and much needed. I believe having our own auditorium and more gyms would help as well.
I think the location is wonderful. It is less than two miles from our home. It would be by Central Park for more sports. Many new homes are by there and would benefit being so close to the school. The new road is great right by there. I don't think it would be much of a nuisance to homes around it because it would only be busy for a half an hour in the morning and late afternoon during drop off and pick up times. I also feel this location would be more protected and safe for the homes being around the school.
Yes, it would be great to have the new school near the current one but it is not feasible to build there with the costs and rules to build there. Being a charter school, there is only so much money available.

If there are any questions, please don't hesitate to reach out!
Thank you.
Kelly LaFrance
763-438-6305

Sent from Yahoo Mail for iPhone

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: Concerning rezoning for PACT
Date: Tuesday, March 8, 2022 3:37:55 PM

Hello-

I received permission from this resident to add it to the public record as I saw no one else copied on the message.

Thanks,
Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: MICHAEL JOHNSON <msjohn97@comcast.net>
Subject: Concerning rezoning for PACT
Date: March 8, 2022 at 3:27:25 PM CST
To: "mwoestehoff@cityoframsey.com" <mwoestehoff@cityoframsey.com>

Good afternoon Mr. Woestehoff.

I am emailing you today to express my concern about the proposed rezoning of 161st for the purpose of allowing PACT Charter to expand. I have been a resident of the Sweetbay development for about nine years and the city of Ramsey for nearly 25 years and have enjoyed the country feel in a suburban area. It has been a safe place our our children to grow up and play with no major concerns.

I feel that the addition of the PACT Charter school and stadium would change all of that. The increased traffic and concerns for the environment top my list. Adding an additional access road to Variolite and to 161st could create an environment deemed unsafe for our children, especially being so close to a public park that is regularly used throughout the year. The increased traffic when in turn impose additional wear on the Variolite roadway that we fought to fix in the first place. Not only will the wildlife be affected but I have concern that the waste water run off will increase creating a flood concern for my home. Butted up along the wetland on 163rd Ave, we have seen times where the water is at the edge of our

lawn. With additional run-off not being absorbed by the natural contour of the land could result is a rise of the water table and put my home in jeopardy. I know that others in our surrounding developments feel the same way.

I urge you to vote no for the rezoning of this area and preserve the serenity that many of moved to Ramsey to enjoy and would like our children to enjoy as well..

Thank you for your consideration.

Michael Johnson

From: Collin Minshull
To: Brian Hagen
Subject: PACT
Date: Monday, March 7, 2022 11:31:57 AM

Hello,

As residents of Ramsey, we support the expansion of PACT. PACT has been a great option for our kids to attend and is an asset to the community.

Thanks,

Lisa and Collin Minshull

From: Phil Johnson
To: Brian Hagen
Subject: PACT Charter School Expansion
Date: Monday, March 7, 2022 2:34:00 PM

Hello,

I am a resident of Ramsey and whole-heartedly support the PACT Charter School expansion to the new location.

Thank you.
Phil Johnson
6361 178th Ln NW, Ramsey, MN 55303

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: Support for Potential PACT Expansion
Date: Friday, March 4, 2022 5:11:53 PM

Please see below, I did not see you included on the message.

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Ellie Peters <ellie.jpeters@outlook.com>
Subject: Support for Potential PACT Expansion
Date: March 4, 2022 at 5:08:02 PM CST
To: "dmusgrove@cityoframsey.com" <dmusgrove@cityoframsey.com>
Cc: "mkuzma@cityoframsey.com" <mkuzma@cityoframsey.com>, "criley@cityoframsey.com" <criley@cityoframsey.com>, "chowell@cityoframsey.com" <chowell@cityoframsey.com>, "rheineman@cityoframsey.com" <rheineman@cityoframsey.com>, "mwoestehoff@cityoframsey.com" <mwoestehoff@cityoframsey.com>, "dspecht@cityoframsey.com" <dspecht@cityoframsey.com>

Hello Council Members,

Thank you for your service to our community. I am writing to ask that you would support the expansion of PACT School at the St. Katharine Drexel site.

I am a Ramsey resident with two young children. We live near the intersection of Ramsey Blvd. and 149th Lane. I have had the opportunity to substitute teach at PACT so I am familiar with the school.

With the many new residential developments being built, I am very hopeful that Ramsey will be welcoming to young families. I believe most young families will often look at the surrounding schools before moving to a new area. Allowing PACT to complete this expansion will create opportunity for more students to attend PACT, a very respected school, as well as add more jobs for the community members.

There is a salon in Ramsey that is currently building a new store. At my last hair appointment, I was informed that their building process has been awful with the city of Ramsey. The construction company has also expressed frustration. As a member of the community that has hopes for a great, growing city, I was definitely less than thrilled to hear the city of Ramsey is not ideal to build in. I was sad, really. I have however, been very excited about the new businesses coming to our city and plan to support them with business.

Would you please hear the voices of support for the growth of Ramsey? I understand there are members of the community that really want to keep the small town, rural feel. Can I suggest that we keep that feeling but do so through being friendly, helpful, respectful neighbors, rather than trying to cap a growing community with a lot of potential? Please vote to allow PACT to continue to grow.

Thank you very much for your consideration.

Ellie Peters
612-749-0755
ellie.jpeters@outlook.com

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: Rezoning 161st
Date: Tuesday, March 8, 2022 10:50:12 AM

Please see below

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: ashley pflager <ashleypflager@gmail.com>
Subject: Rezoning 161st
Date: March 8, 2022 at 10:47:41 AM CST
To: dmusgrove@cityoframsey.com, dspecht@cityoframsey.com, criley@cityoframsey.com, rheineman@cityoframsey.com, mkuzma@cityoframsey.com, mwoestehoff@cityoframsey.com, chowell@cityoframsey.com

To Whom it may concern,

I am writing to you about the proposal for rezoning the land adjacent to Central Park. It is my understanding that there will be a hearing on Thursday February 24th for residents of Ramsey to discuss the rezoning of this land. Unfortunately, I am unable to attend in person or via the virtual meeting, so I am hoping this letter finds itself in the appropriate hands regarding concerns for the development of this land parcel.

As a resident of Ramsey for more than twenty years, I have seen the progress and change of this beautiful city. When my husband and I first moved to Ramsey we were in love with the "country feel." Beautiful parks, majestic forests, and an extensive trail system. Sadly, we have watched the horizon of Ramsey change. Land developers have snatched up the land and built houses on top of one another. I understand with growth there also comes development. I also have noticed that Ramsey seems to have lost focus on what this City used to be known for, large land lots, nature parks and trails, quiet neighborhoods. Rezoning residential land for other purposes is the exact opposite of what Ramsey strives to be. Ramsey needs more homes to increase land value and have the money to improve the whole of our town, a community center, better parks and trails, more public schools. With such a beautiful landscape, Ramsey should be proud of how much natural and untouched earth we have. We are unlike any other suburb of the metro area in that we still have undeveloped land, and many of our residents were drawn to this area because of this.

We live a few houses away from Central Park and in the twenty years we have lived here there has been no upgrade to the playground equipment. Central Park is a major

hub for local city sport tournaments in the summer months as well as a practice facility for spring and fall sports for the Anoka/Hennepin area sports teams. There are wonderful soccer and football fields, baseball fields with new dugouts, and new tennis courts. Central Park has the potential to bring revenue to the city with a Parks and Recreation program, employment opportunities for our young youth, and summer camp programs for the residents of Ramsey. It would be wonderful as a local resident to see the Park expand with an upgraded playground or splash pad. The nearby Lennar homes neighborhood houses hundreds of young families that could utilize this expansion. Unfortunately, these residents will not have equal opportunity to utilize the PACT school seeing as it is a lottery system and proximity does not warrant priority. One single charter school will not improve the class sizes of our local public schools. Once single school will not benefit the whole city of Ramsey.

Regarding the zoning issue of the proposed PACT Charter High School. It is my understanding that the proposed location for the new school is insufficient in many ways. There is not enough current land for future expansion possibilities. There must be contiguous acreage whenever possible and land for expansion of the campus. The land currently proposed for this school is 18 acres and the requirements for a k-12 or small high school would require 30-40 acres. In addition to the under sizing of the land is the issue of traffic. The proposed location for this school is not on an arterial roadway. The land was initially zoned for residential purposes. The adjacent roads are insufficient to handle the increased traffic from not only new developments north on Variolite Street, but also sports such as baseball, soccer, and football, that use Central Park in Spring, Summer, and Fall. Not to mention that the cost to residents for the reconstruction of 161st street with sidewalks and city sewer/water doesn't benefit all of Ramsey, just those on that road. Putting money into the Park would benefit the greater good.

We live 5 houses away from the proposed building site, yet we are not in the Anoka/Hennepin school district. PACT schools would provide transportation only within Anoka/Hennepin school district boundaries. Why put a school at the very edge of the district boundaries? We already have bus traffic from Anoka/Hennepin schools as well as Elk River schools. I watch the buses follow one another through the neighborhood. It seems futile to add a third bussing route to these neighborhoods. It would make more sense for PACT to build more centrally located to either their elementary school or more central within the transportation limits.

Has there been a traffic study to account for increased travel from the new construction of the new neighborhood north on Variolite? As well as church traffic, high school traffic, football game traffic, bus routes from three districts, and fall/spring sports utilizing Central Park?

Have there been studies done for drainage?

A PACT Charter expansion is a wonderful idea and would be a fine addition to the City of Ramsey. The proposed location for the high school is not ideal and it would behoove the City to entertain other areas for a proposed location. There are many areas of Ramsey that can accommodate the expansion for PACT that would not require rezoning land that is already zoned residential. The residents of the surrounding neighborhoods are not in favor of the proposal. We would rather see Ramsey expand the parks system and use that land for bike trails or walking trails. Update the

playground. Create a parks and recreation program within the city that can not only create jobs for our youth, but also create revenue for the city. Keep Ramsey pristine in nature. The loyal Ramsey residents don't want to see the landscape of our beautiful town get replaced with buildings and box houses.

Finally, upon doing a bit of research, it appears that several members of the city council have affiliations with PACT. I would hope these members would recuse themselves from voting on this matter as it is a conflict of interest.

Thank you for your time,

Ashley Pflager

Ramsey resident 16510 Yolite st nw

I sent this letter to the committee meeting 2 weeks ago, sending it again so it makes public record.

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: resend of EAP letter for rezoning hearing 3/8/22
Date: Tuesday, March 8, 2022 10:52:18 AM

One more-

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: ashley pflager <ashleypflager@gmail.com>
Subject: resend of EAP letter for rezoning hearing 3/8/22
Date: March 8, 2022 at 10:50:47 AM CST
To: criley@cityoframsey.com, dspecht@cityoframsey.com, rheineman@cityoframsey.com, dmusgrove@cityoframsey.com, chowell@cityoframsey.com, mwoestehoff@cityoframsey.com, mkuzma@cityoframsey.com

Dear Madam and Sirs,

I am writing a letter of concern regarding the proposed PACT High School and Stadium. I was made aware of an EAP meeting this evening February 28, 2022. I am unable to attend with such short notice, so hopefully this letter will find its way into the appropriate hands.

This meeting is regarding the environmental concerns related to the proposed rezoning of the land adjacent to Central Park in Ramsey. This land was intended for the use of single family homes. The land is adjacent to swamp land and the neighborhood to the north is downhill from the proposed building site. The homes to the north have private wells. There is great concern for runoff from the proposed building site, not only during construction but as well as future use of chemicals to treat the grounds. It can impact drinking water as well as the protected wetlands. Can the water table support the demands of a high school and irrigation system as well as an additional 300 homes ½ mile north? There are hundreds of mature trees on that property as well as young white spruce trees that are going to be bulldozed. Hundreds of butterflies and other pollinators inhabit that land. The school cannot possibly replace the maturity of a forest of that caliber in our lifetime, no matter what they propose.

I can write a thousand reasons why putting a high school and football stadium in a residential neighborhood has dire consequences to the land and our environment, but quite frankly I don't think anyone will even read this letter. There is so much dirty politics involved in this deal and I feel like the residents are wasting their time and energy to fight a losing battle. Every single one of the City Council members have direct involvement with either the church or the school. There has been no mention of any of

the city council members recusing themselves from the hearing on March 8, 2022. As far as we all know, this deal is done and the only reason the city of Ramsey is holding these public meetings and hearings is of legal formality.

The residents will continue to show up to meetings. We will continue to write letters. We will go above the city council and go to the county, and then the state. The city should represent the residents of Ramsey. We are the taxpayers, and we should have a voice. There is no benefit to either the students of PACT or the residents nearby the proposed building site. There is simply not enough land, no matter how much of a deal the church is giving to the school. You cannot shoehorn this project legally. All involved will be exposed.

Good day,

Resident of Ramsey since 2000

March 4, 2022

City of Ramsey
Mayor Kuzma & City Council Members
7550 Sunwood Drive NW
Ramsey, MN 55303

Re: Rezoning of Property in favor of PACT Charter School and St. Katherine Drexel Catholic Church of Ramsey

Dear Mayor Kuzma and City Council Members,

It has come to our attention that PACT Charter School has a requested a Zoning Amendment and Comprehensive Plan Amendment at 7633 161st Ave NW. While we are in support of PACT Charter Schools expansion, as a household in the surrounding neighborhood, we have some considerable concerns regarding the location of the proposed project:

Notice to Surrounding Residents: Article II, Division 2, Section 117.49 (e) requires notification of residents wholly or partially within 350 feet of the proposed amendment. While I applaud your efforts to expand that requirement to 700 feet, the expansion does not notify anyone east of Variolite Street. This is extremely concerning as a majority of the population within this area is concentrated in the neighborhoods of Sweet Bay Ridge and The Woodlands. Residents in these neighborhoods should be notified directly and have an opportunity to express their support or concern for the project.

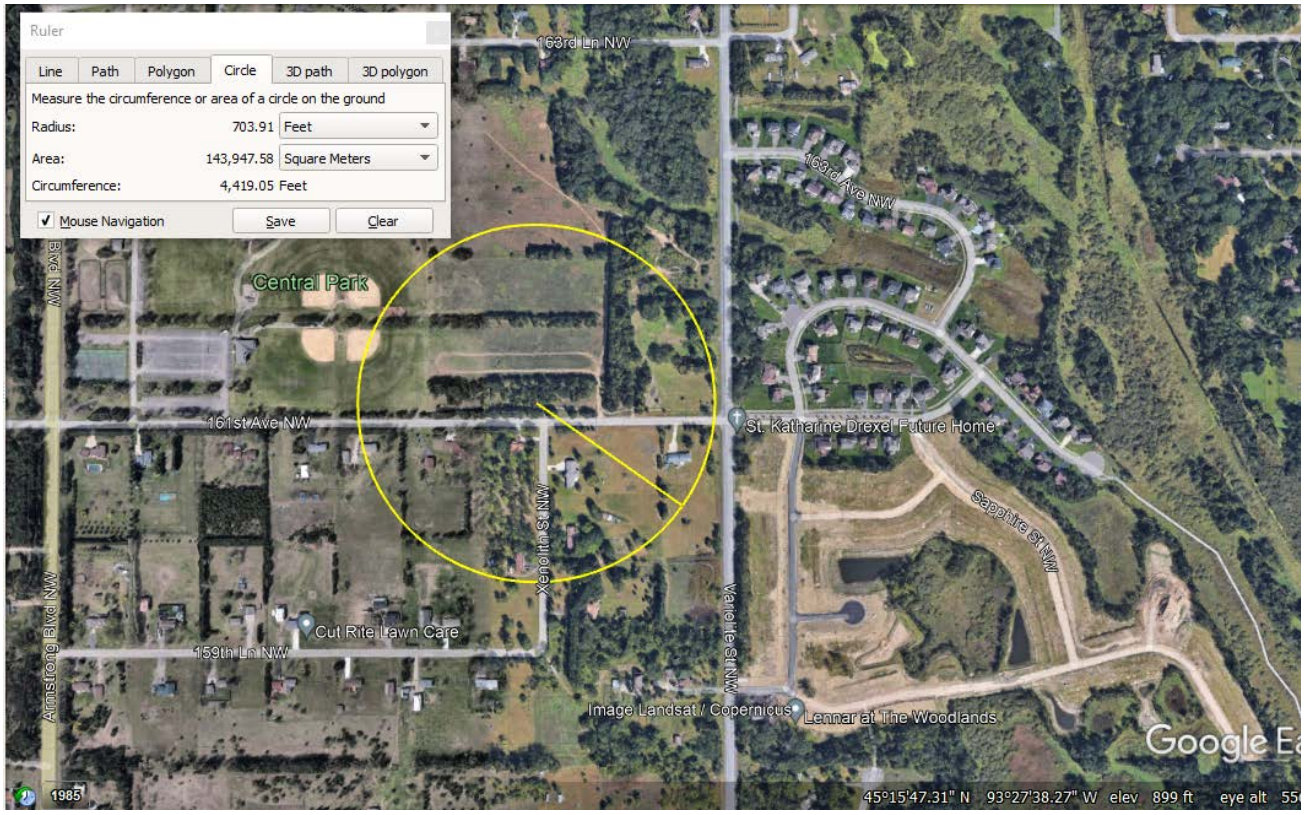


Figure 1: Map detailing 700 ft radius for notification of residents

Safety: The intersection of 161st Ave NW and Variolite Street has been a concern of residents for many years. Residents have brought concerns forward to the City on multiple occasions. Most recently the reconstruction of Variolite added pedestrian crossing signals above and below the hill, along with a safe zone in the middle of the intersection for crossing pedestrians. Speed limits were changed in this area, as well. These improvements have made a minimal impact on pedestrian safety. Cars continue to travel along Variolite at high speeds. The reconstruction of Variolite made sight lines worse at the intersection of 161st Ave NW.



Figure 2: View from SUV on 161st Ave NW from West



Figure 3: View from SUV on 161st Ave NW from East

It is extremely difficult to see cars traveling south on Variolite as they approach the intersection at 161st Ave NW. Per the contour lines on the proposed plan, there is a drive lane that spills out onto the middle of the hill that causes the sight line issues. At peak times, the traffic entering Variolite from this drive lane will make it impossible to safely cross at 161st Ave NW.

Infrastructure: 161st Ave NW is in significant disrepair, as evidenced by the figure to the right. The portion of road between Armstrong Blvd and Variolite Street is littered with potholes. The road can not support the increased traffic and is not slated for reconstruction by the City until 2024.

In addition to the significant deterioration of the road, there are several areas where water ponds on the surface of the road, including two areas along 161st and at the intersection of Variolite and 161st. The significant amount of impervious surface that will be constructed as a result of this proposal will result in additional runoff, leading to rapid deterioration of any new infrastructure.



Figure 4: Potholes along 161st Ave NW

Environmental Concerns – Trees, Wildlife, Noise: The proposed site has a dense layer of trees that support a variety of wildlife. This development, along with other developments proposed in the area, will eliminate a lot of the protected area for wildlife to live. Article II, Division 5, Sec. 117-327 (b) requires a tree preservation plan be submitted with any preliminary plat. This was not in the agenda packet distributed to the public. Additionally, Article II, Division 5, Sec. 117-327 (g) requires that for every inch of significant tree removed, the developer must replant at 1.25 inches or pay restitution. The concept plan for the development does not indicate any replanting of trees. The City Council should review these items before any approval of re-zoning or comprehensive plan changes.

Noise is also a concern in this area. During football games at Central Park, we are able to clearly hear all of the game sounds echo through our neighborhood. There is also traffic noise with cars travelling down Variolite at high speeds. The addition of a sports stadium in this area will be a significant disturbance to families living in the surrounding neighborhoods.

Again, we want to express our considerable concerns for PACT Charter School's proposal at 161st Ave NW and Variolite. As a family with school aged children, we understand the importance of expansion for PACT, but do not support this location.

Finally, we expect that Planning Commission Members and members of the City Council that have a relationship with either PACT Charter School or St. Katherine Drexel will recuse themselves from voting for the rezoning of this property.

Sincerely,

Eric and Leslie Roering
7463 161st Ave NW
Ramsey, MN 55303

From: Teri & Jay Rosenthal
To: Brian Hagen
Subject: PACT Charter School Expansion - Support!
Date: Tuesday, March 8, 2022 7:30:14 AM

Hello Brian - We have lived in Ramsey for 7 years and have 3 sons who have been attending PACT. It is a great school and we strongly support the school expansion plan.
Thank you - Jay and Teri Rosenthal

From:	Sarah Schmid
To:	Debra Musgrove; Dan Specht; Matt Woestehoff; Ryan Heineman; Chris Riley; Chelsee Howell; Mark Kuzma; Brian Hagen
Subject:	PACT Charter School
Date:	Tuesday, March 8, 2022 1:46:11 PM

3/8/2022

To the Ramsey City Council,

I have been a Ramsey resident for 17 plus years. I love our city and want the best for it.

I support the PACT Charter school expansion for multiple reasons;

Ramsey does not have a high school and desperately needs an option for our kids. PACT is highly regarded in the community already. This is not going to be another Anoka High School, the size is significantly smaller and allows Ramsey residents an option other than Anoka or moving to another city. Providing phenomenal educational opportunities for our kids should be a priority.

The church will sell this land and the land will be rezoned. I would prefer to have another church and school in a community rather than something else. I understand surrounding residents are upset but during the planning commission the school agreed to work through and partner to address issues.

The city is not paying for this school. The traffic concerns already exist and have been problematic for years. PACT is offering to help address and improve these already existing issues. To believe this area will never expand is an unrealistic expectation for Ramsey residents. We have already expanded to the point that we need to provide more than an elementary option for our residents. The waiting list at PACT speaks volumes of the need for additional options in our community.

Residents of Ramsey need to understand that the City of Ramsey has not been interested in purchasing this land. The offer was made and declined from what I understood during the planning commission. Again, the church, as property owners, has the right to sell their land to interested parties. A school and church affect more residents in a positive way than affects negatively.

J.B. Vang and PACT spoke at the planning meeting and outlined all environmental, noise and traffic studies would be completed. J.B. Vang has extensive experience in building schools within communities that have been successful. This rezoning makes sense for the greater good our community.

Thank you for listening to all the residents of Ramsey and I ask that the rezoning be approved so that Ramsey can have a high school.

Sarah Schmid
5435 144th Way NW
Ramsey MN 55303

Sent from Mail for Windows

From: Todd Barney
To: Brian Hagen
Subject: Pact charter expansion
Date: Monday, March 7, 2022 5:59:43 PM

Hello,

I am writing to you to express my support for the expansion of Pact charter school at the proposed location. I have 2 students that attend Pact, and while they enjoy the school, it would be nice for the school to be able to offer more electives, which is not possible in their present location. Pact has lost a number of students in the last few years and this has been the common theme, that there aren't enough electives. Adding a secondary school would open up multiple opportunities at both locations, which would be a huge benefit for students of all ages. I hope that this proposal is looked upon favorably and supported by all who are involved in the decision making process.

Thank you for taking time to read my email.

Todd Barney
Sent from my iPhone

From: Megan Thompson
To: Brian Hagen
Subject: Future plans for PACT Secondary School Location
Date: Monday, March 7, 2022 9:14:20 PM

Good evening,

We are writing to express our desire and interest as long-time PACT parents, and residents of Ramsey, to build PACT Charter School's secondary location near Central Park.

Thank you for your time and consideration.
Sincerely,
Jon and Megan Thompson
16709 Limonite St NW, Ramsey, MN 55303

From:	Matt Woestehoff
To:	Brian Hagen
Cc:	Kurt Ulrich
Subject:	Fwd: PACT Charter school, Opposition to the re zoning Variolate and 161st Ave NW
Date:	Tuesday, March 8, 2022 4:05:36 PM
Attachments:	Guide For Planning School Construction Projects (1).pdf

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Not sure who all was copied on this one, but please add to the public record as well.

Thanks!
Matt

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Danielle Holder <danielleholder@gmail.com>
Subject: PACT Charter school, Opposition to the re zoning Variolate and 161st Ave NW
Date: March 8, 2022 at 4:01:09 PM CST
To: Danielle Holder <danielleholder@gmail.com>

Mayor and Councilmembers;

I am writing to encourge you to not amend the comprehensive plan and not to change the zoning for the property located at the corner of 161st and Variolite.

I am asking you to take into consideration the following:
Harm to the local watershed.
Noise and light pollution
traffic safety and road improvements that will be the responsibility of the taxpayers even if the inital assessment get paid by the developer.
This is rural residential not high density residential.

I would also like to point out that the applicant and developer state that they will figure it out later and they have done this before. The representative for JB Vang at the planning meeting promised to give a list of projects just like this to be looked at to show they have the skills to complete this and not damage the community. The two projects mentions Spero Academy and Level Up Academy both much smaller elementary only schools were located and access only main roads Humbolt Avenue and County Road E East, much like our schools in ramsey that abut County Highway 5. None of these schools have a stadium and all of them have large buffer zones beyond the 35 to 40 feet suggested here.

The developer also has stated that they build in areas like this all the time. However high density developed areas are not like this. This area relies on our watershed to function as nature intended so our septic systems do not flood and contaiminate adjoining property and potentiially our wells. If a school is built it will be on high ground compared to surrounding proeprties. No amount of drainage system can account for the extra runoff from covering nearly the entirety of 18 acres and keep it from flooding the proeprties to the North. The developer is betting on civil engineers but what happens if they fail or the costs run high. The Environmental Policy Board did not see any reasonable path nor benefit in going forward. We will figure it out later is an insuffcient argument when it comes to our enviroment.

There is the argument that this is a public school that would benefit Ramsey students as well and that justified the harm to our enviroment and the nuisance to the adjoining proeprty owners. That is not a good argument. The charter school is not following best practices for design of a school put out by the Minnesota Department of Education. I am sure you have recieved this but I will attach it for the record. If this is truly to be a benefit to Ramsey shouldn't it be as good as a district school. Shouldn't we require at least that if we are going to re zone for a school. My understanding is that the city will follow Bulk Standards for B1 Business zoning. This zoning does not allow for outdoor activity since it would be a nuisnace. Are we still going to allow the stadium? Is there areally anyway the the noise and light from this can be contained.

For the forgoing and other reasons I am requesting that you do not allow this to move forward.

Sincerly,
Danielle Holder
Jeff Lubasrski
7826 161st Avenue NW
Ramsey MN 55303

From: Chad Everson
To: Brian Hagen
Subject: Fwd: PACT Charter High School Expansion
Date: Tuesday, March 8, 2022 3:59:52 PM

---------- Forwarded message ---------
From: **Chad Everson** <c.everson6@gmail.com>
Date: Tue, Mar 8, 2022 at 3:52 PM
Subject: PACT Charter High School Expansion
To: <mkuzma@cityoframsey.com>, <criley@cityoframsey.com>, <chowell@cityoframsey.com>, <rheineman@cityoframsey.com>, <mwoestehoff@cityoframsey.com>, <dspecht@cityoframsey.com>, <dmusgrove@cityoframsey.com>

March 8, 2022

Dear Ramsey City Council,
I am a 15 year resident of Ramsey and I am writing to show support for the PACT Charter School High School expansion.

My family and I live directly across the street from Pact Charter School and enjoy having them there. The school actually offers an element of comfort for us. I enjoy the comings and goings of the school day in our neighborhood. Bus drivers are always courteous on our streets and our traffic doesn't suffer at all because of them. Staff and students as well are respectful of the surroundings. Having raised my boys in this neighborhood it was a great feeling when we were welcomed into the PACT community . My children have attended PACT for 6 years now.

PACT keeps a very clean and well maintained facility inside and out. They have managed to blend well with our neighborhood. Never have we had an issue with noise, safety or neighborhood disruption. I enjoy seeing the kids outside learning on warm days and enjoying the field for sports and gym classes.

I truly feel PACT has added so many positives to our community and feel they should absolutely be given the opportunity for this much needed expansion here in Ramsey.

Sincerely,
Jessica Everson
7247 East Ramsey Parkway
Ramsey, MN 55303

From: Matt Woestehoff
To: Brian Hagen
Cc: Kurt Ulrich
Subject: Fwd: No to rezoning
Date: Tuesday, March 8, 2022 4:35:52 PM

Please see below -

Matt Woestehoff
Council Member, Ward Two | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
P: 763-576-4366
mwoestehoff@cityoframsey.com
cityoframsey.com

Begin forwarded message:

From: Michalena Holder <michalena@gmail.com>
Subject: No to rezoning
Date: March 8, 2022 at 4:34:27 PM CST
To: chowell@cityoframsey.com, dmusgrove@cityoframsey.com, rheineman@cityoframsey.com, mkuzma@cityoframsey.com, MWoestehoff@ci.ramsey.mn.us, criley@cityoframsey.com

I am opposed to rezoning for the PACT school for reasons stated in the planning and EPB meetings. I feel like there are too many safety and environmental challenges to move forward. this would be out of character for the area.

Michalena Holder

6.02: Public Hearing: Consider Request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment Related to a Proposed Second School Campus for PACT Charter School on the Property Located at 7633 161st Avenue NW (Project No. 22-107); Case of PACT Charter School

Public Hearing

Chairperson Bauer explained how he and Commissioner VanScoy are involved in the Church of Saint Katharine Drexel, which owns the subject property, and therefore both will be abstaining from this discussion and vote.

Commissioner Gengler called the public hearing to order at 7:19 p.m.

Presentation

Senior Planner Anderson presented the staff report stating that a sketch plan is intended to provide the Planning Commission an opportunity to review a proposal and provide initial feedback to the applicant before development of more detailed engineering plans which can be very costly. No formal action is required on the sketch plan. If the Planning Commission is supportive of PACT establishing a new school campus on the subject property, then it should recommend that the City Council adopt Resolution #22-050 and Ordinance #22-15. The former would approve a Comprehensive Plan Amendment and direct staff to formally submit an application to the Metropolitan Council to reguide the western 18 acres of the subject property to Public/Institutional. The latter would rezone the western 18 acres to Public/Quasi-Public and be subject to the Comprehensive Plan Amendment approval.

Commissioner Walker asked the residential lot sizes along 161st to the north of the subject property.

Senior Planner Anderson replied that those lots range from about one acre to a few acres in size. He stated that east of Variolite Street there are properties roughly one quarter acre in size that are zoned for 80 foot lots with sewer and water. He stated that the lots to the north and south are still larger lots on private septic.

Commissioner Walker stated that he believes 161st is scheduled to be resurfaced in 2023 or 2024. He noted that the road would require upgrades in order to support a school and asked who would be responsible for those costs.

Senior Planner Anderson replied that the developer would be responsible for any road improvements needed to support the development.

Commissioner Walker asked how the existing residents would be buffered from this use and sports activity on the property.

Senior Planner Anderson stated that will come with further plan development, should that step of the process be reached. He noted that there is concern from neighboring property owners related

to lighting and noise. He stated that a noise study could be required to determine where a stadium use would fit and inform mitigation strategies.

Commissioner Walker stated that two traffic studies were done related to the Trott Brook development. He asked if there is data on the traffic from the study related to traffic turning from Variolite onto 161st. He noted that would have been an opportunity to complete a more holistic study of the corridor rather than completing studies in small areas.

Senior Planner Anderson replied that when the City initiated its traffic study in relation to residential developments north, there were no formal applications to identify what might come forward for this site. He stated that without a specific proposal, it would have been hard to accurately include the parcel in the study.

Commissioner Walker stated that if this project moves forward, he would like to see a traffic study completed by the consultants that completed the City's Trott Brook study in order to have a detailed traffic report on this whole area.

Councilmember Woestehoff stated that when Trott Brook North was reviewed at the last meeting, it did include the most up to date study and there were comments on a school going northbound, but not at that particular intersection. He agreed that the same consultant should be used to analyze the traffic for this proposal.

Community Development Director Hagen stated that the traffic study is a public document that can be shared with the developer.

Citizen Input

Justin Fincher, representing the applicant, stated that PACT has hired his firm as the Development Manager for the project. He stated that he is present to answer any questions related to the proposed development and sketch plan. He stated that PACT is in its 27th year of operation and is a public charter school with open enrollment to the public. He stated that there are not additional enrollment fees and enrollment is capped based on the size of the facility. He noted that the school has been in Ramsey for 18 years and considers itself an asset to the community. He stated that of the existing student body, over half the students are Ramsey residents and of those students, over 80 percent live within a three-mile radius of the site. He stated that there is demand for enrollment at the school and this proposed expansion would allow more opportunity. He stated that the school wants to continue to expand within Ramsey to cater to the current student body and its wait list. He recognized that this is in a residential area but would also provide for safety of students and the surrounding community. He commented that they are willing to work with the City on a traffic study. He noted that the peak demand hours for a school happen twice per day when the school opens and closes. He stated that both periods are a 15-to-20-minute window. He recognized that there will be off peak extracurricular activities that will occur. He stated that this site is centrally located for PACT, its current student body, and the extensive wait list. He stated that this is already a tax-exempt property, therefore there would not be an impact to the City's tax roll. He commented that the church has its own plans for development and there have been conversations about a shared parking agreement. He stated that they have facilitated shared parking between charter schools

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and churches in the past as the peak hours differ for the uses. He provided details on financing for the project, noting that public charter schools are issued through bonds by the State of Minnesota and not the City of Ramsey, although the City would need to approve the bonds. He clarified that the City of Ramsey would not be providing any financing for the project. He hoped that the Commission considered approval of the actions before it tonight so that PACT can continue to meet the needs of the students and families in Ramsey.

Commissioner Peters asked if there would be enough parking for sporting events. He stated that currently when there are games, people are parked on the side of the roads and in many different places.

Mr. Fincher stated that this is a sketch plan and therefore early in the process, therefore a detailed analysis has not been done for parking needs. He stated that there is a benefit to having a shared parking agreement with the future church development as that would provide additional parking for those events.

Commissioner Anderson asked for more information on other schools in residential areas.

Mr. Fincher provided two examples of charter schools recently constructed within residential settings in Brooklyn Park and White Bear Lake. He stated that he could provide additional examples if desired.

Commissioner Anderson commented that he would be interested in seeing the expanded list. He asked how the noise and lights would be mitigated.

Mr. Fincher commented that they would be interested in pursuing the noise and light studies as mentioned by staff as PACT would like to be a good neighbor. He again noted that this is early in the process, and they will look into buffering and site layout as well.

Gayle Graw, 7930 161st Avenue NW, stated that the school has stated that its goal is to address its future waiting list and need for a facility to include more students, yet they are building on every square foot of a lot which would not allow for future expansion. She commented on the traffic implications as well as the problems that will arise from noise and lighting. She stated that this lot would be completely built out from the beginning which would not create opportunity for future expansion.

Danielle Holder, 7826 161st Avenue NW, stated that residents were given seven days to prepare for this meeting. She stated that she has heard that PACT wants to be a good neighbor and needs to expand, but it is a disservice to the school and community to not make it clear what can and will happen here. She stated that if built to capacity she would estimate 600 students. She noted that 161st is already stressed from the activities of Central Park. She stated that people park along their yards and smoke in the boulevard as there is no smoking in the park. She asked how the road would accommodate the park traffic along with school traffic. She stated that when the bus comes down the road to collect children, traffic speeds up to pass the bus. She believed there would be conflict from student drivers and buses going to PACT. She asked if there would be sidewalks added throughout the neighborhood to provide safety to residents. She stated that there is a

beautiful high school proposed but PACT is not thinking about the impact on the neighbors that already live there. She asked if PACT is aware of the limitations that would be put upon them to ensure they would be a good neighbor. She asked that the City provide PACT with the information and regulations that would be put upon PACT to ensure their proposal could fit on the site. She noted that PACT is proposing to fill every square inch of the site which does not leave room for future expansion needs. She stated that if this rezoning is approved, would the eight existing residents also be afforded a rezoning when they can no longer exist with the traffic from the park and school. She stated that when there are games at the park, the noise carries and impacts the homes. She commented that the neighborhood is already unsafe for children because of the traffic on the road and that would apply the same for the students that would be attending PACT. She stated that zoning is meant to provide gentle transition between uses to ensure everyone can enjoy their property. She urged the Commission to take a step back and ensure that PACT is aware of the actual regulations that would be placed upon the property, such as setbacks, and whether the school could be constructed without creating a nuisance to the neighborhood.

Sarah Schmidt, 5435 144th Way NW, commented that she has been a Ramsey resident since 2007 and has three children at PACT. She stated that she would like her kids to stay at PACT and not to have to go to Anoka. She stated that she loves that a residential area was chosen over an industrial area as that provides safety to the children. She stated that there are hundreds of families in the Ramsey area that are interested in PACT. She stated that PACT is a part of the community and has a stake in this.

Leo Eiden, 16068 Uraninite St NW, stated that he is opposed to this request. He commented that traveling northbound on Variolite there is a slope down, therefore having an access road with another intersection at 161st could be an issue. He stated that he is interested in the traffic study as to how that could layout. He stated that he is also concerned that the developer could come to the City to request cost-share funding on the road improvements. He did not believe 161st currently has a storm sewer and instead uses a ditch. He stated that there is a potential that the road reconstruction could be more expensive than people are thinking about, and the residents should be aware if they would be responsible for any portion of the cost. He asked that the Commission deny the rezoning. He noted that he moved to his home five years ago with the knowledge that the land was a park and he did not anticipate having a high school in his backyard. He believed there is much due diligence to be completed and hoped that is done before the ball rolls downhill.

Ryan Heineman, 16931 Helium Street NW, stated that he is a PACT alumni and his children attend PACT. He stated that he attended the informational session prior to this meeting as well. He stated that 161st is scheduled to be repaved and redone as part of the CIP and there would not be a new levy of taxes to pay for the road. He stated that PACT would not be asking for help on the road improvements. He stated that PACT currently has a pollinator garden as its existing location and would have plans to replicate that to some degree at the new location. He commented that there would be a lot of wildlife to the east of the field, which would be a great opportunity to teach students about nature. He stated that PACT is a charter school and therefore the State regulates that a lottery system must be used for enrollment. He noted that there are currently 500 students on the waiting list and the vast majority of those are Ramsey residents. He stated that many of the students would be using buses to access the school. He stated when older students become of driving age, they often drive younger siblings as well, therefore the two campuses should be

somewhat close together. He commented that he grew up off Armstrong and 155th and played sports at Central Park. He understands the want to keep the area the same but noted that the pandemic has impacted churches and schools. He noted that this is a situation where the church needs money for its future plans and the school needs land and has available funds, therefore the uses would work together to benefit both nonprofit organizations that benefit the community. He stated that a traffic study was done for Trott Brook North, and they redid the study during school hours, and it was still deemed to be safe. He stated that if the land does not go through, the other option would be for more homes with 80-foot lots. He stated that Central Park already has games in that location with lights and noise, therefore adding this use would not change the characteristic of the neighborhood as this would place a football field next to a football field. He stated that PACT looked at land within The COR and at another parcel but those would not support the needs of the school and meet the regulations of The COR. He commented that this is a great spot for the school. He stated that PACT expanded 18 years ago, therefore it is unrealistic to say the school would want to expand further in five years. He believed that PACT meets the values of the community and has local control on its Board. He commented that while seven days for residents to get their thoughts in order may not seem like a long time, PACT has been working on this with its development team for a long time and has planned accordingly to meet the regulations of the City.

Robert Buchannan, 6738 153rd Lane NW, stated that he supports a new PACT location as he has four children at the school and a fifth that will also go to the school. He believed that this is a good location because of the proximity to the existing location. He noted that once his oldest can drive, she would be bringing the younger children to school as well. He did not believe that residents were opposed to a school, or PACT, but concerned about the impact.

Ron Lindenberg, 7600 163rd Lane, stated that he believes PACT is a great school with a great reputation but believes this issue is more of placing a square peg in a round hole. He asked if the recently redone sewer for Variolite can support this use. He stated that he has lived on his property for 25 years. He stated that there are six more acres above the land the church would propose to use and what PACT would use and asked what the use would be for that land. He stated that Variolite shrunk a little in its last improvement and was unsure if that road is capable of carrying the capacity for the school and football field. He identified the marsh area, noting that if the hard surface is not controlled, water would flood those homes out if not planned appropriately. He stated that he moved to his property to have acreage for a reason and not to be next to a high school. He stated that the residents in this area have gotten used to the sports activities of the park, but they do not have a stadium with stadium lighting 40 feet from someone's property. He did not believe 40 feet is a realistic buffer from an acreage lot for a school. He stated that his biggest concern is related to traffic. He acknowledged that 161st needs to be redone but this would require the road to have a different capacity. He stated that he has accepted the development that has come over the years but did not believe this high school use would fit into this neighborhood area.

Samuel Maeder, 16410 Quartz Street, stated that from his home he can hear the activity from the park on busy nights. He stated that he moved to his home about 18 months ago, noting that in Fridley he lived about the same distance from the middle school and high school. He noted that the roads were much wider and designed for the schools to be there, but there were still traffic problems. He stated that while there is already noise from the park, the noise generated from a

stadium and other school activities such as band practice would generate more noise. He stated that he moved to get away from that noise pollution from the schools. He asked if there is a better location for the school that would not be as intrusive.

Mr. Lindenberg commented that one mile from this proposed location there is 150 acres, undeveloped and listed for sale.

Commissioner Walker noted that the City Council recently approved a development for that parcel.

Mr. Lindenberg commented on the traffic that will be added from the residential development. He stated that site would have been a great location for a school. He hoped that the City does what is best for the surrounding land uses in its decisions.

Mr. Heineman stated that the traffic study that was completed was to support the 150-acre development and was redone during school hours to account for that use. He stated that there have been a lot of studies in this area prior to this point.

Jeff Lubarski, 7826 161st Avenue, stated that he has lived on his property for over 20 years and 161st has gained in traffic, congestion, and speeding vehicles since that time. He stated that those issues would only increase if a school were added. He stated that 161st needs to have a traffic study completed on it as well. He stated that he has well and septic which are running fine. He stated that when games are happening people are parking in his yard and in areas marked no parking. He commented on the speeding activity down the road and within the park area that already occurs. He stated that the school and its amenities would encompass the entire site which would cause overflow parking going into the park and onto the neighborhood roads without consideration for the people that live there. He asked where buffering would occur to keep people off the residential properties and where the protection would be for the residents that their children that live in that neighborhood. He recognized the growth that has occurred in that area over the past 24 years including the park. He stated that there is not salt, and sand put onto the roads and asked the environmental impact that would have as the school use would require those to be used. He also had questions about drainage and the impact that would have to adjacent lands.

Patrick Surma, 151st Avenue, commented that 161st will deteriorate further before its scheduled improvement. He stated that the park needs to be enhanced to have more parking and a second entrance. He suggested that the City purchase the land to properly expand the park. He stated that he is a supporter of PACT but believes there is a better place for it. He commented that 161st is already a deadly road. He stated that the land could also be used for a church cemetery.

Dave Berg, 16210 Uraninite Street, commented that the church was donated 33 acres of land several years ago. He noted that the church would now be selling a good portion of that donated land. He stated that there would also be an easement from Variolite to the school which would cut through the church property. He stated that the remaining 15 acres for the church would be divided up into two parcels and asked what would be planned for the northeast corner and whether the church would only use 6.5 acres. He asked if the school would eventually swallow up the entire 33 acres from the church. He stated that he visited the PACT website and there are a lot of plans

on there for the future. He noted that this proposal would use up the entirety of the proposed site and asked where additional expansion would occur.

Randy Bauer, representing the Church of Saint Katharine Drexel, stated that development fees are based upon the size of the lot developed. He noted that the church only needs 6.5 acres for the future improvements and therefore would propose to split the land in order to avoid payment of development fees on the entire parcel. He stated that the church does not know what the church may wish to do in 50 or 75 years. He stated that the church is in the middle of its capital campaign to move forward with its phase one plan and this land sale would assist in beginning construction in 2023. He noted that even the phase two improvements would fit within the 6.5-acre portion. He stated that the remainder of the land could not be sold, noting that approval has been gained from the archdiocese to sell the 18 acres in discussion tonight. He referenced the suggestion to sell the land to the City, noting that the church was in negotiations with the City for years related to expansion of Central Park and the City decided it did not need additional land. He stated that the church has also looked at selling to a developer, but developers have stated that 80-foot-wide lots would not be economically feasible and smaller lots would be needed to create a successful project. He stated that the church consulted the Council, and it was determined that the City would not support 55-foot-wide lots. He stated that the church never intended to maintain 33 acres and always intended to sell some of the western acreage to support its future needs.

Josh Nyquist, PACT Charter School, thanked the Commission for its time and for the residents that came out to express their views. He stated that PACT is proud to have a waiting list of 500 students, many of which are Ramsey residents. He stated that the school emphasizes academic, character and parent involvement. He stated that parents are welcomed to be involved in classrooms and in the governance of the school. He stated that each year when the lottery is done, there are over 100 kindergarten students that cannot attend, therefore there is a need for expansion. He stated that in their enrollment growth plan they would like to double the attendance over the next four years. He stated that they would want to ensure that they are good neighbors to those that live in Ramsey while serving Ramsey residents. He commented that they viewed multiple sites in their search. He noted that the school is limited in what it can afford because it is not a typical public school and advised that this location also works because of the proximity to the existing campus. He noted that this would allow the school to create the programing and amenities that it would like to provide for its students. He noted that they would be open to the noise, light and traffic studies mentioned.

Jason Patrow, 16209 Sapphire Street, stated that he has nothing against the school but does not believe this is the right area for it because of concerns for the traffic, utilities, and easements. He stated that he is also concerned with drainage to the north side of the property. He stated that wetland runs through his backyard and in the spring the water level creeps close to flooding into his home. He noted that the additional hardcover would cause additional water to flow in that direction as he did not notice a stormwater pond on the site. He stated that he also has concern with traffic flow. He stated that they moved to this area because it is quiet and peaceful with wildlife. He stated that after the Lennar development to the south, traffic has increased dramatically. He noted that the area around the park is extremely congested for events and the game fair and was unsure how that area could handle more traffic. He was extremely concerned

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with the impact to the wetland and watershed in that area. He again stated that he supports the school and the need for a school but believes this is the wrong location.

Dean Thiele, 16611 Coquina Street, commented that he believes the City should purchase the property. He noted that the City recently changed the name of the park from Central Park to Delaney Park, noting that the Delaney family donated the park land to the City and therefore believed the City should purchase the additional property. He stated that he notices a football field but asked where other sports would be played. He asked the City to consider purchasing the property to improve the park, noting that the original land was donated. He noted that expansion of the park would ensure adequate parking for the park use.

Mr. Fincher thanked all the residents that have provided input thus far. He commented that this is early in the process, noting that the purpose of tonight is to receive comments and feedback that could be incorporated should this move forward. He stated that there is a development team that would help to evolve the plans, should this move forward. He referenced the concern with traffic, noting that they would work with a traffic engineer and the previous reports to address that concern. He stated that they also have a civil engineer to address drainage and runoff to ensure those are met. He stated that the building footprint size, parking stalls, and needs for track and field, football and soccer were incorporated into this sketch plan. He noted that the water needs would be reviewed by the watershed to gain proper permitting. He stated that the water from this site would be treated and maintained on the site and would not be allowed to pass onto neighboring properties. He stated that they would need to pay fees to connect to storm sewer and sanitary sewer, through both the City and Metropolitan Council. He stated that if this moves forward, they would conduct a photometric plan as required by the City to ensure the regulations within City Code are met for lighting. He stated that the concerns related to noise will need to be worked through and hoped that it could be a collaborative process with residents to ensure the least amount of disruption.

Mr. Patraw (Jason) stated that there is already unsafe drinking water in Ramsey and asked where the water would come from to service the school as the City's water supply and quality is insufficient.

Councilmember Woestehoff commented that the water issue is a priority for the City and a water treatment plant facility has been budgeted for and will break ground this year to address water quality and water pressure issues. He commented on the funding the City has already allocated through water utility funds in order to address the issues. He recognized that Variolite was recently reconstructed and noted that improvement was completed in anticipation of the additional capacity it would serve. He stated that the narrowing was meant to address concerns with speeding. He clarified that the watershed organization is the Lower Rum River Water Management Organization (LRRWMO) and that review process will be extensive. He acknowledged that 161st is one of the worst roads in the community in terms of condition. He stated that the Central Park parking lot is scheduled to be repaired at the same time as the road, noting that $700,000 has been allocated for those projects within the CIP. He appreciated the comments related to stormwater, which is also a question he had. He stated that generically roads are reconstructed to the same state, meaning that is storm sewer is not in place, it is not added. He recognized that but for the school, there

would not be additional improvements, therefore any additional improvements that are needed for the road/infrastructure would need to be funded by the school.

Mr. Patraw asked about impacts to the wetlands on neighboring properties in addition to the wells and septic systems on adjacent properties.

Councilmember Woestehoff stated that he cannot answer that as he is unsure of well depths.

Mr. Patraw replied that to his knowledge the wells do not go down 300 feet. He asked if the well water would be tested and who would be responsible for negative impacts, should that occur.

Motion by Commissioner Walker, seconded by Commissioner Peters, to close the public hearing.

Further discussion: Ryan Flagger, 16510 Yolite Street, asked if there are guidelines on the acreage required for high schools. He noted that when looking online he noticed guidelines of 30 to 40 acres. He believed that this parcel is too small for what PACT will need. Ms. Graw stated that there have been a lot of comments from the school that more details will be forth coming and asked when that would occur. She stated that it is hard to make an informed decision when there is a lot more study to be done before this could continue forward. Senior Planner Anderson commented that this is a conceptual review noting that there are a number of steps in platting property and provided more explanation. He noted that if this moves forward to Preliminary Plat, all those additional details would be provided for the proposed development. He stated that the water management plans and wetland delineations would also be reviewed by the LRRWMO.

A roll call vote was performed:

Commissioner Peters	aye
Commissioner Walker	aye
Commissioner Anderson	aye
Commissioner Gengler	aye

Motion Carried.

Commissioner Gengler closed the public hearing closed at 9:09 p.m.

Commission Business

Councilmember Woestehoff asked staff to provide more explanation on the requested action tonight. He asked if Public/Quasi-Public would allow for a school or whether that would be a conditional use. He also asked for additional details on the next steps.

Senior Planner Anderson stated that no formal action is necessary for the sketch plan, noting that the intent is to provide feedback for the applicant. He stated that there are two proposed actions before the Commission tonight, the first would be related to the requested rezoning from R-1/MUSA-80 to Public/Quasi-Public. He stated that a school would be a permitted use within that zoning district. He stated that the second action would be related to the requested Comprehensive

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Plan amendment. He noted that the site is currently zoned for low density residential, and the request would be to reguided the property to public/institutional, which would allow a school to operate on the property. He stated that a Comprehensive Plan amendment would need to go before the City Council for formal action and then to the Metropolitan Council for consideration and approval. He recognized that the process may seem odd but noted that this is the typical process that is followed for development. He noted that these actions tonight would need to occur before the developer undergoes the expense of developing more detailed plans.

Councilmember Woestehoff asked if the City is under a 60-day review period. He asked if the Commission could take no action tonight.

Senior Planner Anderson stated that no formal action is needed on the sketch plan. He stated that there is a 60-day review period for the formal applications related to rezoning request and the Comprehensive Plan amendment. He stated that if there are additional questions and information desired, the Commission could choose to table consideration with direction for what would need to be brought back. He noted that the City would have the ability to extend the review period once by an addition 60 days but then action would need to be taken after that time or approval would automatically be gained.

Commissioner Gengler asked if the rezoning were not allowed, would the project be unable to move forward.

Senior Planner Anderson replied that the action by the Commission tonight does not determine whether the project can move forward. He noted that the recommendations from the Commission would move forward to the City Council for decision. He stated that if the City Council does not adopt the rezoning and/or Comprehensive Plan amendment, the project would be unable to move forward.

Commissioner Walker commented that the Commission received all the letters and emails sent to the City related to this topic. He stated that the letters in support are from parents with children at PACT while the letters of those opposed are not related to PACT. He stated that those that spoke tonight were split in favor or opposed. He noted that there were no residents that spoke in favor of the project that do not have ties to PACT. He stated that he has concerns related to traffic, a buffer for residents, and a desire for more detailed plans. He stated that he also has a concern with water capacity and whether the site could support a high school per the guidance mentioned by a resident. He stated that he is not opposed to PACT expanding and putting in a building but was not convinced that this is the right location for it. He stated that he sides with residents on almost every issue that comes before the Commission and therefore cannot vote to support a Comprehensive Plan amendment or zoning change for this project.

Commissioner Gengler stated that Commissioner Walker did a great job summarizing the internal debate that she has had as she heard the input from residents tonight. She stated that on paper it does make sense to have the school in this location as there are positives for this use on this site. She stated that they also have not heard support from the residents in this area for the project. She felt that compromises could be made and improvements that could be made to 161st that would actually benefit the area. She stated that without supporting the project, she would like to see the

process move forward to bring forward more detailed plans and specifics. She stated that the school and residents can speak to determine where compromises can be made.

Commissioner Walker asked what would happen if the rezoning and Comprehensive Plan amendment were not approved tonight. He stated that he is not comfortable moving these actions forward, changing what can happen in the area if a resolution cannot be gained for the list of concerns. He noted that PACT could then back out and the door would be open for other uses that may not be desired.

Senior Planner Anderson stated that the recommendation from the Commission would move forward to the Council for consideration. He stated that the actions of the Council could be made contingent upon formal approval of Site Plan and Final Plat so that those actions only move forward if the PACT plans are ultimately approved. He noted that if PACT were unable to gain the necessary approvals, the rezoning and Comprehensive Plan amendment would become null and void. He noted that the Commission could also include that contingency in its motion.

Commissioner Walker asked what would happen if this is passed and PACT brings something forward that makes the residents uncomfortable in the next steps, which causes the Commission to recommend denial of the plans.

Senior Planner Anderson explained that the Commission would need to review the proposal to determine whether it complies with the City Code and all other regulations. He stated that if those standards are met, legally the City should not be denying the project. He stated that if there are elements that are deficient in terms of Code standards, those could be identified in support of a denial.

Commissioner Walker asked if there were anything in the City Code that would allow for the input of residents and their comfort level.

Senior Planner Anderson stated that when the next step is reached, there is the potential to work with the applicant if there are additional protections or modifications that they would like to see in the proposal, perhaps even above and beyond the minimum standards of the Code. He acknowledged that the applicant would need to be a willing partner in that as it would be above what is required.

Commissioner Walker stated that he cannot get to the point of support until he knows that the residents will be okay with the project.

Commissioner Anderson commented that he does see a path forward, adding the contingency onto these recommendations that the Preliminary Plat must be approved in order for these approvals to become valid. He noted that there would be another public hearing at Preliminary Plat and if the developer does not meet the regulations, that request would be denied. He stated that Preliminary Plat would be the opportunity to review the project as a whole including traffic, water management, etc. He noted a different project that had opposition from residents and stated that input was received, everyone came to agreement, and it moved forward. He stated that although he has reservations about the project, he supports moving to the next step. He stated that the applicant

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has heard the comments expressed and they will have to meet the goals in order to receive the necessary approvals.

Motion by Commissioner Anderson, seconded by Commissioner Peters, to recommend that City Council adopt Resolution #22-050 and Ordinance #22-15, approving a Comprehensive Plan Amendment reguiding a portion of the subject property to Public/Institutional and approving a rezoning of a portion of the subject property to Public/Quasi-Public with the contingency that these approvals would only be gained upon Preliminary Plat approval.

A roll call vote was performed:

Commissioner Peters	aye
Commissioner Walker	nay
Commissioner Anderson	aye
Commissioner Gengler	aye

Motion Carried.

Councilmember Woestehoff commented that he believes the motion failed with a vote of three to three, as two members abstained. He noted that regardless of whether the motion failed or passed, the item will move forward.

Randy Bauer clarified that an abstention is a non-vote and is not counted as a nay.

Senior Planner Anderson confirmed that staff will verify the vote with the City Attorney. He noted that this is tentatively scheduled to move to the City Council on March 8th.

Chairperson Bauer and Commissioner VanScoy rejoined the Commission. He briefly recessed the meeting.

Chairperson Bauer reconvened the meeting.

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5.01: Consider Request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment Related to a Proposed Second School Campus for PACT Charter School on the Property Located at 7633 161st Avenue NW (Project No. 22-107); Case of PACT Charter School

Senior Planner Anderson presented the staff report. He stated that the City has received an application from JB Vang Partners, on behalf of PACT Charter School, for a Sketch Plan related to a proposed new, second school campus to be located at 7633 161st Avenue NW. The subject property is presently owned by The Church of Saint Katharine Drexel. The application also includes requests for a Zoning Amendment and a Comprehensive Plan Amendment based on the proposed use, current zoning, and future land use guidance. He reviewed the public comments that have been received thus far through written correspondence, an open house, and the public hearing held by the Planning Commission.

Chairperson Moore invited members of the public to provide input.

Jason Patraw, 16209 Sapphire Street, stated that he has concern with noise and light pollution as the subject property is about 20 feet higher in elevation than the Sweet Bay Ridge residential development. He stated that he is also concerned that there would not be space for a retention pond on the site with the footprint of the proposed building, therefore he had concerns with runoff and possible flooding. He asked if there has been study of the water that would drain from this site and whether it would go into the floodplain.

Ron Lindenberg, 7600 163rd Lane, commented that he has a concern with flooding. He provided details on a negative experience with flooding that occurred when Variolite was reconstructed. He commented that the ditches in the area flood in the springtime, which is normal, but was concerned with flooding issues that could arise if the water from the subject property is not properly managed. He also had concern with noise pollution and wanted to ensure his trees remain healthy and do not experience damage from flooding.

Dan Goepfert, 7601 163rd Lane, echoed the concern of his neighbor that spoke prior to him. He stated that he has concern with drainage and possible flooding that could occur. He asked that a full study be completed on drainage.

Danielle Holder, 7826 161st Avenue NW, echoed the comments made thus far. She stated that the residents that live next to the project are the subject experts for how this environment works. She had concern that once the forest area is removed from the subject site, the wildlife would be displaced. She also had concern with the impacts to the marshland to the north when the road is expanded, and additional hard surface is added. She was concerned with flooding that could arise and how that could impact adjacent well and septic systems. She asked if that type of zoning would be placed in this location if it were not for this request and whether this amount of hardcover would be allowed if the development were not for a school. She believed there would be a better place for the school.

Jeff Lubarski, 7826 161st Avenue, echoed the comments that the previous speakers have made.

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Matt Boe, 7650 163rd Lane, commented that the football field will come up against his backyard which concerns him because of the noise that would be generated. He echoed the comments of the speakers thus far.

Michalena Holder, 8100 153rd Lane NW, commented that when people are at the park, she can hear the activity from her home. She did not believe that people understand how far that noise carries. She was concerned that the additional stadium and school activity would further disrupt residents. She was also concerned with the impervious surface that would be added to support a school, parking, and bus traffic.

Mr. Patraw (Jason) commented that there is not existing storm sewer as ditches are used in this area therefore significant improvements would need to be made in terms of infrastructure along with the turn lanes. He commented that he has contacted the Army Corps of Engineers about the project.

Senior Planner Anderson noted that the Army Corps of Engineers will see this project under the review by the Lower Rum River Water Management Organization, should the project advance to that point.

Board Member Hiatt stated that he respects the issue of noise. He commented that Central Park exists in this area already and asked if that is a problem to the neighborhood at this time.

Ms. Holder replied that they do have disruption from the noise and lights from Central Park. She stated that the residents in this neighborhood cannot take anymore noise or traffic.

Mr. Patraw (Jason) stated that there is a difference between the noise from the park activity and lights from the park compared to the noise and light that would be generated from a stadium.

Senior Planner Anderson clarified the actions before the Board tonight related to the rezoning and reguiding of the subject property. He acknowledged a lot of the concerns expressed by residents. He noted that no formal decisions are being made tonight as the Board makes a recommendation which goes forward to the City Council for its consideration. He stated that if the Council approves the rezoning and reguiding, the applicant would go into further detail on its proposed development plans for the site and address some of the concerns that have been expressed.

Mr. Lindenberg stated that he has lived on the property for 24 years and has seen the development grow around him and is aware of how the water works in the area.

Board Member Fetterley commented that it would seem that supporting the action would mean that the Board is interested in seeing additional details developed for the project.

Senior Planner Anderson stated that the item will go forward to the City Council with the recommendation from the Board. He confirmed that the next phase would include the additional analysis and provide additional details.

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Board Member Hiatt stated that he is concerned with whether there is space for water retention on the lot.

Senior Planner Anderson stated that the site will need to account for stormwater management, both in terms of infiltration and retention. He noted that the developer could choose to utilize underground stormwater management.

Board Member Hiatt asked if a retention pond would need to be on the subject site or whether that could be on the property to the east.

Senior Planner Anderson explained that it would need to be accounted for on the subject property.

Chairperson Moore commented that it is important to take citizen input into consideration as the Board does not often receive public input.

Motion by Board Member Little and seconded by Board Member Bernard to recommend that the City Council deny the Comprehensive Plan Amendment to reguided the subject property from Low Density Residential to Public/Institutional.

Motion carried. Voting Yes: Chairperson Moore, Board Member Little, Bernard, Fetterley, and Hiatt. Voting No: None. Absent: Board Member Valentine.

Motion by Board Member Little and seconded by Board Member Hiatt to recommend that the City Council deny the rezoning from R-1 MUSA-80 to Public/Quasi-Public.

Motion carried. Voting Yes: Chairperson Moore, Board Member Little, Hiatt, Bernard, and Fetterley. Voting No: None. Absent: Board Member Valentine.

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7.02: Consider Request for Sketch Plan, Zoning Amendment, and Comprehensive Plan Amendment, Related to a Proposal Second School Campus for PACT Charter School on the Property Located at 7633 161st Ave NW (Project No. 22-107); Case of PACT Charter School

Senior Planner Anderson reviewed the staff report. He stated that a couple of letters from residents came in after the agenda was updated so hard copies were available and included in the public record. He stated the Planning Commission recommended approval of the Comprehensive Plan Amendment and Zoning Amendment, contingent upon an approved Preliminary Plat. The Environmental Policy Board (EPB) recommended denial because of concerns raised by residents. He stated that he failed to invite the applicant to that meeting but typically applicants are not invited because Staff fields questions and it is a public meeting. He stated Staff is requesting direction via a motion to approve Resolution #22-050 granting a Comprehensive Plan Amendment to re-guide a portion of the subject property to Public/Institutional, and a motion to introduce Ordinance #22-15 to rezone a portion of the subject property to Public/Quasi-Public, both contingent upon approval of Preliminary Plat or a motion to deny.

Mayor Kuzma stated he is a member of St. Katharine Drexel Church but he has no financial interest or benefit in this case so he will be allowed to vote.

Councilmember Heineman commented that his children attend PACT Charter School but it is a publicly funded school and his children are already enrolled so he has no legal reason not to be allowed to vote.

Councilmember Woestehoff stated that the guidance according to the Minnesota Department of Education states that a school of this size is suggested to be on approximately 45 acres of land. He also stated the gross building size was roughly 150,000 square feet for this type of population. He stated this proposal looks like it is closer to 115,000 square feet. He asked if the plans indicate a two story building. He also referenced the requirements for a stadium according to the Minnesota Department of Education (MDE) and asked how the applicant or Staff feels all of that could fit into an 18 acre parcel.

Senior Planner Anderson replied he would defer to the applicant regarding the size of the project in relation to the recommended guidelines. He replied the conceptual layout does include two stories which would account for the 115,000 square feet. He stated on the conceptual sketch includes two areas which would account for potential future expansion but he didn't know the square footage of those areas.

Councilmember Woestehoff referenced the sketch plan and asked how much of the 18 acres would be an impervious structure or parking lot and how that would compare to other districts.

Senior Planner Anderson replied part of it will be addressed if it gets to the next step with a detailed site plan. He stated Zoning restricts building covered surface, not impervious coverage with the exception of the overlay districts along the Mississippi and Rum Rivers.

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Justin Fincher, JB Vang Partners representative, the development managers hired by PACT Charter School, thanked the Council, Mayor, and residents for comments as it impacts the PACT development plan. He stated they welcome community input because with other project they have done allows them to address areas of concern. He responded to Councilmember Woestehoff's question by explaining the difference in funding from a district school and a public charter school and the process that has gone through by PACT Charter School. He stated a public charter school is drastically different from a public school. MDE is provided with all informational details they require. He stated he has not been a part of a project that has not been approved by the MDE and feels fully confident that MDE will approve this one as well.

Councilmember Heineman referenced Senior Planner Anderson's statements that part of the reason this parcel would have to be rezoned is because there are strict zoning guidance for schools. He asked about other attempts that PACT Charter School has made for different locations and what options they have after that.

Senior Planner Anderson replied his understanding was that PACT Charter School engaged in conversations with the City for property in the southeast corner of The COR. That was something considered but the City wanted to preserve that real estate to draw retail and restaurants to the community. He wasn't aware of other discussions between PACT and the City regarding other locations they have looked at.

Councilmember Heineman stated during the Planning Commission meeting residents raised concerns regarding light pollution, noise pollution, and traffic studies. He stated he understood answers would be coming if this is approved but asked if the studies show undesirable outcomes, if the City could use that information as justification to cancel the project.

Senior Planner Anderson replied that is correct, adding traffic studies have already been provided to the applicant per the Planning Commission to incorporate into the analysis. He stated if issues couldn't be resolved based on that study and if they couldn't comply with code, that would allow for denial of the project.

Councilmember Howell asked about the rezoning proposed tonight compared to what would have been done for Brookside Elementary.

Senior Planner Anderson replied the two rezoning and Comprehensive Plan requests were similar for the two projects, however the Brookside request was larger than the current proposal.

Councilmember Musgrove noted the motion that Mr. Anderson had in his presentation is not the one listed in the case with the Planning Commission's attachment with a contingency. She wanted that noted for the record. She stated residents were concerned about the buffer zones and asked if the EPB had discussed that. She also asked about the size of the buffer and the materials that could be used to mitigate some of these concerns.

Senior Planner Anderson replied that applying the general business district standards, which was done for Brookside Elementary School, there would be a 40-foot-wide minimum buffer requirement along the northern property line. He stated they would look at the overall required

landscaping for the property and additional 30% of the required landscaping would need to be installed within the buffer area to provide buffer and screening between the two different types of uses.

Councilmember Musgrove asked if 161st Avenue is a Municipal State Aid (MSA) road and if it gets Minnesota State funding.

Senior Planner Anderson confirmed this.

Councilmember Musgrove asked for an explanation in regard to funding and how that works with regard to source of funding as far as that funding potentially being relieved from taxpayer funding for road and upkeep.

City Engineer Westby replied that is an MSA street so when repairs are needed on that street, MSA dollars can be used. He explained that up to 20% of streets can be added to the Municipal State Aid system. Those streets generate needs based on population and infrastructure. He stated every year about $1.5 million comes in as State Aid Funds which can be allocated across the entire system. The $1.5 million can be used to reconstruct or maintain the streets as needed, this is done through the Capital Improvement Fund. When those roads are done they use the MSA funds and not taxpayer funds.

Councilmember Musgrove asked Mr. Anderson for information on the group of students that would be served by the school.

JB Vang Partners Representative Fincher replied stated that PACT is currently a K-12 public charter school. They intend to keep that facility but change it to house their K-5 program so the proposal would house 6-12 grades. He stated there is a long wait list and demand for PACT Charter school so what this expansion would allow PACT to increase enrollment and reduce the waitlist for the elementary campus.

Councilmember Musgrove commented she wanted to highlight that they were separate buildings with a different student population.

Councilmember Heineman commented on concerns raised by residents during the Planning Commission meeting regarding a school shouldn't be in a residential area. He referenced the zoning map and the the zoning for the surrounding area. He asked Senior Planner Anderson to explain the zoning for Brookside Elementary and Ramsey Elementary and if the zoning differed.

Senior Planner Anderson replied the surrounding area with Brookside Elementary, to the north and south of Brookside as well as to the west, is zoned R-1 Residential, MUSA-80. On the east side of Brookside it is zoned R-1 Residential Rural, which are larger lots with private well and septic.

Councilmember Heineman asked if this proposed site would maintain the balance of R-1 Rural and R-1 MUSA as Brookside currently has.

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Senior Planner Anderson replied yes generally speaking although the Brookside site is larger than the current proposal.

Councilmember Woestehoff stated Brookside is on roughly 36 acres and Ramsey Elementary is on 57 acres and both have an enrollment of around 700 students.

Senior Planner Anderson replied the acreages sound right for each of those schools but he couldn't speak to the enrollment numbers.

Danielle Holder, 7826 161st Avenue NW, stated she appreciated the Council listening to the comments. She stated she understood that PACT wants to expand and agreed with that but commented that the decision on zoning isn't based on if expansion is good but rather if this spot fits a school of that size. She stated that Brookside is on a much larger lot and is just elementary students with no stadium. There is a huge buffer between neighboring houses, wells and septic. She stated Ramsey Elementary is the same. She stated in this case, a stadium would be near housing with a buffer of 40 feet. She stated B-1 zoning doesn't include outdoor activity that would occur at a stadium with outdoor lighting and noise concerns. She stated other schools don't exit onto residential roads but onto a county road.

Jeff Lubarski, 7826 161st Avenue NW, stated the street is currently dark and expressed concerns about a two-story school with lights and the noise from the stadium in a residential area.

Allison Pust, 6051 145th Lane NW, stated she moved the Ramsey for PACT Charter school with three daughters who attend and one who just graduated. She supported the expansion and asked for consideration of doing the studies.

Kelsie Buchanan, 6738 153rd Lane NW, stated she understood the concerns but that eight different sites were considered and that the City had encouraged the purchase of the land to support the church and add a high school which wouldn't be a cost for the taxpayers. She thought it would be a small school with traffic impacts twice a day only during the workweek and school year. She thought JP Vang could address the concerns.

Ron Lindenberg, 7600 163rd Lane NW, described his property's location and expressed concerns about erosion and water run off if rainwater that usually drains slowly into the fields and runs into the wetlands is covered up with hard surfaces.

Male resident, 166 177th, stated he has been a long time 40-yar resident. He moved to Ramsey because of the country feel, easy living, and few regulations. He expressed concerns about the impact to Ramsey resident's quality of life, high schoolers not respecting the area, and private property.

Scott Weineger, 14450 Rhinestone Street NW, supported the project and stated that he moved to Ramsey so his children could attend PACT. He stated children who attend a high school continue to live in the area. He supported development and felt that PACT will bring many families to Ramsey.

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Mike Stuedemann, 1478 159th Avenue NW, Andover, stated he is a trustee for St. Katharine Drexel Catholic Church. He outlined reasons for approval. He stated the block already has Central Park and the church building, the addition of PACT would add a community benefit to the area. The addition of a high school would increase the likelihood of bringing in new families. He stated as property owners, if the request is denied he was unsure how they would maximize their investment. He stated that development in the area is inevitable.

Councilmember Musgrove stated the PACT Charter School wants the 18 acres. The farthest outlot to the north is where most of the wetlands are and where the water run off concerns are from. She asked Mr. Stuedemann about St. Katharine Drexel's thoughts on the section of land and the use of it.

Mr. Stuedemann replied their intent is leave the outer out lot as wetlands.

Dan Goepfert, 7601 163rd Lane NW, stated the location chosen for the PACT Charter School expansion doesn't seem reasonable because of the concerns already given about putting a commercial operation in a well established neighborhood.

Kathy Reed, 21543 Jarvis Street NW, stated she is a long time resident of Ramsey and a member and trustee of St. Katharine Drexel Catholic Church. She stated the Planning Commission approved the rezoning on February 24, 2022, contingent on approval of the preliminary plat. She stated that the preliminary plat would include responses to the concerns raised over drainage, tree preservation, noise and light pollution. She was surprised to learn the EPB met on February 28, 2022 and voted against this proposal. She stated that representatives from neither PACT Charter School nor St. Katharine Drexel attended and were unable to respond. She stated more environmental studies need to be done. She pointed out the land will be used for something and all of this will need to be addressed. She stated with Central Park on one side and the church on the other, the addition of the school seems a good fit. She stated the church is committed to creating a long term plan for the parcel of land that respects its natural resources and the surround community.

Jason Patrow, 16209 Sapphire Street NW, stated no one is against the PACT Charter School expansion but it isn't wanted in an area where it is going to create difficulties for families who live there. He stated he is an engineering project manager for a large design build contractor. He stated he deals with facilities of these and much larger every day. He know these require a retention pond. He wasn't sure if the church will require a retention pond also and by selling this much land to PACT they aren't leaving themselves enough land to build. He stated this property is different from the other schools because of the wetlands. He commented on the traffic and stated it will be considerable. The site plan also allows for 55 vehicles which he feels isn't going to be enough. He also sited issues with the site planned for the stadium with a 13-foot elevation change.

Gary VanScoy, 5851 147th Lane NW, stated he is on the Planning Commission and is also a member of St. Katharine Drexel Church and is the Chair of the Building Committee and a member of the Finance Council. He stated that in discussions with the City regarding PACT Charter School that Chair Bauer and himself have abstained from the discussions even in Work Sessions. He commented that this is being seen as a benefit both to the school and the church because of sharing

of parking and storm water retention ponds. He emphasized that this property will eventually get developed. If the land is used as it is currently zoned there would be 54 units on the 18 acres. He stated there would issues being highlighted will need to be addressed no matter how it is developed. He stated the property has been sitting there for many years and open to the neighbors but recently had to have signs posted because of damage and noise pollution by neighborhood children in unstructured activities such as four-wheelers. He was in support of this project despite the validity of the concerns raised.

Jessica Bush, 17720 Baugh Street NW, stated she shared concerns of the neighboring residents because the values rural Ramsey. She stated her four children attend PACT Charter school and she sent an email with concerns. She stated this opportunity will create around 100 new jobs, increase home values, and create a desire to live in Ramsey. She thought there were a lot of opportunities for shared use that will benefit the community. She felt that the expansion would create healthy competition and will help with overcrowding in the schools.

Jacqueline Washburn, 325 Harrison Street, Anoka, she stated she is renting and actively looking for a home in Ramsey. She stated her children attend PACT and her husband will be working in Ramsey. She asked that comments by those who are not current Ramsey residents but hope to be will be considered. She stated that PACT and JP Vang have considered eight other locations but none worked. She stated that Anoka has several schools in residential areas. She supported PACT as a quality Charter school and felt the expansion would allow for even more opportunities.

Amber Cuevas, 7474 163rd Avenue NW, stated she attended St. Katharine Church and had considered PACT Charter school for her children. She expressed concerns about the drainage going into her back yard as well as the noise. She questioned the validity of raising home values for her home with the school so close.

Michael Johnson, 7494 163rd Avenue NW, stated he is a long time Ramsey resident and an educator. He understood that there is a desire for a new school but stated that community is typically built up a round a school instead of a school being placed in the community. He stated he raised his children in Ramsey and expressed concerns about losing the small-town feel. He shared concern about drainage as his property has already seen flooding.

Matt Bowl, 7650 163rd Lane NW, shared concerns with the stadium that would be in his backyard.

David Berg, 16210 Uraninite Street NW, shared concerns with the quality of life in the area and the loss of the small-town feel. He stated he would be right across from the proposed church and expressed concern with the size of the lot for the school when other schools are on much larger lots. He also expressed concerns about plans to sharing the park with the school because it would mean expanding beyond the 18 acres and redoing streets that were just done last year. He stated his grandchildren attend PACT Charter school, he had to get there 20 minutes to drop off children at the current location, and felt the proposed area couldn't support the needs.

Sara Smith, 7480 159th Avenue NW, shared concerns with other neighbors. She stated that Variolite Street is a residential street and the residential development has only one access onto

Variolite. She challenged the argument that traffic wouldn't impact the neighborhood that much and asked that current residents be protected and have options for road access.

Josh Nyquist, 14852 Peridot Street NW, Executive of Building Operations at PACT Charter School, stated PACT was started in Anoka and moved to Ramsey in 2004. He stated PACT has honored children and families and values their input. He stated there are over 500 students and a large wait list. He stated this expansion would allow the school to continue to benefit Ramsey, especially at the high school level. He stated they are not able to access the same funding as public schools who can afford to purchase 30+ acres but are able to do more with less.

JB Vang Partners Representative Fincher responded to the comments, which he stated were appreciated. He asked the Mayor and Council to allow the opportunity to conduct due diligence in detail including the issues raised. He stated this issues will be addressed in the upcoming site plan review submission, which is pending tonight's vote. He stated regarding rainwater runoff and stormwater management they intend, once the experts are involved, these would be addressed which will require a separate watershed approval process. He explained why the site was chosen and stated the first priority is that PACT Charter wants to remain in Ramsey and that the site would need to be at least 15 acres to accommodate the projected enrollment. The outdoor space and amenities were considered and it must be on City sewer and utility. This site was also financially affordable.

Chad Glader, 16415 Quartz Street, stated he attends St. Katharine Drexel Church and has children who attend Brookside Elementary because he felt PACT was too small of a school and didn't feel there was a chance for his kids to be accepted. He asked that school be allowed to expand and for site analysis to be done to determine rightness of fit for the community.

Michalena Holder, 8100 153rd Lane NW, stated her son goes to a charter school so she isn't against PACT. She challenged the point that the land will be developed anyway because if houses go in per the zoning there wouldn't be a stadium with the amount of noise. She stated she doesn't leave the house much but she can hear sounds from the park which is several blocks away. She expressed concerns about the school sharing the park space because it will get taken over by the school. She challenged rezoning it first and then working out the details. She asked that the current residents be considered because the area is already busy.

Josh Loren, 6174 146th Avenue NW, stated he has lived in Ramsey his whole life. He stated that there is an adjustment that needs to be made with any change. He stated his children attend PACT and supported the expansion and taking steps to do research on the project.

Jason Tossey, 14417 Bowers Drive, stated he is a teacher at PACT and is a member of the board of directors. He stated he knows change isn't easy but promised the neighboring residents that they will be great partners and will work to address and mitigate the issues raised.

Councilmember Musgrove thanked the residents for coming out to speak. She asked about the motion and what happens if the conditions aren't met and what the conditions are in the Preliminary Plat.

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Senior Planner Anderson replied the intention for the contingent approval is that there wouldn't need to be any specific conditions tied to the Preliminary Plat, it would be a project coming forward that would be reviewed under the guidance and codes in the zoning ordinance. Staff would come forward with recommendations to say the project is meeting the standards or it is not. He stated if the Preliminary Plat were to not be approved the zoning would revert back to the current zoning.

Councilmember Musgrove asked if it was correct that it wasn't tied to any specific conditions in the Preliminary Plat with regard to resident concerns, it was more about the whole process and if it doesn't pass it would revert back to the current zoning.

Senior Planner Anderson replied that is correct.

Councilmember Musgrove asked Police Chief Katers to respond to resident concerns about traffic and student driving and asked about any issues with current traffic issues around the current PACT Charter School.

Police Chief Katers replied he didn't have any comments on student driving but has worked with PACT Charter School on traffic issues relating to dropping off students. He stated PACT has been receptive to it and resolved the issues.

Councilmember Musgrove referenced the concern about a turn off of Variolite and asked if the plan is to have traffic come off of Variolite and asked if it was just the buses. She stated she thought the presentation had said traffic would come in and out of 161st Street.

Senior Planner Anderson replied from the conceptual plan, the student drop off would access the site from Variolite Street, would travel south and west to drop off students at the school and then do a U-turn through the parking lot and exit back on to Variolite Street. The buses would circulate through the eastern entrance off of 161st and exit off of the western exit off of 161st Street. The students driving themselves would enter and exit off of the western entrance off of 161st Street.

Councilmember Musgrove suggested a right turn out only and consider another way of traffic flowing in and out of there. She stated regarding water runoff that it goes through a lot of different committees before that is determined and that there are some new concepts with Riverstone South development with a unique way to manage water runoff. She asked for an explanation of the ability of engineers to mitigate concerns regarding the landscape and water runoff.

Senior Planner Anderson replied there is no doubt that there could be a solution engineered regarding water runoff, both the retention and infiltration, but the question would be how expensive that would be and noted that would be borne by the school. He stated for the benefit of the public, that it is not only reviewed by City Staff but also by the Lower Rum River Water Management Organization so there are multiple agencies involved to verify that storm water management are meeting the standards.

Councilmember Specht stated, for full disclosure and because there were questions about it, that several years ago he was the Chair of PACT Charter School although he is not currently and his children don't go there. He thanked everyone for their feedback on both sides. He felt that PACT

had a really good relationship with the City and appreciated the benefit. He saw having another church and school in Ramsey as a benefit to the community to draw families to the community. He addressed the question of the school of if the school would be able to manage things well and if the site is big enough by stating that charter schools don't have to follow all the rules of the MDE yet. He stated this expansion would have to be approved by MDE and that the expansion would be for the school and MDE to work out, the Council's decision is rezoning. He stated that he supported this as a benefit and felt the concerns raised will be addressed.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to adopt Resolution #22-050 granting a Comprehensive Plan Amendment to re-guide a portion of the Subject Property to Public/Institutional.

Further Discussion:
Councilmember Specht asked if there were any comments online. Councilmember Heineman commented that he understood the residents' apprehension and stated he has been a long time Ramsey resident as well and has seen the development in the City. He stated he will be voting in support of this and responded to the concerns raised. He stated the word "stadium" but stated the field where kids will be playing sports with a track and bleachers is categorized as a stadium that may be presenting a false reality. He played football in Central Park and understand the lights and that there would be lighting added in the area but not to the level that is a great magnitude. He also commented on water management that plans will be put in place to mitigate water. Councilmember Heineman stated that Ramsey couldn't legally allow a building to be built that would flood other houses. He also responded to the comment that the Council isn't thinking of Ramsey residents but there were many residents in support of this. As far as there being enough room to build or not, the right location will be determined through the planning phases. To the point that it is unsafe, that there haven't been traffic accidents have happened because of students and building a school in a neighborhood makes it safer because it gets more attention from law enforcement. He stated change takes time.

Brian Walker, 17289 Variolite Street, stated he is on the Planning Commission and was the vote against sending this to the City Council. He asked Mr. Anderson what the proposed site is for the church zoned as. Senior Planner Anderson replied the subject property is currently zoned R-1 residential MUSA-80. Mr. Walker asked if that is from Variolite to Central Park. Senior Planner Anderson confirmed this. Mr. Walker commented online that the church is being allowed to change the zoning and get the church there but they have to go through the same process as PACT so assuming that there is going to be a church next to the potential school is wrong. He also stated that when people bought homes in the area they did that based on the current zoning and that changing the rules is fair without some type of compensation. He hoped the City Council would take into account the effects on the residents.

Senior Planner Anderson asked, based on the current motion, if the Council would consider adding a fourth point in the resolution which would incorporate the contingency about the Preliminary Plat that was a part of the motion for record keeping if the motion were approved.

Councilmember Riley stated they aren't considering changing the zoning blindly, it would be for one specific purpose, which if it doesn't end up going forward would revert back.

Councilmember Woestehoff stated that he lives within the notification area for this project and would be able to see what develops. He stated he has concerns with the size of this school on the proposed lot. He understood that it doesn't have to abide by MDE suggestions as a Charter school but if the guidelines have requirements it doesn't matter where the money comes from. He stated his biggest concern is the access off of Variolite Street that the hill is really rough but adding another point of entry there would add traffic. He stated if it was closer to the park the concerns with drainage and traffic would be less. He stated the drainage issues need to be addressed regardless. He stated there was an opportunity to expand Central Park but didn't take the opportunity but that would be tricky financially for the City but he felt that would be a better use of the land. He stated that he wouldn't be supporting this because of the lot size.

Councilmember Musgrove commented that she will support this because of the contingency by the Planning Commission. She appreciated the resident feedback but responded to a comment that all of the Councilmembers have a connection to PACT but she does not.

Councilmember Howell commented she doesn't have any connection to PACT either. She stated she shared concerns raised by the EPB about environmental issues. She stated this is a motion to investigate how concerns can be mitigated. She stated there is a perception that Ramsey is difficult to work with. She sympathized with people on 161st Avenue but Ramsey needs a high school and this would allow the developers to due diligence to investigate the concerns.

Councilmember Riley commented he is not affiliated with the church or PACT.

Mayor Kuzma commented he grew up in Robbinsdale which had a football stadium that was in a residential area. He stated he lived half a mile from school and could hear the games from their house but they looked forward to Friday nights. There was never any complaints as far as he knew. He stated he supported going through with the planning portion of the process.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Specht, Heineman, Howell, Musgrove, and Riley. Voting No: Councilmember Woestehoff.

Motion by Councilmember Specht, seconded by Councilmember Heineman, to introduce Ordinance #22-15 to rezone a portion of the Subject Property to Public/Quasi-Public with the contingency as outlined by the Planning Commission.

Motion carried. Voting Yes: Mayor Kuzma, Councilmembers Specht, Heineman, Howell, Musgrove, and Riley. Voting No: Councilmember Woestehoff.

Senior Planner Anderson stated the ordinance will need to come back for a second reading per the Charter which will be on the agenda on March 22, 2022.

DRAFT

ORDINANCE #22-15

CITY OF RAMSEY
ANOKA COUNTY
STATE OF
MINNESOTA

AN AMENDMENT TO CHAPTER 117 WHICH IS KNOWN AS THE ZONING AND SUBDIVISIONS CHAPTER OF THE CITY CODE OF RAMSEY, MINNESOTA.

AN ORDINANCE AMENDING SECTION 117-90 "MAP" OF CHAPTER 117 OF THE CITY CODE OF RAMSEY, MINNESOTA.

SECTION 1. AMENDMENT

The following legally described property or portions thereof (as shown in Exhibit 1) are hereby rezoned from R-1 Residential (MUSA) to Public/Quasi-Public:

THE SE1/4 OF NW1/4 OF SEC 16 TWP 32 RGE 25, EX W 185 FT THEREOF, EX RD, SUBJ TO EASE OF REC, Anoka County, Minnesota

SECTION 2. MAP

The City is hereby instructed to cause this amendment to be shown on the "City of Ramsey Zoning Map", which map was adopted pursuant to Section 117-90 of the Ramsey City Code.

SECTION 3. EFFECTIVE DATE

This ordinance becomes effective 30 days after its passage and publication, subject to City Charter Section 5.04.

PASSED by the City Council of the City of Ramsey, Minnesota the ____ day of _____, 2022.

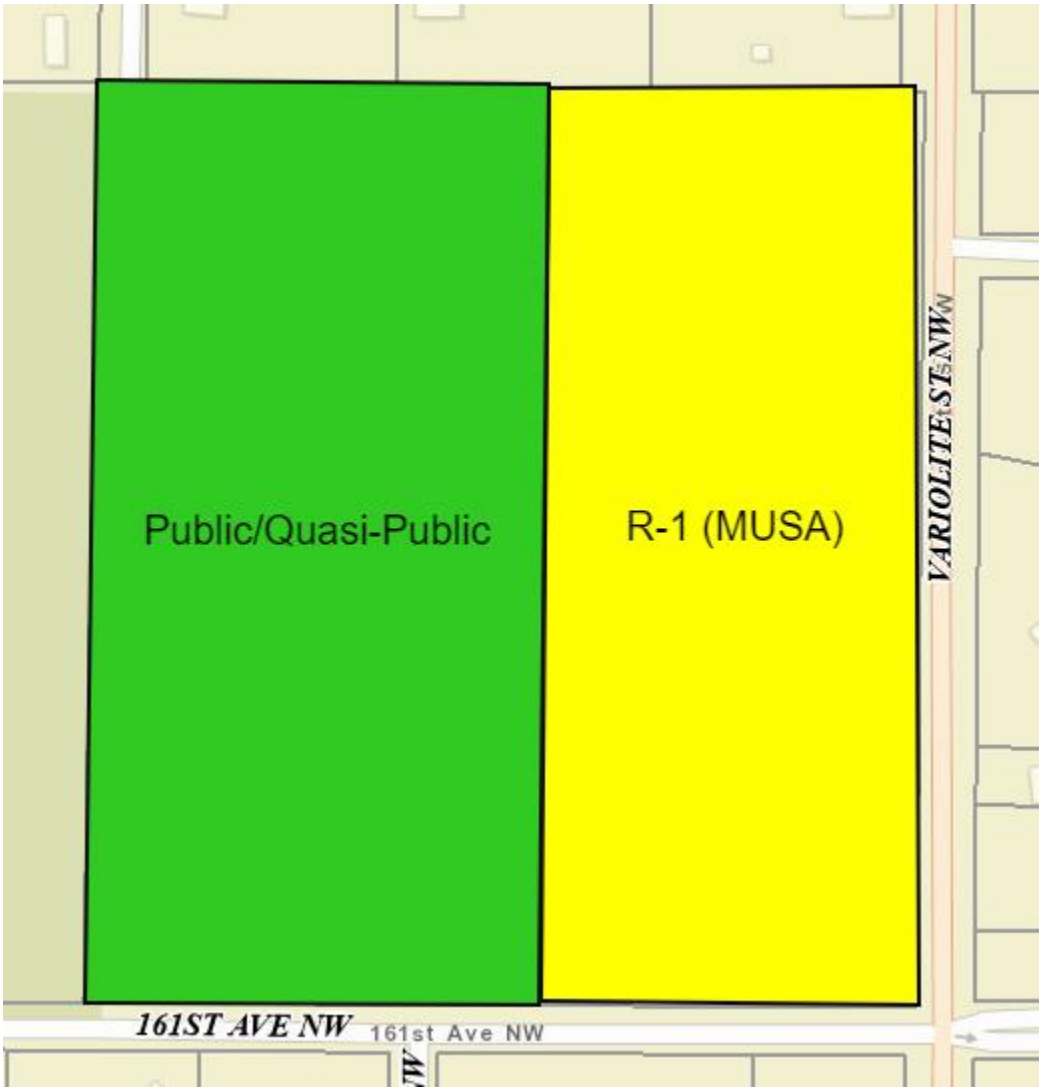
_____
Mayor

ATTEST:

_____
City Clerk

Introduction:
Posting dates:
Adoption date:
Publication date:
Effective date:

EXHIBIT 1


Public/Quasi-Public
R-1 (MUSA)
VARIOLITE ST NW
161ST AVE NW
161st Ave NW

Summary background on Loral I Armstrong Delaney Central Park and adjacent parcel to the east

March 22, 2022 City Council Meeting

Zoning:

In the 1970's into the 1980's Federal Cartridge Corporation owned a tract of land north of 161st Avenue, east of Armstrong Boulevard (80 acres), and a larger tract of land east of Variolite Street that was the site of the St. Anthony Gun Club. A zoning map dated September, 1975 identifies the site as R1 Suburban Residential. This is presumably rural residential given the other residential zoning is R-2 Urban Residential on the map.

Around 1983, 45 acres of Federal's land was given to the City, under the stipulation that it would be developed to what would become Central Park. The remaining property maintained a zoning of R-1R per a zoning map dated as of April, 1989. This is presumably rural residential given other zoning designations on the map as R-1U, R-2U and R-3U.

Other comprehensive plans and zoning maps have maintained residential designations.

Recent discussions on a proposed expansion of Central Park:

For many years while the 35 acres of land remained vacant east of Central Park, the city had expressed interest in acquiring some or all of it to expand the community park. During this period, the city purchased significant acreage of land that is now Elmcrest Park, and approximately 20 more acres of land to add to the undeveloped Lake Itasca Community Park.

Discussions with the present owner east of the park have reoccurred over the last decade and a half on potential acquisition, and included different scenarios, with none of the proposals accepted by the landowner. Late in 2020 the same landowner, St. Katherine Drexel church brought to the city a specific proposal to sell 11 acres that would abut the existing park at the east—and communicated that a residential developer intended to also purchase the same rectangular parcel. In summary, the Park and Recreation Commission received this proposal, and sought to ensure that the long, north to south parcel would all be usable for the park, in that previously about 15 acres was looked at for the potential addition to the park.

At the regular January 14th, 2021 Park and Recreation Commission meeting, the Commission discussed various aspects to the potential purchase and directed staff to prepare concepts of how the park could be expanded with proposed residential land use in a synergistic manner—in essence, 'ghost plat' the 11 acres to show both athletic field expansion, additional parking and a residential plat.

Following the Commission’s direction to ghost plat the property to see what residential land use patterns might look like, along with Park Dedication/Park Expansion, staff worked with the Owner to develop a series of land use concepts.

At the February 11, 2021 Park & Recreation Commission meeting, five alternatives were deliberated, relative to the original question on the proposed purchase of approximately 11 acres to expand Central Park (for $517,000) these were:

- Take no action at this time (formally or informally decline)
- Purchase 11 acres without a plan for the land's use
- Attempt to negotiate different terms or acreage for a purchase
- Attempt to negotiate the dedication of land to be credited against future Park Dedication
- Designate minimum expectations and goals for a park expansion to satisfy future Park Dedication obligations, to be met before or no later than the time of the subdivision of land east of the park.

By Motion, the Park & Recreation Commission's recommendation to City Council was that, “the future subdivision of land east of Loral I Armstrong Delaney Central Park include a park expansion consisting of a minimum of two new areas for flex-use athletic fields, additional public access and parking, to be considered as fulfilling Park Dedication obligations”.

CC Regular Session **7. 3.**

Meeting Date: 03/22/2022

By: Katie Schmidt, Administrative Services

Information

Title:

Adopt Ordinance #22-16 Establishing Boundary Lines for the City of Ramsey Ward System

Purpose/Background:

Following is the same background and notification that was presented for the introduction of this redistricting ordinance. For informational purposes, staff is including this same language. On February 17, 2022, the maps were released showing the redistricting of the congressional and legislative districts. The City was required to review those maps and make adjustments to its Ward and Precinct boundaries as needed based on population changes. Council is also aware that redistricting is a process that occurs every ten years following completion of the US Census.

Notification:

No notification is required at this time. The notification requirements are as follows: When a precinct boundary is reestablished or a local government election district boundary is redistricted, a detailed map showing the new precincts or districts must be posted at the locations and in the manner in items A to C. Item A pertains to municipalities, and reads as follows: For precincts and wards established by a municipality, the notice prepared by the municipal clerk must be posted in the clerk's office. The notice may be posted in other conspicuous locations in the municipality, at the discretion of the clerk. the information posted must also be made available for public inspection at the office of the county auditor.

The notices required must be posted within 72 hours after the adoption of precinct or election district boundaries. The notices must remain posted until the day following the state general election in a year ending in two.

With regard to notice to affected voters - when precinct boundaries are changed, the county auditor or municipal clerk shall notify each affected registered voter of the change at least one week prior to the state primary held after the change takes place. Following completion of the ward and precinct boundary amendments, Anoka County Elections will be sending out notification postcards to all voters within the City of Ramsey.

Time Frame/Observations/Alternatives:

The City is currently divided into four Wards. According to State Statute, each Ward shall have a balanced population with other Wards within the City. Based on the 2020 Census, the population of each Ward in the City of Ramsey *prior* to redistricting was as follows: Ward 1 = 6,275 (+3%); Ward 2 = 7,007 (+20%); Ward 3 = 7,902 (+36%); and Ward 4 = 6,462 (+9%). The total City of Ramsey population based on the 2020 census is 27,646. The percentages indicate the percent of growth since the 2012 census.

As was noted to Council at the February 22, 2022 work session meeting, for Census and redistricting purposes, the City is divided into smaller geographic areas known as Census Blocks that are used to summarize population and act as boundary lines for Districts and Wards. Staff prepared an amended Ward Map that balances population with minimal geographic change and follows major transportation corridors.

The current population of each Ward based on the amended Ward Map introduced on March 8, 2022, is as follows: Ward 1 = 6,836; Ward 2 = 6,901; Ward 3 = 6,791; and Ward 4 = 7,118.

The ordinance establishing the Ward lines was presented for introduction at the March 8, 2022 Council meeting.

Council voted to introduce the ordinance as presented, and that ordinance, along with the map, is attached for Council adoption. Also included, for informational purposes, is the map showing the comparison of the old and new ward boundaries.

Funding Source:

Not applicable

Recommendation:

Staff recommends Council adopt the attached ordinance establishing boundary lines for the City of Ramsey Ward system.

Outcome/Action:

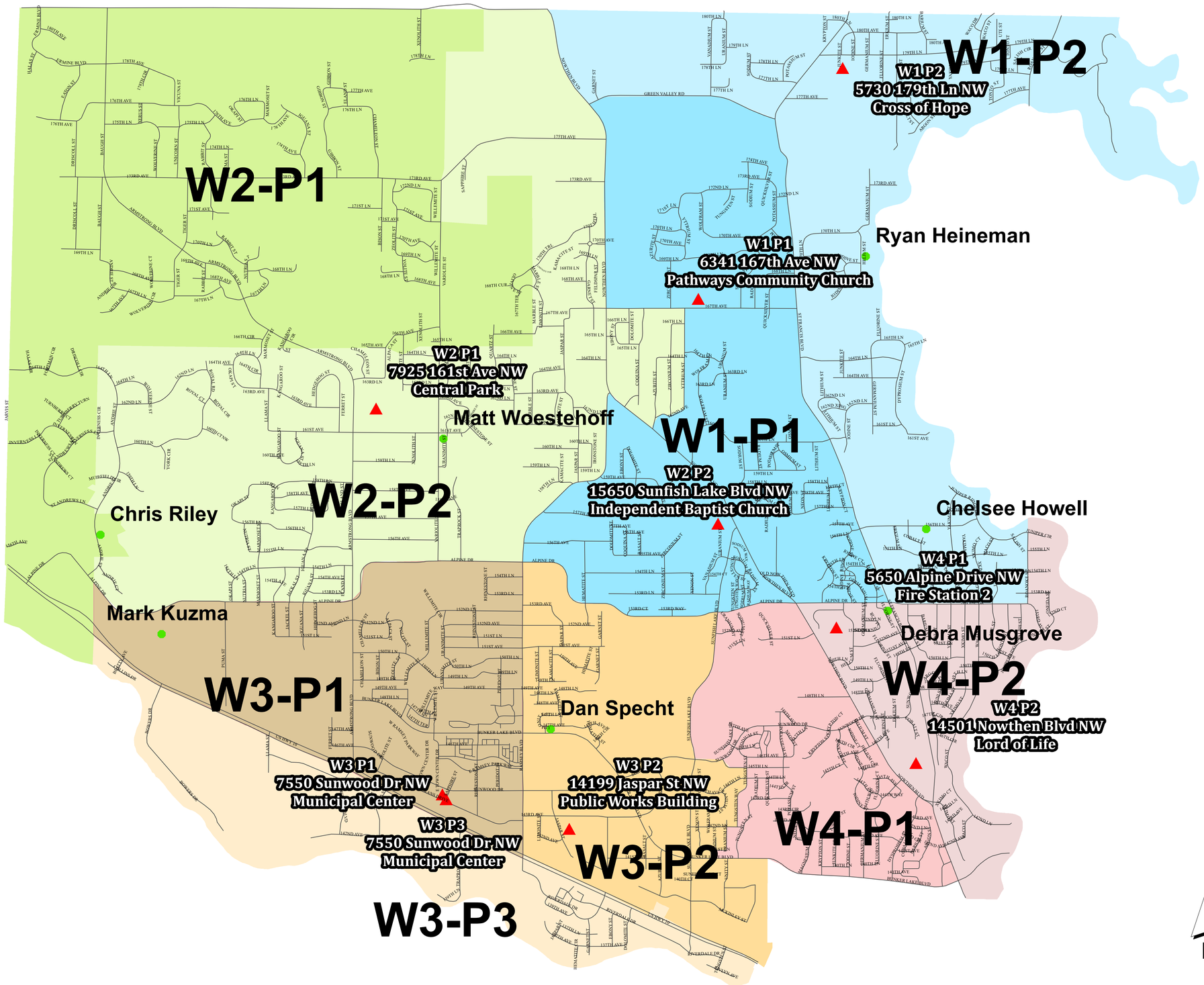
Motion to waive the City's Charter requirement to read the Ordinance aloud and to adopt Ordinance #22-16 Establishing Boundary Lines for the City of Ramsey Ward System.

Attachments

2022 Ward Map
2012 lines vs 2022 lines
Ord #22-16

Form Review

Inbox	Reviewed By	Date
Colleen Lasher	Colleen Lasher	03/17/2022 02:34 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:51 PM
Form Started By: Katie Schmidt		Started On: 03/03/2022 08:39 AM
Final Approval Date: 03/17/2022		



City of RAMSEY

PRECINCT BOUNDARIES & POLLING LOCATIONS
Redistricting Plan

March 17, 2022

Proposed Polling Locations and Precinct Boundaries

Legend

- Polling Locations
- Council

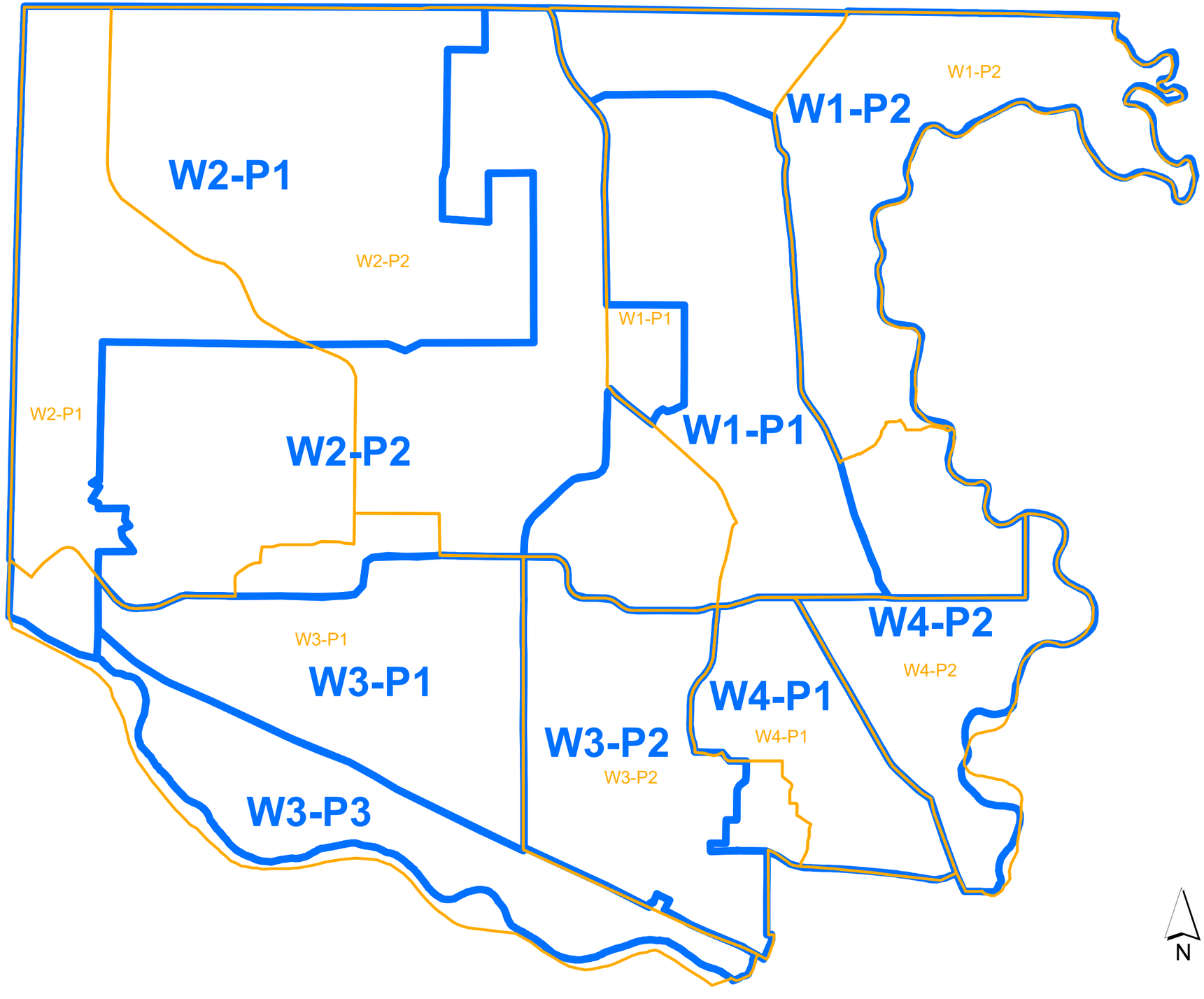
PRECINCT

- W1-P1
- W1-P2
- W2-P1
- W2-P2
- W3-P1
- W3-P2
- W3-P3
- W4-P1
- W4-P2

Population
Ward 1 = 6,836 (-1.1%)
Ward 2 = 6,901 (-0.2%)
Ward 3 = 6,791 (-1.8%)
Ward 4 = 7,118 (+3.0%)

This map has been compiled using information gathered from various governmental offices and other sources and is to be used for reference purposes only. It is neither a legally recorded map nor a survey and is not intended for use as one. The Geographic Information System (GIS) data used to develop this map is not warranted by the City as being error-free. The City does not represent that the GIS data can be used for exact measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found, please contact (763) 427-1410.

The City of Ramsey disclaims any responsibility or liability for the accuracy of the information at any point of initial contact with a GIS to which the public has general access. The preceding disclaimer is provided pursuant to Minnesota Statute 466.03, Subd. 21 (2000), and the user of this map acknowledges that the City of Ramsey is immune from any and all claims brought by User, its employees or agents, or third parties which rise out of the user's access of the data.



City of RAMSEY

PRECINCT BOUNDARIES
Wards/ Precincts 2012 vs. Wards/ Precincts 2020

March 17, 2022
Proposed Polling Locations and Precinct Boundaries

Legend

Wards_Precincts 2012

Wards_Precincts_2022

Population
Ward 1 = 6,836 (-1.1%)
Ward 2 = 6,901 (-0.2%)
Ward 3 = 6,791 (-1.8%)
Ward 4 = 7,118 (+3.0%)

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ORDINANCE #22-16

CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

AN ORDINANCE ESTABLISHING BOUNDARY LINES FOR THE CITY OF RAMSEY WARD SYSTEM

The City Council of the City of Ramsey, Minnesota ordains:

SECTION 1. PURPOSE.

It is the purpose of this ordinance to re-establish the boundary lines for the Wards located within the City of Ramsey as per the Minnesota Redistricting Process. The four wards are as equal in population as is practicable with each ward being composed of compact contiguous territory. Changes occur in all four Wards.

Ward Descriptions. Following is the legal description of each ward.

WARD 1: The boundary of Ward 1 is described as follows:

Beginning at the intersection of Nowthen Boulevard NW (CSAH #5) and 181st Avenue NW (County Road #64). Thence following Nowthen Boulevard NW (CSAH #5) in a southern direction to the intersection of 167th Avenue NW. Thence following 167th Avenue NW east to the intersection of Yttrium Street NW. Thence following Yttrium Street NW south to the transition to 162nd Avenue NW and continuing to the intersection with Azurite Street NW. Thence following Azurite Street NW to the intersection of Nowthen Boulevard NW (CSAH #5). Thence following Nowthen Boulevard NW (CSAH #5) northwest to the intersection of Ramsey Boulevard NW (CSAH #56). Thence following Ramsey Boulevard NW (CSAH #56) south to the intersection of Alpine Drive NW. Thence following Alpine Drive NW easterly to the intersection of Roanoke Street NW and Alpine Drive NW. Thence following Roanoke Street NW northerly to the intersection of Juniper Ridge Drive NW and Roanoke Street NW. Thence northerly along the east property line of Lot 11, Block 1, of Reilley Estates (said property address 15637 Juniper Ridge Drive NW) to the eastern City limits (Rum River). Thence following the Rum River upstream in a northerly direction to the north City limits. Thence following the north City limits in a westerly direction to point of beginning.

See attached City Map showing graphically the boundaries of WARD 1.

WARD 2: The boundary of Ward 2 is described as follows:

Beginning at the intersection of the north and west City limits lines, thence easterly along the north City limits to the intersection of Nowthen Boulevard NW (CSAH #5) and 181st Avenue NW (County Road #64). Thence following Nowthen Boulevard NW (CSAH #5) in a southern direction to the intersection of 167th Avenue NW. Thence following 167th Avenue NW east to the intersection of Yttrium Street NW. Thence following Yttrium Street NW south to the transition to 162nd Avenue NW and continuing to the intersection with Azurite Street NW. Thence following Azurite Street NW to the intersection of Nowthen Boulevard NW (CSAH #5). Thence following Nowthen Boulevard NW (CSAH #5) northwest to the intersection with Ramsey Boulevard NW (CSAH #56). Thence following Ramsey Boulevard NW (CSAH #56) south to the intersection of Alpine Drive NW. Thence following Alpine Drive NW westerly to the intersection with the southerly extension of the east property line of 9190 Andrie Court NW and Alpine Drive NW. Thence along a line bearing due South to the intersection with the southerly boundary of the City which is the Mississippi River, this point being on the lot of 9150 Highway #10 NW. Thence northwesterly along the Mississippi River to the west limits. Thence following the west City limits north to the point of beginning.

See attached City Map showing graphically the boundaries of WARD 2.

WARD 3: The boundary of Ward 3 is described as follows:

Beginning at the intersection of east boundary of Ward 2 and the Mississippi River, said point being in the lot of 9150 Highway 10, Thence north along the east line of Ward 2 to Alpine Drive NW, said point being the intersection of Alpine Drive NW and the extension of the east line of 9170 Andrie Street NW. Thence easterly along Alpine Drive NW easterly to the intersection of Sunfish Lake Boulevard NW (CSAH #57). Thence following Sunfish Lake Boulevard NW (CSAH #57) south to the intersection of Sunwood Drive NW and Sunfish Lake Boulevard NW (CSAH #57). Thence following Sunwood Drive NW easterly to the intersection of 145th Lane NW and Sunwood Drive NW. Thence following 145th Lane NW easterly to the intersection of Tungsten Street NW and 145th Lane NW. Thence following Tungsten Street NW/ Tungsten Way NW south to the intersection of 142nd Lane NW and Tungsten Way NW. Thence following 142nd Land NW westerly to the intersection of Vanadium Street NW and 142nd Lane NW. Thence following Vanadium Street NW south to the intersection with Bunker Lake Boulevard (CSAH #116). Thence following Bunker Lake Boulevard (CSAH#116) east to the east line of Business Park 95 (also known as the east City limit line). Thence following the East City limit line to the southern City Limits (Mississippi River). Thence following the southern City limits west to the point of beginning.

See attached City Map showing graphically the boundaries of WARD 3.

WARD 4: The boundary of Ward 4 is described as follows:

Beginning at the intersection of Sunfish Lake Boulevard NW (CSAH #57) and Alpine Drive NW. Thence easterly along Alpine Drive NW to the intersection of Roanoke Street NW and Alpine Drive NW. Thence following Roanoke Street NW north to the intersection of Juniper Ridge Drive NW and Roanoke Street NW. Thence northerly along the east property line of Lot 11, Block 1, of Reilley Estates (said property address 15637 Juniper Ridge Drive NW) to the eastern City limits (Rum River). Thence following the Rum River downstream along the eastern City limits to the southern City limits. Thence following the southern City limits westerly to the intersection of Wolfram Street NW and Bunker Lake Boulevard Avenue NW (CSAH #116). Thence following Wolfram Street NW north to the intersection of 141st Lane NW and Wolfram Street NW. Thence following 141st Lane NW easterly to the intersection of Uranium Street NW and 141st Lane NW. Thence following Uranium Street NW northerly to the intersection of 142nd Lane NW and Uranium Street NW. Thence following 142nd Lane NW easterly to the intersection of Tungsten Way NW and 142nd Lane NW. Thence following Tungsten Way NW/ Tungsten Street NW northerly to the intersection of 145th Lane NW and Tungsten Street NW. Thence following along 145th Lane NW westerly to the intersection of Sunwood Drive NW and 145th Lane NW. Thence following along Sunwood Drive NW westerly to the intersection of Sunfish Lake Boulevard NW (CSAH #57) and Sunwood Drive NW. Thence following Sunfish Lake Boulevard NW (CSAH #57) northerly to the point of beginning.

See attached City Map showing graphically the boundaries of WARD 4.

SECTION 2. SUMMARY.

The following is the official summary of Ordinance #22-16, which has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the ordinance.

Redistricting is a process that occurs every ten years following completion of the US Census. The City of Ramsey is divided into four wards and each Ward shall have a balanced population with the other Wards within the City. To be within the recommended percentage of population and following the legislative district boundary redistricting, the lines for Wards 1, 2, 3 and 4 have been amended. A map and complete legal description of each Ward is available for viewing on the City's website at www.cityoframsey.com or is available for review at City Hall.

SECTION 3: EFFECTIVE DATE

The effective date of this ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 5.07.

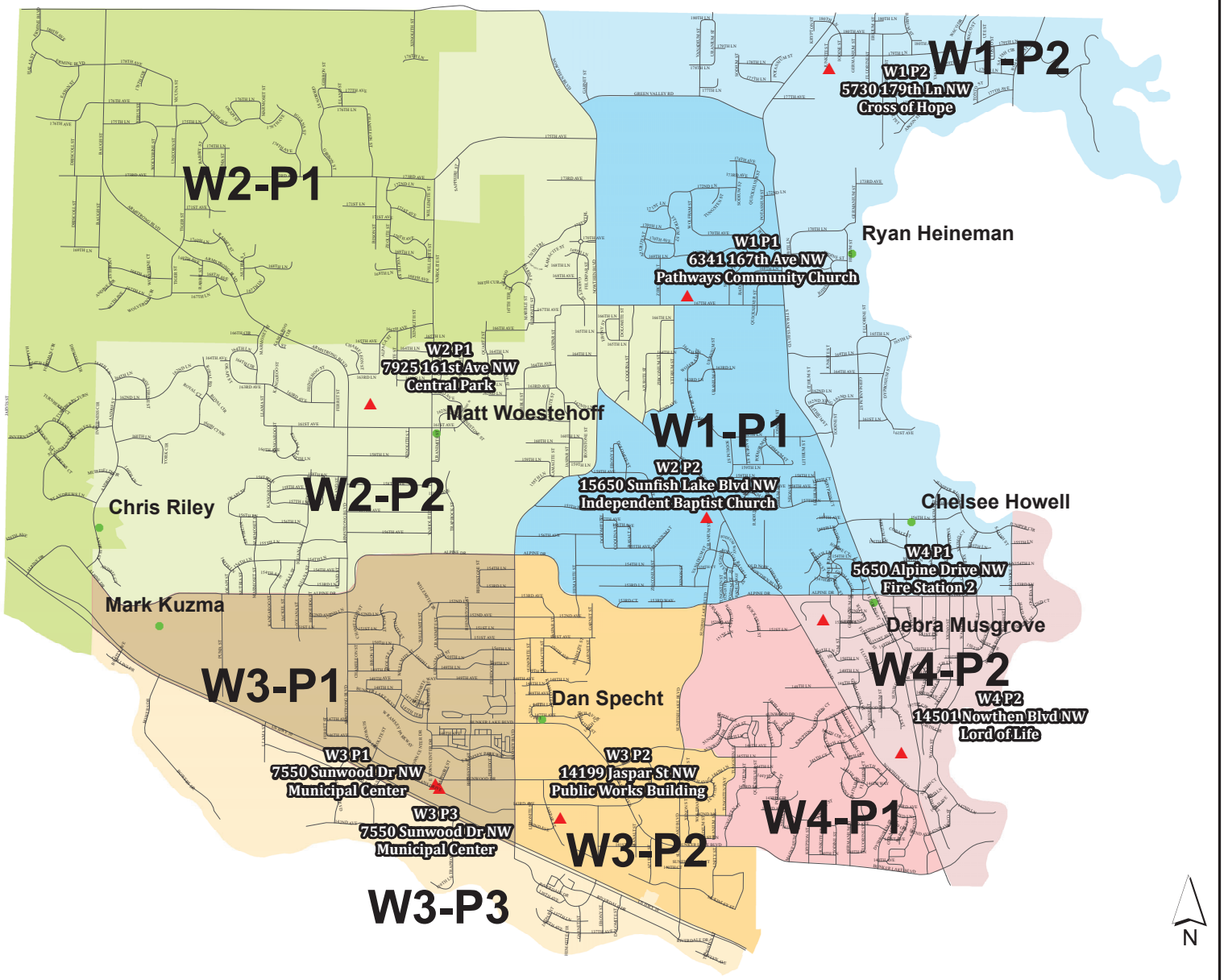
Passed by the Ramsey City Council the 22nd day of March 2022.

Mayor

ATTEST:

City Clerk

Introduction Date: March 8, 2022
Posting Dates:
Adoption Date:
Publication Date:
Effective Date:



City of RAMSEY

PRECINCT BOUNDARIES & POLLING LOCATIONS Redistricting Plan

March 17, 2022

Proposed Polling Locations and Precinct Boundaries

Legend

- Polling Locations
- Council

PRECINCT

- W1-P1
- W1-P2
- W2-P1
- W2-P2
- W3-P1
- W3-P2
- W3-P3
- W4-P1
- W4-P2

Population
Ward 1 = 6,836 (-1.1%)
Ward 2 = 6,901 (-0.2%)
Ward 3 = 6,791 (-1.8%)
Ward 4 = 7,118 (+3.0%)

This map has been compiled using information gathered from various governmental offices and other sources and is to be used for reference purposes only. It is neither a legally recorded map nor a survey and is not intended for use as one. The Geographic Information System (GIS) data used to develop this map is not warranted by the City as being error-free. The City does not represent that the GIS data can be used for exact measurement of distance or direction or precision in the depiction of geographic features.
If errors or discrepancies are found, please contact (763) 427-1410.

The City of Ramsey disclaims any responsibility or liability for the accuracy of the information at any point of initial contact with a GIS to which the public has general access. The preceding disclaimer is provided pursuant to Minnesota Statute 466.03, Subd. 21 (2000), and the user of this map acknowledges that the City of Ramsey is immune from any and all claims brought by User, its employees or agents, or third parties which rise out of the user's access of the data.

CC Regular Session **7. 4.**

Meeting Date: 03/22/2022

By: Katie Schmidt, Administrative Services

Information

Title:

Consider Resolution Establishing Precinct Boundary Lines and Polling Places for the City of Ramsey

Purpose/Background:

As part of the redistricting process, precinct lines and polling places must be re-established. Legal descriptions for all nine Precincts are included in the attached resolution.

The City's polling locations will mostly remain the same; however, staff is suggesting changing one polling location along with assigning a polling location for a newly established Precinct. What has been taken into consideration is where the new Ward, Precinct and Legislative District lines fall as well as the number of registered voters within the Precinct in comparison to the size of the polling facility. State Statues regulates how a City designates polling places as follows: The polling place for a precinct in a city or in a school district located in whole or in part in the metropolitan area, shall be located within the boundaries of the precinct or within one mile of one of those boundaries unless a single polling place is designated for a city.

Currently Ward 1 Precinct 1 votes at Pathways Community Church, located at 6341 167th Avenue NW and that will remain the same as will Ward 1 Precinct 2 which votes at Cross of Hope Church, located at 5730 179th Lane NW. Currently Ward 2 Precinct 1 votes at Park Center in Central Park, located at 7925 161st Avenue NW and that will remain the same as will Ward 2 Precinct 2 which votes at Independent Baptist Church,15650 Sunfish Lake Boulevard NW. Currently Ward 3 Precinct 1 votes at Ramsey Municipal Center, located at 7550 Sunwood Drive (Alexander Ramsey Room) and that will remain the same. Currently Ward 4 Precinct 1 votes at Ramsey Fire Station No. 2, located at 5650 Alpine Drive NW and that will remain the same as will Ward 4 Precinct 2 which votes at Lord of Life Church, located at 14501 Nowthen Boulevard NW.

Currently Ward 3 Precinct 2 votes at Ramsey Fire Station No. 1, 15050 Armstrong Blvd NW. Staff is suggesting the polling place for Ward 3 Precinct 2 be changed to the Public Works Facility, located at 14199 Jaspar Street NW. This change would bring the polling location within the boundaries of Ward 3 Precinct 2.

Based upon the previous Council work session discussion, it is recommended that the newly established Ward 3 Precinct 3, vote at Ramsey Municipal Center, 7550 Sunwood Drive NW (Lake Itasca Room).

Attached for Council information and review is a map showing the the Ward and Precinct boundaries as well as the polling locations, current and proposed. Also attached is a map showing the one mile radius area for polling places.

Notification:

The notification requirements are as follows: When a precinct boundary is reestablished or a local government election district boundary is redistricted, a detailed map showing the new precincts or districts must be posted at the locations and in the manner in items A to C. Item A pertains to municipalities, and reads as follows: For precincts and wards established by a municipality, the notice prepared by the municipal clerk must be posted in the clerk's office. The notice may be posted in other conspicuous locations in the municipality, at the discretion of the clerk. The information posted must also be made available for public inspection at the office of the county auditor. Staff will post the maps and information on the Public Notice Board in the lobby of City Hall. Staff will also send all notices to the County Auditor and the Secretary of State offices.

The notices required must be posted within 72 hours after the adoption of precinct or election district boundaries.

The notices must remain posted until the day following the state general election in a year ending in two.

With regard to noticing affected voters - when precinct boundaries are changed, the county auditor or municipal clerk shall notify each affected registered voter of the change at least one week prior to the state primary held after the change takes place. Following completion of the ward and precinct boundary amendments, Anoka County Elections will be sending out notification postcards to all voters within the City of Ramsey

Funding Source:

Staff is recommending the City Council adopt the attached resolution establishing the Precinct boundary lines and the polling locations.

Recommendation:

Costs for elections are budgeted for in the Elections Section of the General Fund.

Outcome/Action:

Motion to adopt Resolution #22-060 Establishing Precinct Boundary Lines and Polling Places for the City of Ramsey

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Attachments

Resolution #22-060

Map

Form Review

Inbox	Reviewed By	Date
Colleen Lasher	Colleen Lasher	03/17/2022 01:35 PM
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:47 PM
Form Started By: Katie Schmidt		Started On: 03/03/2022 08:40 AM
Final Approval Date: 03/17/2022		

Councilmember introduced the following resolution and moved for its adoption:

RESOLUTION #22-060

RESOLUTION ESTABLISHING PRECINCT AND POLLING LOCATIONS FOR 2022 ELECTION YEAR

WHEREAS, the Legislature of the State of Minnesota has been redistricted and

WHEREAS, the City Council of the City of Ramsey has reestablished the City's Ward line boundaries by Ordinance and

WHEREAS, the voting precincts in the City must be reestablished after the Legislature has been redistricted.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) That the City of Ramsey is divided into four wards and nine precincts effective with the August 9, 2022 State Primary Election.

2) That the boundaries of the precincts are hereby established pursuant to Minnesota Statute 204.B14, subdivision 3c.

3) That the polling places of the precincts are hereby established pursuant to Minnesota Statute 204.B16.

4) That such boundaries and polling places shall be as follows:

Ward 1 Precinct 1:

Boundary: Beginning at the intersection of Nowthen Boulevard NW (CSAH #5) and Green Valley Road NW (County Road #63). Thence following Nowthen Boulevard NW (CSAH #5) in a southern direction to the intersection of 167th Avenue NW. Thence following 167th Avenue NW east to the intersection of Yttrium Street NW. Thence following Yttrium Street NW south to the transition to 162nd Avenue NW and continuing to the intersection with Azurite Street NW. Thence following Azurite Street NW to the intersection of Nowthen Boulevard NW (CSAH #5). Thence following Nowthen Boulevard NW (CSAH #5) northwest to the intersection of Ramsey Boulevard NW (CSAH #56). Thence following Ramsey Boulevard NW (CSAH #56) south to the intersection of Alpine Drive NW. Thence following Alpine Drive NW easterly to the intersection of St. Francis Boulevard (State Highway #47) and Alpine Drive NW. Thence following St. Francis Boulevard (State Highway #47) north to the intersection with Green Valley Road (County Road #63). Thence westerly along Green Valley Road (County Road #63) to the intersection with Nowthen Boulevard NW (CSAH #5), the point of beginning.

Polling Place: Pathways Community Church, 6341 167th Avenue NW

Ward 1 Precinct 2:

Boundary: Beginning at the intersection of Nowthen Boulevard NW (CSAH #5) and Green Valley Road NW (County Road #63). Thence following Green Valley Road (County Road #63) easterly to the intersection with St. Francis Boulevard (State Highway #47). Thence following St. Francis Boulevard (State Highway #47) southerly to the intersection with Alpine Drive NW. Thence easterly on Alpine Drive NW to the intersection with Roanoke Street NW. Thence following Roanoke Street NW northerly to the intersection of Juniper Ridge Drive NW and Roanoke Street NW. Thence northerly along the east property line of Lot 11, Block 1, of Reilley Estates (said property address 15637 Juniper Ridge Drive NW) to the eastern City limits (Rum River). Thence following the Rum River upstream in a northerly direction to the north City limits. Thence following the north City limits in a westerly direction to the intersection of Nowthen Boulevard NW (CSAH #5) and Green Valley Road NW (County Road #63). Thence following Nowthen Boulevard NW (CSAH #5) south to the point of beginning.

Polling Place: Cross of Hope Church, 5730 179th Lane NW

Ward 2 Precinct 1:

Boundary: Beginning at the intersection of the north and west City limits lines, thence easterly along the north City limits to the east property line of 7400 181st Avenue NW (County Road #64). Thence south along the east line of 7400 181st Avenue NW (County Road #64) to the southern line of said lot. Thence west along said lot line to south west corner of said lot. Thence continuing west along south lot line of 7600 181st Avenue NW (County Road #64) to the southwest corner of said lot. Thence south along the east plat line of Caroline Acres to the southeast corner of said plat. Thence continuing south along the east line of PID 04-32-25-31-0001 to the southeast corner of said parcel. Thence continuing south to the southeast corner of 7605 173rd Avenue NW. Thence southeasterly to the northern most point on Variolite Street NW which is on 17295 Variolite Street NW. Thence south along the east right-of-way of Variolite Street NW to the southwest corner of 17121 Variolite Street NW. Thence along the south line of 17121 Variolite Street NW to the southeast corner of said lot. Thence north along the west line of PID 09-32-25-11-0001 to northwest corner of said parcel. Thence east along north line of said parcel to the northeast corner of said parcel. Thence south along east line of said parcel to the southeast corner of said parcel. Thence south along east line of PID 09-32-25-14-0001 to the southeast corner of said parcel. Thence west along south line of said PID to the northwest corner of 7197 170th Trail NW. Thence southeasterly along west line of said lot to southwest corner of said lot. Thence crossing 170th Trail southerly to the northwest corner of 7200 170th Trail NW. Thence southerly along west property line of said lot to southwest corner of said lot. Thence southwesterly along the south line of said lot to the northwest corner of 7199 167th Terrace NW. Thence southeasterly along the west line of said lot to the southwest corner of said lot. Thence southwesterly to the southwest corner of 7209 167th Lane NW. Thence South to the northwest corner of 7218 167th Terrace NW. Thence southerly along the east line of 7224 167th Terrace NW the southeast corner of the lot. Thence west along the south line of said lot to the northwest corner of 7131 166th Avenue. Thence south along

the west line of said lot to the northeast corner of 7240 166th Avenue. Thence south along the east line of said lot to the southeast corner of 7240 166th Avenue. Thence west using the direction of the south line of this lot, continuing to the intersection of northerly extension of the west line of 9245 164th Lane NW and the extension of the south line of 7240 166th Avenue. Thence south following the extension of the west line of 9245 164th Lane NW to the northwest corner of 16150 Andrie Street NW. Thence southwest to the northwest corner of 9151 Inverness Lane NW. Thence south along the west line of 9151 Inverness Lane NW to the intersection of Inverness Lane NW and said line extended. Thence east to the northern extension of the west line of 9160 Inverness Lane NW and Inverness Lane NW. Thence south following the west line of 9160 Inverness Lane NW to the southwest corner of 9160 Muirfield Circle, this point being on the north line of 15800 Andrie Street NW. Thence northwest, southwest and southeast following the lot lines of 15800 Andrie Street NW. Thence south to a point on the south property line of 15780 Andrie Street NW. Thence northwest, southwest and southeast following the lot lines of 15760 Andrie Street NW to the southeast corner of said lot. Thence southeast to the southwest corner of 15751 Andrie Street NW. Thence southeast along the south lot line to the southeast corner of said lot. Thence following the meandered edge of Lake Itasca south to the southeast corner of 15551 Andrie Street NW. Thence westerly along the south lot line of said lot to Andrie Street NW. Thence south to the northwest corner of 9190 Andrie Court NW. Thence south following the north and east lines of said lot to Alpine Drive. Thence south to the intersection of the east line of Ward 2 and the City limit Mississippi River. Thence following the southern City limit and the western City Limit west and north to the point of beginning.

Polling Place: Park Center Building at Central Park, 7925 161st Avenue NW

Ward 2 Precinct 2:

Boundary: Beginning at the intersection of 181st Avenue NW (County Road #64), the northern City limit and Nowthen Boulevard (CSAH #5), thence west on 181st Avenue NW (County Road #64) to the east property line of 7400 181st Avenue NW (County Road #64). Thence south along the east line of 7400 181st Avenue NW (County Road #64) to the southern line of said lot. Thence west along said lot line to south west corner of said lot. Thence continuing west along south lot line of 7600 181st Avenue NW (County Road #64) to the southwest corner of said lot. Thence south along the east plat line of Caroline Acres to the southeast corner of said plat. Thence continuing south along the east line of PID 04-32-25-31-0001 to the southeast corner of said parcel. Thence continuing south to the southeast corner of 7605 173rd Avenue NW. Thence southeasterly to the northern most point on Variolite Street NW which is on 17295 Variolite Street NW. Thence south along the east right-of-way of Variolite Street NW to the southwest corner of 17121 Variolite Street NW. Thence along the south line of 17121 Variolite Street NW to the southeast corner of said lot. Thence north along the west line of PID 09-32-25-11-0001 to northwest corner of said parcel. Thence east along north line of said parcel to the northeast corner of said parcel. Thence south along east line of said parcel to the southeast corner of said parcel. Thence south along east line of PID 09-32-25-14-0001 to the southeast corner of said parcel. Thence west along south line of said PID to the northwest corner of 7197 170th Trail NW. Thence southeasterly along west line of said lot to southwest corner of said lot. Thence crossing 170th Trail southerly to the northwest corner of 7200 170th Trail NW. Thence southerly along west property line of said lot to southwest

corner of said lot. Thence southwesterly along the south line of said lot to the northwest corner of 7199 167th Terrace NW. Thence southeasterly along the west line of said lot to the southwest corner of said lot. Thence southwesterly to the southwest corner of 7209 167th Lane NW. Thence South to the northwest corner of 7218 167th Terrace NW. Thence southerly along the east line of 7224 167th Terrace NW the southeast corner of the lot. Thence west along the south line of said lot to the northwest corner of 7131 166th Avenue. Thence south along the west line of said lot to the northeast corner of 7240 166th Avenue. Thence south along the east line of said lot to the southeast corner of 7240 166th Avenue. Thence west using the direction of the south line of this lot, continuing to the intersection of northerly extension of the west line of 9245 164th Lane NW and the extension of the south line of 7240 166th Avenue. Thence south following the extension of the west line of 9245 164th Lane NW to the northwest corner of 16150 Andrie Street NW. Thence southwest to the northwest corner of 9151 Inverness Lane NW. Thence south along the west line of 9151 Inverness Lane NW to the intersection of Inverness Lane NW and said line extended. Thence east to the northern extension of the west line of 9160 Inverness Lane NW and Inverness Lane NW. Thence south following the west line of 9160 Inverness Lane NW to the southwest corner of 9160 Muirfield Circle, this point being on the north line of 15800 Andrie Street NW. Thence northwest, southwest and southeast following the lot lines of 15800 Andrie Street NW. Thence south to a point on the south property line of 15780 Andrie Street NW. Thence northwest, southwest and southeast following the lot lines of 15760 Andrie Street NW to the southeast corner of said lot. Thence southeast to the southwest corner of 15751 Andrie Street NW. Thence southeast along the south lot line to the southeast corner of said lot. Thence following the meandered edge of Lake Itasca south to the southeast corner of 15551 Andrie Street NW. Thence westerly along the south lot line of said lot to Andrie Street NW. Thence south to the northwest corner of 9190 Andrie Court NW. Thence south following the north and east lines of said lot to Alpine Drive. Thence east on Alpine Drive NW to the intersection of Ramsey Boulevard NW (CSAH #56) and Alpine Drive NW. Thence north on Ramsey Boulevard NW (CSAH 56) to the intersection of Sunfish Lake Boulevard (CSAH #57) and Ramsey Boulevard NW (CSAH #56). Thence southeast along Nowthen Boulevard NW (CSAH 5) to the intersection of Azurite Street NW and Nowthen Boulevard NW (CSAH #5). Thence following Azurite Street NW northeast to the intersection of 162nd Avenue NW and Azurite Street NW. Thence following 162nd Avenue NW northeast to the intersection of Yttrium Street NW and 162nd Avenue NW. Thence following Yttrium Street NW north to the intersection of 167th Avenue NW and Yttrium Street NW. Thence following 167th Avenue NW west to the intersection of Nowthen Boulevard NW (CSAH #5) and 167th Avenue NW. Thence following Nowthen Boulevard NW (CSAH #5) north to the point of beginning.

Polling Place: Independent Baptist Church, 15650 Sunfish Lake Boulevard NW

Ward 3 Precinct 1:

Boundary: Beginning at the intersection of Alpine Drive NW and the extension of the east line of 9170 Andrie Street NW. Thence easterly along Alpine Drive NW to the intersection of Ramsey Boulevard NW (CSAH #56) and Alpine Drive NW. Thence south along Ramsey Boulevard NW (CSAH #56) to the intersection of US Highway #10 NW and Ramsey Boulevard NW (CSAH #56).

Thence northwest along US Highway #10 NW to the intersection with the west line of Ward 3 and US Highway #10 NW. Thence north along the west line of Ward 3 to the point of beginning.

Polling Place: Ramsey Municipal Center – Alexander Ramsey Room, 7550 Sunwood Drive NW

Ward 3 Precinct 2:

Boundary: Beginning at the intersection of Alpine Drive NW and Ramsey Boulevard NW (CSAH #56), thence east on Alpine Drive NW to the intersection of Sunfish Lake Boulevard NW (CSAH #57).and Alpine Drive NW. Thence southerly along Sunfish Lake Boulevard NW (CSAH #57).to the intersection of Sunwood Drive NW and Sunfish Lake Boulevard NW (CSAH #57). Thence east following Sunwood Drive NW to the intersection of 145th Lane NW and Sunwood Drive NW. Thence following 145th Lane NW easterly to the intersection of Tungsten Street NW and 145th Lane NW. Thence following Tungsten Street NW/ Tungsten Way NW south to the intersection of 142nd Lane NW and Tungsten Way NW. Thence following 142nd Land NW westerly to the intersection of Vanadium Street NW and 142nd Lane NW. Thence following Vanadium Street NW south to the intersection with Bunker Lake Boulevard (CSAH #116). Thence following Bunker Lake Boulevard (CSAH#116) east to the east line of Business Park95 (also known as the east City limit line). Thence following the east City Limit south to the intersection of US Highway 10 NW and the east City limit line. Thence following the US Highway #10 NW westerly to the intersection with the Oak Terrace Estates drive between units 701 and 802. Thence northeast on this drive to the northern property line of Oak Terrace Estates. Thence northwest along the north property line to the intersection of the north property line and the west drive that passes between units 116 and 206. Thence southwesterly on the western drive in Oak Terrace Estates to the intersection with US Highway #10 NW and this drive. Thence northwesterly along US Highway #10 NW to the intersection of Ramsey Boulevard NW (CSAH #56). Thence north following Ramsey Boulevard NW (CSAH #56) to the intersection of Alpine Drive NW and Ramsey Boulevard NW (CSAH #56), the point of beginning.

Polling Place: Ramsey Public Works Building, 14199 Jaspar Street NW

Ward 3 Precinct 3:

Boundary: Beginning at the intersection of the east boundary of Ward 3 and US Highway 10 NW, thence east on US Highway #10 NW to the west entrance to Oak Terrace Estates, said entrance is between units 002 and 101 of Oak Terrace Estates; Thence northeast to the north property line of Oak Terrace Estates, units 002, 201 - 206 are on the east side of this line. Thence east parallel to US Highway 10 NW to the drive between units 711 and 811. Thence southwesterly along this drive to the intersection with US Highway #10 NW and this drive, this drive is between units 701-.711 on the west side and units 802-811 on the east side. Thence southeast along US Highway #10 NW to the intersection with the east City limits, said line being the northerly extension of the west line of 6058 Highway #10 NW. Thence south on this line to the southern City limits which is the Mississippi River. Thence northwesterly along the Mississippi River to the point of beginning.

Polling Place: Ramsey Municipal Center – Lake Itasca Room, 7550 Sunwood Drive NW

Ward 4 Precinct 1:

Boundary: Beginning at the intersection of Sunfish Lake Boulevard NW (CSAH #57) and Alpine Drive NW. Thence easterly along Alpine Drive NW to the intersection of Alpine Drive NW and Nowthen Boulevard NW (CSAH #5). Thence southerly along Nowthen Boulevard NW (CSAH #5) to the intersection of Bunker Lake Boulevard (CSAH #116) and Nowthen Boulevard NW (CSAH #5) which is the southern City limit. Thence following the Bunker Lake Boulevard (CSAH #116), the southern City limit to the east line of Business Park 95. Thence continuing to follow Bunker Lake Boulevard (CSAH #116) west to the intersection of Wolfram Street NW and Bunker Lake Boulevard (CSAH #116). Thence following Wolfram Street NW north to the intersection of 141st Lane NW and Wolfram Street NW. Thence following 141st Lane NW easterly to the intersection of Uranium Street NW and 141st Lane NW. Thence following Uranium Street NW northerly to the intersection of 142nd Lane NW and Uranium Street NW. Thence following 142nd Lane NW easterly to the intersection of Tungsten Way NW and 142nd Lane NW. Thence following Tungsten Way NW/ Tungsten Street NW northerly to the intersection of 145th Lane NW and Tungsten Street NW. Thence following along 145th Lane NW westerly to the intersection of Sunwood Drive NW and 145th Lane NW. Thence following along Sunwood Drive NW westerly to the intersection of Sunfish Lake Boulevard NW (CSAH #57) and Sunwood Drive NW. Thence Sunfish Lake Boulevard NW (CSAH #57) north to the intersection of Sunfish Lake Boulevard NW (CSAH #57) and Alpine Drive NW, the point of beginning.

Polling Place: Ramsey Fire Station No. 2, 5650 Alpine Drive NW

Ward 4 Precinct 2:

Boundary: Beginning at the intersection of Nowthen Boulevard NW (CSAH #5) and Alpine Drive NW. Thence easterly along Alpine Drive NW to the intersection of Roanoke Street NW and Alpine Drive NW. Thence following Roanoke Street NW north to the intersection of Juniper Ridge Drive NW and Roanoke Street NW. Thence northerly along the east property line of Lot 11, Block 1, of Reilley Estates (said property address 15637 Juniper Ridge Drive NW) to the eastern City limits (Rum River). Thence following the Rum River downstream along the eastern City limits to the southern City limits. Thence following the Southern City limits west to St. Francis Boulevard (State Highway #47). Thence following St. Francis Boulevard (State Highway #47) north to the intersection of Nowthen Boulevard NW (CSAH #5) and (State Highway #47). Thence following Nowthen Boulevard NW (CSAH #5) northwesterly to the intersection of Alpine Drive and Nowthen Boulevard NW (CSAH #5), the point of beginning.

Polling Place: Lord of Life Church, 14501 Nowthen Boulevard NW

Attached to this resolution is a map showing said precincts and the location of each polling place.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember , and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

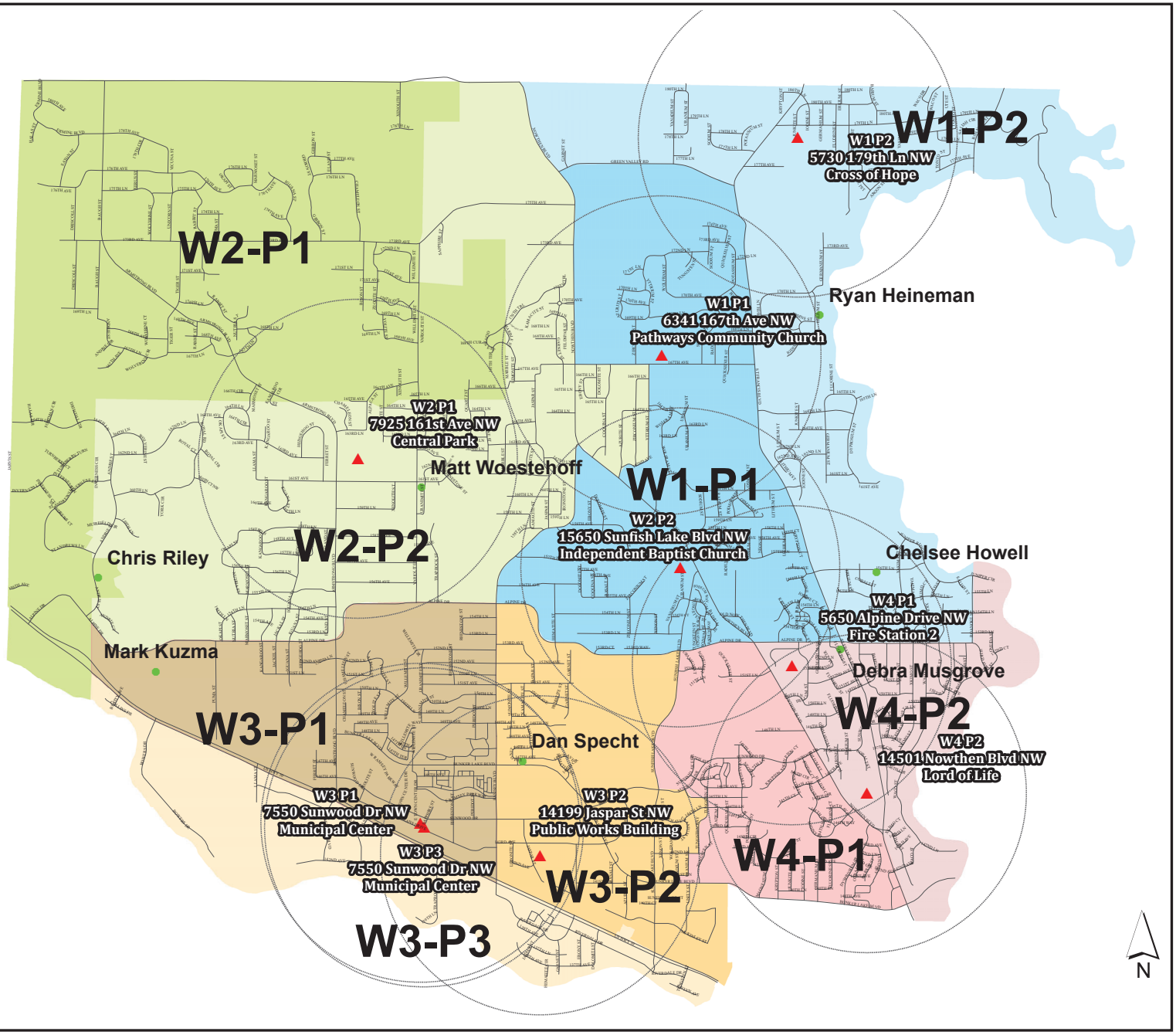
and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

City Clerk



City of RAMSEY

PRECINCT BOUNDARIES & POLLING LOCATIONS
Redistricting Plan

March 17, 2022

Proposed Polling Locations and Precinct Boundaries

Legend

- Polling Locations
- Council
- Polls 1 Mile Buffer

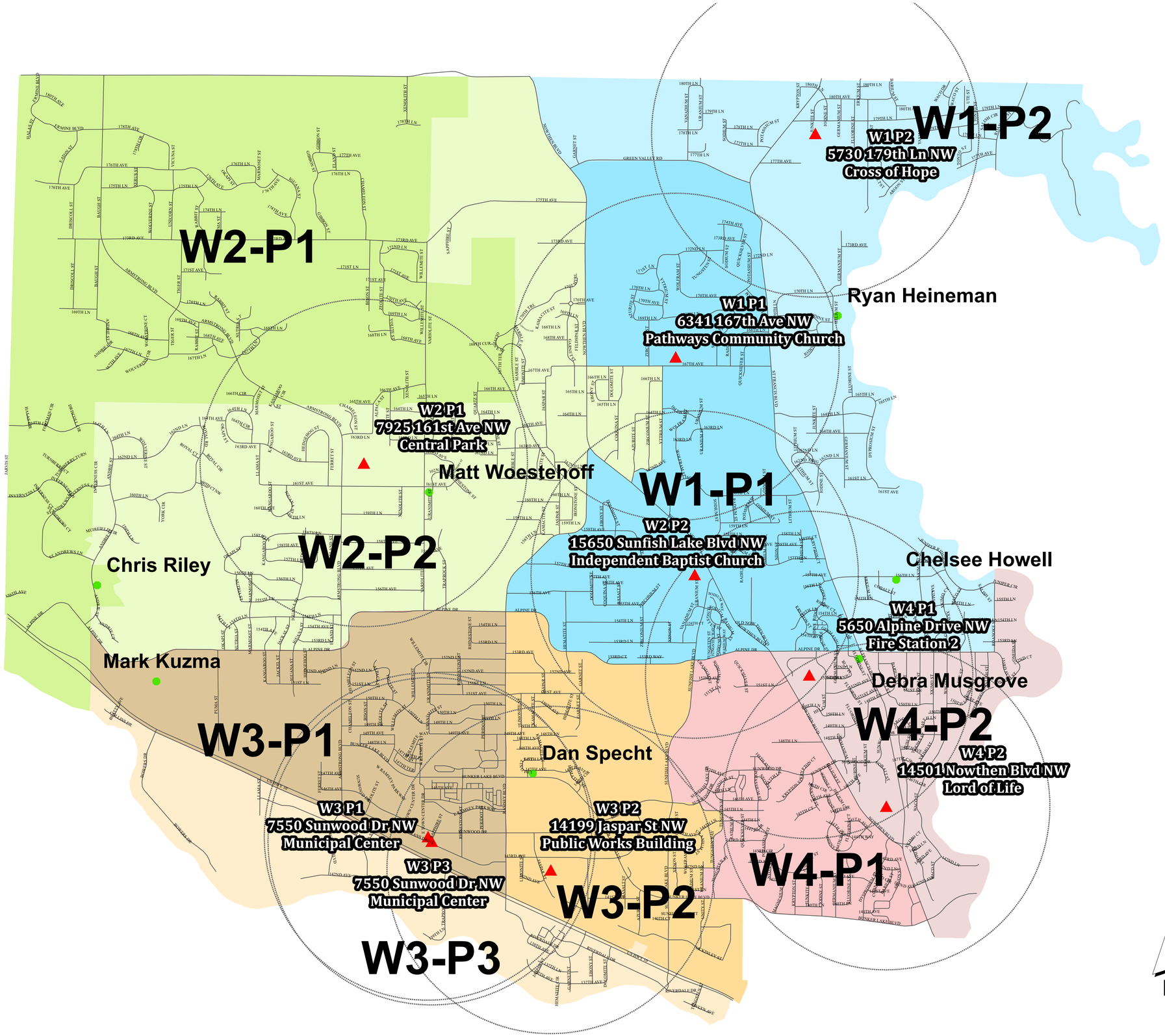
PRECINCT

- W1-P1
- W1-P2
- W2-P1
- W2-P2
- W3-P1
- W3-P2
- W3-P3
- W4-P1
- W4-P2

Population
Ward 1 = 6,836 (-1.1%)
Ward 2 = 6,901 (-0.2%)
Ward 3 = 6,791 (-1.8%)
Ward 4 = 7,118 (+3.0%)

This map has been compiled using information gathered from various governmental offices and other sources and is to be used for reference purposes only. It is neither a legally recorded map nor a survey and is not intended for use as one. The Geographic Information System (GIS) data used to develop this map is not warranted by the City as being error-free. The City does not represent that the GIS data can be used for exact measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found, please contact (763) 427-1410.

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City of RAMSEY

PRECINCT BOUNDARIES & POLLING LOCATIONS
Redistricting Plan

March 17, 2022

Proposed Polling Locations and Precinct Boundaries

Legend

- Polling Locations
- Council
- Polls 1 Mile Buffer

PRECINCT

- W1-P1
- W1-P2
- W2-P1
- W2-P2
- W3-P1
- W3-P2
- W3-P3
- W4-P1
- W4-P2

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CC Regular Session **7. 5.**

Meeting Date: 03/22/2022

By: Colleen Lasher, Administrative Services

Information

Title:

City Attorney Report

Purpose/Background:

The City Attorney was directed at the March 8 regular Council meeting to report back to the Council regarding concerns raised by the Council about the most recent Charter Commission recruitment process. This case will be updated once a report is received from the City Attorney.

Please Note: Attachment was handed out at the 03/22/22 City Council meeting and attached to the case on 03/23/22.

Notification:

NA

Time Frame/Observations/Alternatives:

The City Attorney is expected to provide a report by Tuesday March 22. The report will be attached to this case upon receipt.

Funding Source:

NA

Recommendation:

Based upon the City Attorney's recommendation.

Outcome/Action:

Based upon the City Attorney's recommendation.

Attachments

Ltr from City Attorney

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:41 PM
Form Started By: Colleen Lasher		Started On: 03/15/2022 12:01 PM
Final Approval Date: 03/17/2022		

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**Also Licensed in Iowa, Federal Court of Claims, & US Court of Appeals Washington, D.C.

HKB LAW, P.A.

Of Counsel
Thomas M. Dailey, P.A.
(1943-2015)
Wayne B. Holstad**

Paralegal
BethAnn Hanson
bhanson@klaw.us

March 22, 2022

Mr. Kurt Ulrich
City Administrator, City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

RE: ***Investigation of Staff Actions Related to Charter Commissioner Membership Openings and Applications***

Dear Mr. Ulrich:

At the last Council meeting I was asked to undertake an investigation into the methods and practices of the staff in dealing with the most recent vacancies on the City Charter Commission. In particular, I was asked to examine the issue of whether there were any improprieties or irregularities in the manner in which the public announcement of the vacancies occurred, in addition to the process by which the names were placed before the Chief Judge.

In making my investigation, I have discussed the issues raised with various individuals directly involved in the matter, as well as reviewing correspondence and the public record of what occurred, including the comments made in the public meeting and various emails. Much of the focus of the inquiry was assisted by the questions of Councilmember Howell, some 22 in number, and the responses of the City clerk. I have appended that inquiry and the answers given to this response and would incorporate them by reference as part of this report and identified it as Exhibit 1.

In addition, Councilmember Howell subsequently provided a much more extensive list of follow-up questions that arrived too late to be responded to immediately by staff but were

Telephone: (651) 490-9078 | Facsimile: (651) 490-1580
4501 Allendale Drive | St. Paul, MN 55127

nonetheless very helpful in focusing the inquiry further on the obvious areas of concern to the Council members who had raised these issues.

The statutory framework for the selection of Charter Commission members is Minnesota Statute §410.05. A copy of that statute is appended as Exhibit 2.

Here, based on my review of the foregoing, are the central

FACTS

1. Under Minnesota Statute 410.05, appointments to a charter commission in Minnesota are a matter exclusively in the discretion of the Chief Judge of the judicial district in which the charter city is located. Anoka County is in the tenth judicial district in Minnesota.

2. Charter commission members serve four years term " and until their successors are appointed and qualify" unless they no longer wish or are able to serve, in which case the vacancy is filled by a new appointment. Only the Chief Judge has the authority, by written order, to remove a serving charter commission member from office. The law requires such an order to state the reason for the removal. Upon the expiration of a term, the Chief Judge has 60 days in which to either appoint new commissioners or reappoint existing commissioners.

3. The only responsibility given to a city council under the statute, whose role is not mandatory, is to "submit to the court the names of eligible nominees which the court may consider in making appointments….". The Chief Judge is not required, under the statute, to appoint only those individuals who were submitted by a city council. The Chief Judge's office had indicated that some city's actually recommend individuals for membership to the charter commission. The City of Ramsey has never done so nor does the statute even suggest, much less require that practice.

4. The City of Ramsey has, for many years, had in place a policy governing the manner in which commissions and boards of the city are to be selected. That policy very specifically does not govern the selection of charter commission members.

5. There does not appear to have ever been a separate policy governing the manner in which charter commission vacancies and applications were to be handled by the City. The City's staff was left to its own judgement and direction on the matter.

6. The staff only became aware of the pending vacancies late in October of 2021. That left a total of four months for the appointments to be made if done within the 60-day time frame contemplated by the statute. As a practical matter, there would be no vacancies where a commission seat would be unfilled as the terms only expire when the subsequent appointment occurs.

7. Multiple announcements were made of the vacancies in a variety of formats, which resulted in six applications being made by individuals seeking the appointment. This number was significantly higher than in past years, indicating some degree of success in the effort undertaken, as well as interest in the openings.

8. While the staff has stated that other notice or publication possibilities were missed, largely through inadvertence, this judgement was largely retrospective in character. I have been made aware, in my inquiry, of no one individual who subsequently expressed interest in the position and failed to learn of the vacancies through the media channels utilized by the City in the matter. There is no requirement in the statute or charter related to publication requirements.

9. I am also unaware of any accusation that the manner in which the staff solicited interest in the charter commission vacancies was motivated by inappropriate efforts to favor any group or individuals in the process. No effort, beyond forwarding the names of all those who had applied, appears to have been made to influence outcomes in any way.

10. The Chief Judge made the most recent appointments to the charter commission without any consultation with the City or its staff.

Based upon the above determinations, I've reached the following key

CONCLUSIONS:

1. No improper conduct or culpable negligence occurred in the manner in which this issue was dealt with by the City staff. No state or city standard exists which would require any different action that what was taken.

2. It is evident, in reviewing the depth and strength of the concerns raised by Council members, that a detailed policy should be adopted regarding the manner in which the City

determines charter commission vacancies, notifies the public of those vacancies and does so in a manner timely enough to provide adequate opportunity for interested members of the public to apply. This should contain "hard" deadlines enough in advance to accommodate ample public notice and the requirements of the judicial deadline. This kind of policy for charter commission selection is well within the City's authority.

3. It is possible that in order to provide sufficient time to staff and the public a charter amendment might be required mandating a minimum notice requirement for any charter commission member not seeking reappointment.

Please note that these findings and conclusions are based on the materials available to me and the time frame in which this investigation needed to be conducted. Please advise if you wish further information and work on this matter from me.

Respectfully,

Frederic W. Knaak,
City Attorney

Questions and responses regarding Charter Commission recruitment and application process

1.What has been the practice of submitting applications to the judge?
Response: They are received by the City and submitted to the judge directly.

2.Are they submitted at one time?
Response: Yes.

3.After the deadline?
Response: Yes.

4.If so, was that done here?
Response: Yes.

5.Was there even a deadline?
Response: Yes.

6.Did the city adhere to it?
Response: Yes. The letter was sent to the judge on January 24th (Monday after the deadline).

7.Who was responsible for creating the deadline?
Response: City Clerk based on the need to follow #8 below, with the concurrence of the City Administrator.

8.Was the deadline an internal decision by staff?
Response: There is a 60-day appointment process governed by statute 410.05.

9.Was the deadline legally required? If so, please provide the statute or other documentation that it was a legally required date.
Response: Yes. Sec. 410.05 MN Statutes

10. The city clerk stated that she failed to meet the deadline to publish the advertisement for Charter Commission vacancies in the Nov./Dec. Ramsey Resident. What was that deadline and when was she aware of having missed it?
Response: The Nov/Dec Ramsey Resident deadline was October 1, 2021. The City Clerk was made aware of the impending resignation of two Charter commission members on October 26, 2021, when notifications were sent for an upcoming November 17, 2021 Charter Commission Meeting.

11. What was the deadline for publication in the Jan/Feb Ramsey Resident?
Response: December 1, 2021

EXHIBIT

_____

12. What was the initial date of vacancy and the subsequent 60-day mark?
Response: Resignations were formally recognized at the November 17, 2021 Charter Commission meeting, and publicized in our official newspaper on November 19, 2021. Excerpt from Sec. 410.05 "Upon the expiration of each term, the chief judge shall appoint new or reappoint existing commission members within 60 days." The 60-day rule started on January 1, 2022. Since we were made aware of a vacancy for the next term, the recruitment was started in November 2021. The application link on the Charter Commission page was live from November 8, 2021 to January 24, 2022. We received one application on November 25, 2021, our second application came in on Saturday, January 8, 2022, the following Monday, January 10th was the first business day that we had reached enough applicants to fill the two current vacancies. We received two additional applications the morning of January 10th. That afternoon it was discussed when we should close the recruitment due to reaching sufficient applicants, we discussed adding a deadline since it was recently advertised in the Jan/Feb Ramsey Resident. As a courtesy, an end date of January 21, 2022 was listed to allow anyone who had previously seen the listing to still apply. The alternative would be pulling the application and submitting applications to the judge upon having at least two applicants to fill the two seats. We received two additional applications between January 11 and January 21, 2022. On January 11, 2022 an email was sent to the Communications and Events Coordinator to cancel the upcoming Facebook posts for the Charter Commission. There was not a request to pull or delete the current Facebook post on 1/10/22. Both the City Clerk and Deputy City Clerk were unaware that the January 10th post was mistakenly deleted, neither have access to make or edit posts on the city's Facebook page.

13. When did staff begin discussions with a councilmember regarding the possibility of applying for the Charter Commission?
Response: The City Administrator, Clerk and Deputy City Clerk were unaware of any discussion, the first notice was receiving the online application on January 10, 2022.

14. Did staff seek legal advice from anyone regarding this and if so, approximately what date(s)? If so, who did they reach out to for legal counsel?
Response: Yes, this scenario was investigated when a board and commission member applied to be on the Charter Commission in November of 2019, at that point it was determined with consultation of the City Attorney at the time, that Boards and Commission members and Council Members were able to sit on the Charter Commission. Prior to the most recent appointments, two current Boards and Commission members sat on the Charter Commission. Staff reviewed the City Charter and Statute to confirm there were no restrictions. The current City Attorney concurs with this determination.

15. Please list all dates and locations of publication for the vacancies.
Response: Charter Commission Page/Online Application live 11/8/2021-1/24/2022 at 9am
Published in the Anoka Herald Union Herald on 11/19/2021
QCTV Ad 12/29-1/21/22
Posted on the Ramsey Community Sign 12/29-1/21/22
Published in Jan/Feb RR in homes 1/4/22

Posted on Facebook 1/10/2022 & 1/20/2022
Spotlight/Newsflash Article on Website 1/18/2022-1/24/2022 @ 11:59pm

Website hits breakdown:
Website hits 11/8 to 12/31: 41 views
Website hits 1/1/22 to 1/24/22: 56 views
***No website hits on Charter Commission page from 1/22/22 to 1/24/22 (app still up and live)**
Total views 11/8/21 to 1/24/22: 97 views

16. What was the initial date that the openings were listing as available opportunities along with the application on the Charter Commission page of the city website?
Response: November 8, 2021 listed until January 24, 2022 (78 days)

17. Did staff discuss bringing the state statute allowing Councilmembers to apply and the Charter's silence on the matter to the attention of the council, or charter commission? If so, when? What was the outcome of that discussion?
Response: No.

18. Were all six applications provided to the judge?"
Response: Yes

19. When did staff become aware of openings on charter commission?
Response: Staff became aware of openings upon calling Charter Committee members to arrange a Charter Commission meeting; October 26, 2021.

20. Were there any reappointed members?
Response: Yes, there were two, plus 6 new applicants.

21. Is Facebook an official posting location?
Response: The official posting location is the City website; Facebook is used as a source for advertising.

22. What did staff do to be sure there was adequate advertisement?
Response: Staff advertised beginning November 8, as follows:

Charter Commission page
Newspaper Ad 11/19/21
RR in homes 1/4/22
QCTV Ad
Community Sign
Facebook post
Spotlight/Newsflash on website 1/18/22 to 1/24/22
Total Web hits 11/8/2021 to 1/24/2022: 97

23. Please give a history of number of applications received for charter commission.

Response: 2012: 1 Applicant – Published in Nov/Dec 2012 RR

2013: 2 Applicants – Published in Sept/Oct 2013 RR
2014: No recruitment
2015: No recruitment
2016: 1 Applicant – Published in March/April 2016 RR
2017: 2 Applicants – Published in Jan/Feb 2017 RR
2018: No recruitment
2019: 4 Applicants – Published in Nov/Dec 2019 RR
2020: No recruitment
2022: 6 Applicants – Published in Jan/Feb 2022 RR

24. Did staff purposely take actions with intent to reduce the number of applications?

Response: No.

410.05 CHARTER COMMISSION.

Subdivision 1. **Appointment.** When the district court of the judicial district in which a city is situated, deems it for the best interest of the city so to do, the court, acting through its chief judge, may appoint a charter commission to frame and amend a charter. Upon presentation of a petition requesting such action, signed by at least ten percent of the number of voters of the city, as shown by the returns of the last regular city election, or upon resolution of the governing body of the city requesting such action, the court shall appoint a charter commission. The commission shall be composed of not less than seven nor more than 15 members, each of whom shall be a qualified voter of the city. The size of the commission shall be determined within the above limits by the court, except that where the commission is appointed pursuant to a petition of the voters or resolution of the governing body of the city, the size of the commission shall be as specified in such petition or resolution. Any city may by charter provision fix the size of the charter commission at a figure which shall not be less than seven nor more than 15 members, and such charter provision shall prevail over any inconsistent provisions of this subdivision. Except as otherwise provided in the charter, no person shall be disqualified from serving on a charter commission by reason of holding any other elective or appointive office other than judicial. The charter may provide that members of the governing body of the city cannot serve on the charter commission.

Subd. 2. **Commission members; terms, vacancies.** Charter commission members shall hold office for the term of four years, and until their successors are appointed and qualify, except that of members initially appointed after July 1, 1967, eight shall be appointed for two-year terms and seven for four-year terms. Vacancies in the commission shall be filled by appointment of the chief judge for the unexpired terms. Upon the expiration of each term, the chief judge shall appoint new or reappoint existing commission members within 60 days. Appointments shall be made by order filed with the court administrator of the district court. An appointee who neglects to file with the court administrator within 30 days a written acceptance and oath of office shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. The charter commission, within 30 days after the initial appointment of the commission, shall make rules, including quorum requirements, with reference to its operations and procedures. The commission shall submit to the chief judge of the district court, on or before December 31 of each year, an annual report outlining its activities and accomplishments for the preceding calendar year. The commission shall forward a copy of the report to the clerk of the city. Any member may be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order. When any member has failed to perform the duties of office and has failed to attend four consecutive meetings without being excused by the commission, the secretary of the charter commission shall file a certificate with the court setting forth those facts and the district court shall thereupon make its order of removal and the chief judge shall fill the vacancy created thereby.

Subd. 3. **Commission appointments; nominees.** A city council, a charter commission, or the petitioners requesting the appointment of a charter commission may submit to the court the names of eligible nominees which the district court may consider in making appointments to the charter commission.

Subd. 4. **Commission meetings.** The charter commission shall meet at least once during each calendar year, and upon presentation of a petition signed by at least ten percent of the number of voters of the municipality, as shown by the returns of the last annual municipal election, or upon resolution approved by a majority of the governing body of the city requesting the commission to convene, the commission shall meet to consider the proposals set forth in such petition or resolution.

Subd. 5. **Discharge.** (a) A charter commission in a statutory city may be discharged as follows:

EXHIBIT

(1) if the charter commission of a statutory city determines that a charter is not necessary or desirable, the commission may be discharged by a vote of three-fourths of its members; or

(2) if a petition signed by registered voters equal in number to at least five percent of the registered voters in the city requesting a referendum to discharge the charter commission is filed with the city clerk, an election must be held on the issue at a general election or a special election pursuant to section 205.10. If a majority of the votes cast support the referendum, the charter commission shall be discharged.

(b) Another commission may not be formed sooner than one year from the date of discharge.

History: *(1269) RL s 749; 1909 c 423; 1913 c 535 s 1; 1949 c 210 s 1; 1959 c 305 s 5; 1961 c 608 s 1; Ex1967 c 33 s 1; 1971 c 208 s 1-3; 1973 c 123 art 5 s 7; 1976 c 44 s 20; 1979 c 330 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 51 s 1; 2004 c 197 s 1,2; 2008 c 331 s 6; 2020 c 87 s 1*

CC Regular Session **7. 6.**

Meeting Date: 03/22/2022

By: Bruce Westby, Engineering/Public Works

Information

Title:

Adopt Resolution #22-072 Accepting Bids and Awarding Contract for Improvement Project #22-05, Riverdale Drive Trunk Utility Improvements, Llama Street to Bowers Drive

Purpose/Background:

Purpose:

The purpose of this case is to adopt Resolution #22-072 accepting bids and awarding a contract for construction for Improvement Project #22-05, Riverdale Drive Trunk Utility Improvements, Llama Street to Bowers Drive, and approving a proposal from Bolton and Menk, Inc. to provide construction related services.

Background:

The extension of Riverdale Drive between Llama Street and Bowers Drive is needed to support development in the area. In the Spring of 2022, Capstone Homes plans to begin construction on the first phase of Riverstone South, a 244-unit residential development east of Bowers Drive and south of U.S. Highway 10/169. Commercial development is also proposed in the area between U.S. Highway 10/169 and the proposed extension of Riverdale Drive. These developers will pay trunk utility fees when they develop to help replenish trunk utility funds used to pay for these trunk utility improvements.

Improvement Project #22-05 proposes to construct the trunk municipal utilities (sanitary sewer and watermain) along the proposed extension of Riverdale Drive NW between Llama Street NW and Bowers Drive, along with the required storm sewer improvements. As discussed previously, the trunk utility improvements are proposed to be constructed ahead of the street improvements project (Improvement Project #20-05) to better facilitate the proposed construction schedule for Riverstone South. The trunk utility plans did not need to follow the same MnDOT LPP plan review process as the street improvement plans, allowing the utility improvements to be bid and constructed earlier thereby minimizing the construction schedule for Improvement Project #20-05.

Construction for this work would previously have been estimated to take about 8 weeks to complete, including the lift station within the Riverstone South plat. However, construction for this project is now anticipated to take considerably longer with construction anticipated to start in April or May and to be complete by August 2022. The actual project schedule will depend on weather, availability of materials, and the awarded contractor's availability. Contractor's typically order their materials upon execution of a contract, but recently the delivery of construction materials to job sites, especially utility pipes and appurtenances, has been taking several months after materials are ordered. The current anticipated delivery time for watermain materials after they are ordered is up to 20 weeks.

Staff will work to properly coordinate this trunk utility work with the private utilities work occurring as part of the Riverstone South development.

Notification:

Advertisements for bids were published in the Anoka Union Herald and in Finance & Commerce on February 11 and 18, 2022.

This project was also advertised and bid electronically through QuestCDN. Bolton and Menk administered bids with some assistance from Staff.

Time Frame/Observations/Alternatives:

Observations:
As previously discussed, the Puma Street watermain loop connection between Bunker Lake Boulevard and Riverdale Drive will be bid with Improvement Project #20-05.

As is typical with all public improvement projects constructed in the City of Ramsey, a project web page will be maintained on the Engineering department's web site, and construction update letters may be mailed to adjacent property owners during construction to provide construction related updates and other pertinent information.

The proposed improvements should have a minimum serviceable life of 60 years, assuming proactive maintenance operations are performed on a regular basis during the life of the improvements.

Alternatives:
Alternative #1 – Motion to adopt Resolution #22-072 accepting bids and awarding a construction contract to Douglas-Kerr Underground, L.L.C. from Mora, MN in the amount of $2,163,890.22 and approving Bolton & Menk's proposal for construction related services in the not-to-exceed amount of $45,615.00 for Improvement Project #22-05, Riverdale Drive Trunk Utility Improvements, Llama Street to Bowers Drive.

Alternative #2 – Motion to deny adoption of Resolution #22-072 at this time.

Funding Source:
A total of eleven (11) bids were received, opened, and tabulated on March 11, 2022, and the following bids were found to comply with the approved plans and specifications and advertisements for bids.

CONTRACTOR	**TOTAL BID**
Douglas-Kerr Underground, L.L.C.	$2,163,890.22
LaTour Construction, Inc.	$2,363,230.01
Northern Lines Contracting	$2,494,872.65
Park Construction Company	$2,607,653.11
Kuechle Underground, Inc.	$2,630,120.76
S R Weidema, Inc.	$2,642,679.26
Dave Perkins Contracting, Inc.	$2,828,024.11
Northdale Construction Company, Inc.	$2,937,700.83
Meyer Contracting, Inc.	$2,938,256.20
Geislinger & Sons	$2,977,426.50
Ryan Contracting Co.	$3,366,904.00
Engineer's Estimate	*$2,684,867.50*

The bid of Douglas-Kerr Underground, L.L.C. of Mora, Minnesota, in the amount of $2,163,890.22 for the total bid for construction of the improvements in accordance with the approved plans and specifications and advertisement for bids, is the lowest responsible bidder. Their bid is 19.4-percent less than the engineer's construction cost estimate.

After adding indirect costs in the amount of 23-percent for administrative, engineering, finance and legal costs, total project costs will be about $2,661,585 per the low bid.

Attached is an engineering services proposal submitted by Bolton and Menk, Inc. on March 17, 2022, which includes a not-to-exceed fee of $45,615.00 for numerous required construction-related services. Since these services cannot be provided in-house they must be contracted out, and since Bolton & Menk is the design engineer they will be best able to assist Staff with these services.

City staff will inspect all construction and assist with much of the project administration duties.

Project costs related to sanitary sewer, watermain and stormwater improvements will be paid from the respective enterprise funds, though up to 55-percent of eligible stormwater improvements can be funded by State Aid Funds based on contributing drainage areas (MnDOT versus City). See attached MnDOT memo for more information.

Recommendation:

Staff recommends approving Alternative #1 to support current and continued development in the area.

Outcome/Action:

Motion to adopt Resolution #22-072 accepting bids and awarding a construction contract to Douglas-Kerr Underground, L.L.C. from Mora, MN in the amount of $2,163,890.22 and approving Bolton & Menk's proposal for construction related services in the not-to-exceed amount of $45,615.00 for Improvement Project #22-05, Riverdale Drive Trunk Utility Improvements, Llama Street to Bowers Drive.

Attachments

ACTION: Resolution 22-072
BMI Award Recommendation Memo
IP2205 Plans Title Sheet
BMI Construction Services Proposal
MnDOT State Aid Approval Ltr
MnDOT Hydraulics Approval Ltr

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 03:56 PM
Form Started By: Bruce Westby		Started On: 03/14/2022 02:35 PM
Final Approval Date: 03/17/2022		

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #22-072

RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACT FOR IMPROVEMENT PROJECT #22-05, RIVERDALE DRIVE TRUNK UTILITY IMPROVEMENTS, LLAMA STREET TO BOWERS DRIVE

WHEREAS, the City of Ramsey proposes to extend Riverdale Drive between Llama Street and Bowers Drive to extend the south frontage road system to U.S. Highway 10/169 to Bowers Drive; and

WHEREAS, trunk utilities are also proposed to be extended along Riverdale Drive between Llama Street and Bowers Drive to serve this area of the City with municipal utilities since it is zoned as MUSA; and

WHEREAS, pursuant to Ramsey City Council Resolution #21-305 adopted October 26, 2021, the City Council accepted a design services proposal of Bolton & Menk, Inc. to develop final plans and specifications and solicit bids for Improvement Project #22-05; and

WHEREAS, pursuant to Ramsey City Council Resolution #22-040 adopted February 8, 2022, the City Council approved the plans and specifications prepared by Bolton & Menk, Inc. and authorized the advertisement of bids for City Improvement Project #22-05; and

WHEREAS, bids were advertised in the Anoka Union Herald and in Finance and Commerce on February 11 and 18, 2022; and

WHEREAS, eleven (11) bids were received, opened, and tabulated on March 11, 2022, and the following bids were found to comply with the approved plans and specifications and advertisements for bids, and

CONTRACTOR	TOTAL BID
Douglas-Kerr Underground, L.L.C.	$2,163,890.22
LaTour Construction, Inc.	$2,363,230.01
Northern Lines Contracting	$2,494,872.65
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S R Weidema, Inc.	$2,642,679.26
Dave Perkins Contracting, Inc.	$2,828,024.11
Northdale Construction Company, Inc.	$2,937,700.83
Meyer Contracting, Inc.	$2,938,256.20
Geislinger & Sons	$2,977,426.50
Ryan Contracting Co.	$3,366,904.00
Engineer's Estimate	*$2,684,867.50*

WHEREAS, the bid of Douglas-Kerr Underground, L.L.C. of Mora, Minnesota, in the amount of $2,163,890.22 for the total bid for construction of the improvements in accordance with the approved plans and specifications and advertisement for bids, is the lowest responsible bidder and their bid shall be and hereby is accepted.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) The Mayor and City Administrator are hereby authorized and directed to enter into a contract with said bidder for the construction of said improvements for and on behalf of the City of Ramsey.

2) The City Administrator is hereby authorized to direct Bolton & Menk, Inc. to return forthwith to all bidders the bid bonds made with their bids at such time that a contract has been executed.

3) The City Administrator is hereby authorized to execute the proposal from Bolton & Menk, Inc. to provide construction related services for said improvements in a total not-to-exceed amount of $45,615.00.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

Whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 22nd day of March, 2022.

_____
Mayor

ATTEST:

_____
City Clerk

BOLTON & MENK
Real People. Real Solutions.

7533 Sunwood Drive NW
Suite 206
Ramsey, MN 55303-5119

Ph: (763) 433-2851
Fax: (763) 427-0833
Bolton-Menk.com

M E M O R A N D U M

Date: **March 14, 2022**
To: **Bruce Westby, P.E., City Engineer**
From: **Kevin Kielb, P.E., Project Manager**
Subject: **Bid Results and Recommendation**
2022 Riverdale Drive Trunk Utility Improvements
City Project No: 22-05

Eleven bids were received for the 2022 Riverdale Drive Trunk Utility Improvement project (City Project #22-05). The bids were publicly read aloud at 10:00 A.M. on March 11, 2022. The bids were then reviewed, tabulated and the results are summarized below:

CONTRACTOR	TOTAL BID
Douglas-Kerr Underground, L.L.C	$2,163,890.22
LaTour Construction, Inc.	$2,363,230.01
Northern Lines Contracting	$2,494,872.65
Park Construction Company	$2,607,653.11
Kuechle Underground Inc.	$2,630,120.76
S R Weidema, Inc.	$2,642,679.26
Dave Perkins Contracting Inc.	$2,828,024.11
Northdale Construction Company, Inc.	$2,937,700.83
Meyer Contracting Inc.	$2,938,256.20
Geislinger & Sons	$2,977,426.50
Ryan Contracting Co.	$3,366,904.00
Engineer's Estimate	$2,684,867.50

If the City of Ramsey decides to award the project to the low bidder, we recommend awarding the contract to Douglas-Kerr Underground, L.L.C. in the amount of $2,163,890.22

If you have any questions, please contact me at (651) 968-7760.

Bolton & Menk is an equal opportunity employer.

MINNESOTA DEPARTMENT OF TRANSPORTATION
CITY OF RAMSEY
ANOKA COUNTY, MINNESOTA
2022 RIVERDALE DRIVE TRUNK UTILITY IMPROVEMENTS
CITY IMPROVEMENT PROJECT #22-05

CONSTRUCTION PLAN FOR: GRADING, LIFT STATION, SANITARY SEWER, WATERMAIN, STORM SEWER, LANDSCAPING AND RELATED APPURTENANCES

S.A.P. 199-115-004 LOCATED ON RIVERDALE DR NW FROM BOWERS DRIVE TO 200' EAST OF LLAMA STREET

RIVERDALE DR (S.A.P. 199-115-004)

GROSS LENGTH	4209	FEET	0.797	MILES
BRIDGE LENGTH	NA	FEET	NA	MILES
EXCEPTION LENGTH	NA	FEET	NA	MILES
NET LENGTH	4209	FEET	0.797	MILES

LENGTH AND DESCRIPTION BASED UPON PROPOSED RIVERDALE DR NW CENTERLINE

MINN. PROJ. NO. STATE FUNDS

--- GOVERNING SPECIFICATIONS ---
THE 2020 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATION FOR CONSTRUCTION" SHALL GOVERN.

ALL TRAFFIC CONTROL DEVICES AND SIGNING SHALL CONFORM AND BE INSTALLED IN ACCORDANCE WITH THE "MINNESOTA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (MN MUTCD) AND PART VI, "FIELD MANUAL" FOR TEMPORARY TRAFFIC CONTROL DEVICES.

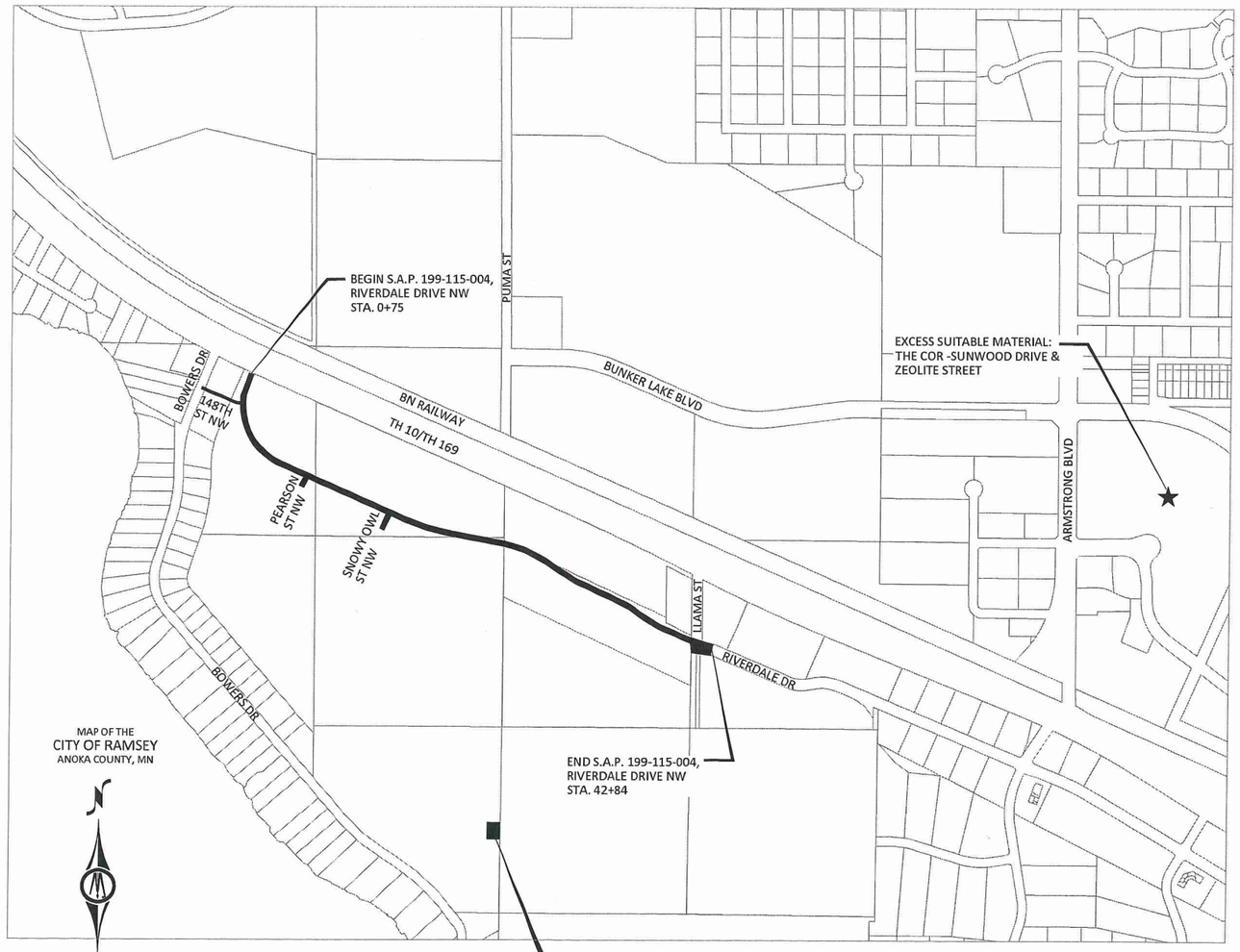
--- GOVERNING SPECIFICATIONS ---
THE 2018 EDITION OF THE CITY ENGINEERS ASSOCIATION OF MINNESOTA "STANDARD SPECIFICATIONS" SHALL GOVERN.

FUTURE DESIGN DESIGNATION — RIVERDALE DR NW
STA. 0+75 TO STA. 42+84

FUNTIONAL CLASSIFICATION	URBAN COLLECTOR
R-VALUE	50
ΣN-18	274,000
NO. & WIDTH OF TRAFFIC LANES	2 & 12 ft
NO. & WIDTH OF SHOULDER	2 & 8 ft
ADT (PRESENT YEAR) 2022	500
ADT (PROJECTED YEAR) 2042	4,500
HCADT (PROJECTED YEAR) 2042	3.85%
DESIGN SPEED	30 mph
DESIGN LOAD	10 ton
DESIGN SPEED FOR ROADWAY BASED ON	
ON STOPPING SIGHT DISTANCE:	
HEIGHT OF EYE = 3.5 FT	
HEIGHT OF OBJECT = 2.0 FT	

FUTURE DESIGN DESIGNATION — OFF-ROAD TRAIL
STA 0+75 TO 42+84

FUNTIONAL CLASSIFICATION	BIKE TRAIL
DESIGN SPEED	20 MPH
STOPPING SIGHT DISTANCE	
HEIGHT OF EYE = 4.5 FT	
HEIGHT OF OBJECT = 0 FT	



MAP LEGEND

- PROJECT LIMITS
- ★ EXCESS SUITABLE MATERIAL DISPOSAL SITE
- ● AGGREGATE STOCKPILE SITE: RAMSEY PUBLIC WORKS, 14199 JASPER STREET NW

NOTE: EXISTING UTILITY INFORMATION SHOWN ON THIS PLAN HAS BEEN PROVIDED BY THE UTILITY OWNER. THE CONTRACTOR SHALL FIELD VERIFY EXACT LOCATIONS PRIOR TO COMMENCING CONSTRUCTION AS REQUIRED BY STATE LAW. NOTIFY GOPHER STATE ONE CALL, 1-800-252-1166 OR 651-454-0002.

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D UNLESS OTHERWISE NOTED. THIS UTILITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

BID LOCATION:

ONLINE BID THROUGH QUEST CDN

SHEET NUMBER	SHEET TITLE
GENERAL	
1	TITLE SHEET
2	STATEMENT OF ESTIMATED QUANTITIES
3	LOCATION PLAN
CIVIL	
4	TYPICAL SECTIONS
5 - 7	CONSTRUCTION DETAILS
8	ALIGNMENT TABULATION
9 - 12	EXISTING CONDITIONS, REMOVALS PLAN
13 - 15	STORM WATER POLLUTION PREVENTION PLAN
16 - 20	EROSION CONTROL & TURF ESTABLISHMENT PLAN
21 - 27	SANITARY SEWER & WATERMAIN PLAN & PROFILE
28 - 34	STORM SEWER PLAN & PROFILE
35 - 37	STORM SEWER LEAD PROFILES
38	POND GRADING PLAN
39 - 42	LIFT STATION
43 - 44	LIFT STATION ELECTRICAL PLANS
45 - 72	CROSS SECTIONS

THIS PLAN SET CONTAINS 72 SHEETS.

Kevin P. Kielb, P.E.
Design Engineer: I hereby certify that this plan was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Date 02/15/2022 License Number 23211

Approved: City of RAMSEY Engineer Date 3/7/2022

District State Aid Engineer: Date
Review for compliance with State Aid Rules/Policy

Approved for State Aid Funding: State Aid Engineer Date

BM=875.70
EX TNH @ SE CORNER LLAMA ST & RIVERDALE DR

PROJECT DATUM:
HORIZONTAL:
VERTICAL:

RECORD DRAWING INFORMATION
OBSERVER:
CONTRACTOR:
DATE:

© Bolton & Menk, Inc. 2022. All Rights Reserved
H:\RAMS\0R1125907\CADD\12590TG001.dwg 2/23/2022 9:16:26 AM

BOLTON & MENK
7533 SUNWOOD DR NW, SUITE 206
RAMSEY, MINNESOTA 55303
Phone: (763) 433-2851
Email: Ramsey@bolton-menk.com
www.bolton-menk.com

City of RAMSEY

DESIGNED	ZFL
DRAWN	ZFL
CHECKED	KPK
CLIENT PROJ. NO.	22-05

NO.	ISSUED FOR	DATE

CITY OF RAMSEY, MINNESOTA
2022 RIVERDALE DRIVE TRUNK UTILITY IMPROVEMENTS (S.A.P. 199-115-004)
TITLE SHEET

SHEET 1 OF 72

BOLTON & MENK
Real People. Real Solutions.

7533 Sunwood Drive NW
Suite 206
Ramsey, MN 55303-5119

Ph: (763) 433-2851
Fax: (763) 427-0833
Bolton-Menk.com

March 17, 2022

Mr. Bruce Westby, P.E.
City Engineer
City of Ramsey
7550 Sunwood Drive NW
Ramsey, Minnesota 55303

RE: Proposal for Construction Related Services – 2022 Riverdale Drive Trunk Utility Improvements
City Project No. 22-05

Dear Mr. Westby:

We appreciate the opportunity to present this scope of services for the Riverdale Drive Trunk Utility Improvements. Our scope and fees were prepared based on our understanding of the project and our previous experience in assisting the City of Ramsey with similar project types. We are proposing to use Barr Engineering to augment our staff for lift station related items. Our proposed services will be as described below:

Contract Preparation – Assist with Notice of Award, Contracts, and Notice to Proceed. Prepare sets of contract documents (plans and specifications) for City and Contractor.

Pre-Construction Conference – Attend Pre-Construction Conference to address questions that may arise related to project design or construction staking.

Shop Drawing / Submittal Review – Review submittals for key project components.

Construction Staking – Includes the following:

- Staking Calculations and Preparation of Data,
- Establishing Survey Control,
- Staking of Erosion Control,
- Staking of Road Centerline for Rough Grading,
- Staking of Grading for Pond,
- Staking of Sanitary Gravity and Force Mains, and Fittings,
- Staking of Water Main and Fittings, and
- Staking of Storm Sewer.

Pay Application Assistance – Work with City and Contractor to complete payment documents.

As-Built Survey and Record Drawings – Survey key project components after completion of construction and prepare of Record Drawings.

Construction Revisions / Plan Updates / O & M Manual Reviews – To be performed as needed during construction. We have assumed a total of 26 hours for site civil related items and 32 hours for lift station related items.

We have attached a fee spreadsheet depicting hours, rates, and total compensation on a per task basis. Our proposed Not-To-Exceed fees for the work are $45,615.00.

If there are any questions related to this proposal, please call me at (651) 968-7760.

Sincerely,

Bolton & Menk, Inc.

Kevin P Kielb

Kevin P. Kielb, P.E.
Principal Engineer

DETAILED COST ESTIMATE

CLIENT: City of Ramsey PROJECT: 2022 Riverdale Drive Trunk Utility Improvements	BOLTON & MENK, INC.								
WORK TASK DESCRIPTION	**Project Manager**	**Project Engineer**	**Design Engineer**	**EIT**	**Survey Technician**	**Survey**	**Clerical**	**Total Hours**	**Cost**
Construction Services Assistance									
Contract Preparation	1	0	0	0	0	0	4	**5**	$560
Pre-Con	1	2	2	0	1	0	0	**6**	$1,015
Construction Staking	0	0	4	0	20	88	0	**112**	$18,600
Shop Drawing Review	2	8	16	4	0	0	1	**31**	$4,710
Pay Application Assistance	0	0	12	0	0	0	0	**12**	$1,740
As-Built Survey	0	0	0	0	4	16	0	**20**	$3,340
Record Drawings	0	4	16	8	0	0	0	**28**	$4,020
Revisions / Plan Updates	4	24	24	6	0	0	0	**58**	$9,230
Subtotal Bolton & Menk Design	**8**	**38**	**74**	**18**	**25**	**104**	**5**	**272**	$43,215
Barr Engineering									$2,400
				TOTAL for Staking and Construction Admin					**$45,615**

DEPARTMENT OF TRANSPORTATION

Metro District State Aid
1500 West County Road B2
Roseville, MN 55113-3174

March 15, 2022

Mr. Kevin Kielb
Bolton & Menk
7533 Sunwood Drive NW
Ramsey, Minnesota 55303

In Reply Refer to: **S.A.P. 199-115-004**
Construction Plan for Riverdale Dr NW
City of Ramsey

Dear Mr. Kielb:

The above referenced plan has been approved and you are now authorized to advance the status of this project.

Please invite Mike Pretel and/or Kyle Puent, of our office, to the Pre-Construction Conference, for this project.

Mike Pretel
State Aid Construction Engineer
Phone (651) 775-3346
Email: Michael.pretel@state.mn.us

Kyle Puent
State Aid Contract Administration
Phone (612) 505-7395
Email: Kyle.puent@state.mn.us

When the project is let, please email the Excel spreadsheet of all bids and the low bidder's prices in the Statement of Estimated Quantities format. The spreadsheet may be emailed to Sharon LeMay at Sharon.LeMay@state.mn.us.

Sincerely,

Bob Wielinski

For Julie Dresel
Metro District State Aid Program Engineer

EC: J. Dresel
B. Westby – City of Ramsey
File

State Aid Hydraulics
3485 Hadley Avenue North
Oakdale, MN 55128-3307

Memo

Date: March 3, 2022

To: Dan Erickson
Metro District State Aid Engineer
ATTN: Rob Wielinski, Metro State Aid

From: Juanita Voigt
State Aid Hydraulic Specialist
651-366-4469



RE: SAP 199-115-004
Riverdale Drive NW extension
From STA 0+75 to STA 42+84
Storm Sewer in **Ramsey County**

We have completed our review of the storm sewer features of the above referenced plan and find that State Aid funds can bear **55%** of the eligible storm sewer costs for this project based on drainage areas.

The proposed improvements conform to State Aid standards, and the State Aid Division will make further review of the plan.

Unless you wish to recommend modifying the amount of State Aid participation, the State Aid Division will use the above percentages.

We are forwarding a copy of this report to Bruce Westby, Ramsey City Engineer, and to Timothy Olson, Bolton-Menk, Inc., for their information.

If you have any questions regarding this approval or proration, please do not hesitate to contact me.

EC: Bruce Westby, Ramsey City Engineer
Timothy Olson, Bolton-Menk, Inc.
Zach Lingl, Bolton & Menk, Inc.
Andrea Hendrickson (MnDOT file)

CC Regular Session **7. 7.**

Meeting Date: 03/22/2022

By: Colleen Lasher, Administrative Services

Information

Title:

Introduce Ordinance #22-17 Amending the City Charter of the City of Ramsey, Minnesota Prohibiting Membership on the City of Ramsey Charter Commission of City Council Members and Providing for Other Restrictions Thereof

Purpose/Background:

At the Council work session on March 8, 2022, reviewed this ordinance amemndment and it was the concensus to move it forward to the Council for further consideration. A draft ordinance is attached and includeds the addition of this language:

No member of the Council may serve as a member of the City of Ramsey Charter Commission while serving on the Council. No member of the Council may serve as a voting member of any other Commission or Board of the City of Ramsey while he/she remains in office unless such membership is otherwise required by law.

Based on additional review (see attached Statute and review by the Attorney) the following statatory language retricts the Council from disqualifying any person from serving on the Charter Commission, unless they are a member of the governing body, and such prohibition is adopted in the Charter.

Except as otherwise provided in the charter, no person shall be disqualified from serving on a charter commission by reason of holding any other elective or appointive office other than judicial. The charter may provide that members of the governing body of the city cannot serve on the charter commission.

Consequently, the ordinance is presented with only the restriction for the governing body and not other commission or board members as was previously discussed.

Notification:

NA

Time Frame/Observations/Alternatives:

This ordinance is presented for introduction. As previously discussed by the Council, an amendment of the Charter is subject to specific statatory provisions outlined in the attached MS 410.12. The City Attorney will be prepared to answer questions in regard to the process for Charter Amendments.

Funding Source:

NA

Recommendation:

Motion to introduce Ordinance #22-17

Outcome/Action:

Motion to introduce Ordinance #22-17

Attachments

050283 Memo
Charter Appt MS
MS410 Charter Amendments
Draft Ordinance 22-17
Ltr Methods of Petitioning for Charter Amendment

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 05:18 PM
Form Started By: Colleen Lasher		Started On: 03/15/2022 11:12 AM
Final Approval Date: 03/17/2022		

City Attorney sent Judge's letter requesting two extension.
Copy sent to Council Agenda 5/19/83 WKG

MEMORANDUM

TO: LLOYD SCHNELL
FROM: WILLIAM K. GOODRICH
RE: CITY CHARTER COMMISSION
DATE: MAY 2, 1983

On April 29, 1983, Mr. Greg Corwin contacted me regarding the City Charter Commission. Mr. Corwin is an attorney representing the Ramsey Resident's Coalition. Mr. Corwin advised me that a Petition for a City Charter had been filed with the Chief Judge of Anoka County. The Judge requested that Mr. Corwin contact me as City Attorney and advise me of the filing and also to find out if the City Council had any recommendations to make relating to Charter Commission members.

I did contact Chief Judge Sokolowski on April 29 and he asked if the City Council has any recommendations to make relating to the Charter Commission members. He also advised me that the individuals on the attached list have been recommended by the petitioners as members of the Charter Commission.

For your information, M.S.A. 410.05, Subd. 3, provides as follows:

> Commission appointments; nominees. A city council, a charter commission or the petitioners requesting the appointment of a charter commission may submit to the court the names of eligible nominees which the district court may consider in making appointments to the charter commission.

Judge Sokolowski requested that if the Council is to make recommendations of Charter members, this be accomplished as soon as possible.

Charter Commission members must be qualified voters in the City and "No person shall be disqualified from serving on a charter commission by reason of his holding of any other elective or appointive office other than judicials" (M.S.A. 410.05, Subd. 1).

I suggest that you review the above with the Mayor and consider a special council meeting this week, week of May 2, 1983, in order that the Council may timely respond to Judge Sokolowski.

wkg/cmh

410.05 CHARTER COMMISSION.

Subdivision 1. **Appointment.** When the district court of the judicial district in which a city is situated, deems it for the best interest of the city so to do, the court, acting through its chief judge, may appoint a charter commission to frame and amend a charter. Upon presentation of a petition requesting such action, signed by at least ten percent of the number of voters of the city, as shown by the returns of the last regular city election, or upon resolution of the governing body of the city requesting such action, the court shall appoint a charter commission. The commission shall be composed of not less than seven nor more than 15 members, each of whom shall be a qualified voter of the city. The size of the commission shall be determined within the above limits by the court, except that where the commission is appointed pursuant to a petition of the voters or resolution of the governing body of the city, the size of the commission shall be as specified in such petition or resolution. Any city may by charter provision fix the size of the charter commission at a figure which shall not be less than seven nor more than 15 members, and such charter provision shall prevail over any inconsistent provisions of this subdivision. Except as otherwise provided in the charter, no person shall be disqualified from serving on a charter commission by reason of holding any other elective or appointive office other than judicial. The charter may provide that members of the governing body of the city cannot serve on the charter commission.

Subd. 2. **Commission members; terms, vacancies.** Charter commission members shall hold office for the term of four years, and until their successors are appointed and qualify, except that of members initially appointed after July 1, 1967, eight shall be appointed for two-year terms and seven for four-year terms. Vacancies in the commission shall be filled by appointment of the chief judge for the unexpired terms. Upon the expiration of each term, the chief judge shall appoint new or reappoint existing commission members within 60 days. Appointments shall be made by order filed with the court administrator of the district court. An appointee who neglects to file with the court administrator within 30 days a written acceptance and oath of office shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. The charter commission, within 30 days after the initial appointment of the commission, shall make rules, including quorum requirements, with reference to its operations and procedures. The commission shall submit to the chief judge of the district court, on or before December 31 of each year, an annual report outlining its activities and accomplishments for the preceding calendar year. The commission shall forward a copy of the report to the clerk of the city. Any member may be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order. When any member has failed to perform the duties of office and has failed to attend four consecutive meetings without being excused by the commission, the secretary of the charter commission shall file a certificate with the court setting forth those facts and the district court shall thereupon make its order of removal and the chief judge shall fill the vacancy created thereby.

Subd. 3. **Commission appointments; nominees.** A city council, a charter commission, or the petitioners requesting the appointment of a charter commission may submit to the court the names of eligible nominees which the district court may consider in making appointments to the charter commission.

Subd. 4. **Commission meetings.** The charter commission shall meet at least once during each calendar year, and upon presentation of a petition signed by at least ten percent of the number of voters of the municipality, as shown by the returns of the last annual municipal election, or upon resolution approved by a majority of the governing body of the city requesting the commission to convene, the commission shall meet to consider the proposals set forth in such petition or resolution.

Subd. 5. **Discharge.** (a) A charter commission in a statutory city may be discharged as follows:

(1) if the charter commission of a statutory city determines that a charter is not necessary or desirable, the commission may be discharged by a vote of three-fourths of its members; or

(2) if a petition signed by registered voters equal in number to at least five percent of the registered voters in the city requesting a referendum to discharge the charter commission is filed with the city clerk, an election must be held on the issue at a general election or a special election pursuant to section 205.10. If a majority of the votes cast support the referendum, the charter commission shall be discharged.

(b) Another commission may not be formed sooner than one year from the date of discharge.

History: *(1269) RL s 749; 1909 c 423; 1913 c 535 s 1; 1949 c 210 s 1; 1959 c 305 s 5; 1961 c 608 s 1; Ex1967 c 33 s 1; 1971 c 208 s 1-3; 1973 c 123 art 5 s 7; 1976 c 44 s 20; 1979 c 330 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 51 s 1; 2004 c 197 s 1,2; 2008 c 331 s 6; 2020 c 87 s 1*

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of .....)

) ss.

County of .....)

.... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....

(Signature of Circulator)

Subscribed and sworn to before me

this ..... day of ....

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. **Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: *(1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43*

ORDINANCE 22-17

CITY OF RAMSEY

ANOKA COUNTY

STATE OF MINNESOTA

AN ORDINANCE AMENDING THE CITY CHARTER OF THE CITY OF RAMSEY, MINNESOTA PROHIBITING MEMBERSHIP ON THE CITY OF RAMSEY CHARTER COMMISSION OF CITY COUNCIL MEMBERS AND PROVIDING FOR OTHER RESTRICTIONS THEREOF

The City of Ramsey ordains:

SECTION 1. AUTHORITY

This Ordinance is adopted pursuant to the authority of the City Charter of the City of Ramsey and such authority as it is given under Minnesota Statutes Section 410.12, subdivision 7.

SECTION 2.

The Section 2.4 of the City of Ramsey Charter is amended to read as follows:

"Sec. 2.4 – Incompatible offices.

No member of the Council shall hold any paid municipal office or employment through the city other than that to which elected. Further, until one year after the expiration of his/her term, no mayor or councilmember shall be appointed or employed by the city in a compensated position which was created, or the compensation for which was increased, during his/her term as mayor or councilmember.

No member of the Council may serve as a member of the City of Ramsey Charter Commission while serving on the Council. No member of the Council may serve as a voting member of any other Commission or Board of the City of Ramsey while he/she remains in office unless such membership is otherwise required by law.

SECTION 3. EFFECTIVE DATE

This ordinance becomes effective 90 days after its passage and publication as provided in City of Ramsey Charter 3.9 and Minnesota Statutes Section 410.12, Subdivision 7, as may be modified by any action undertaken pursuant to City of Ramsey Charter Section 5.

PASSED by the City Council of the City of Ramsey, Minnesota, the ___ day of March 2022.

_____

Mayor

ATTEST:

_____

City Clerk

Frederic W. Knaak*
fknaak@klaw.us
Craig J. Beuning
cbeuning@klaw.us

*Also Licensed in Wisconsin & Colorado
*Qualified Neutral under Rule 114
**Also Licensed in Iowa, Federal Court of Claims, & US Court of Appeals Washington, D.C.

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March 21, 2022

Mr. Kurt Ulrich
City Administrator, City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

RE: Methods of Petitioning by Citizens of a Charter Amendment

Dear Mr. Ulrich:

Upon request of the Council, you've asked me to provide a description detailing the procedure that would need to occur for citizens in the City of Ramsey to petition for a City Charter amendment.

Amendment procedures are provided in Minnesota Statutes §410.12, a copy of which I've attached. The options provided in that statute are the only ones allowed for amending a charter under Minnesota law.

You'll recall that the earlier discussion by the Council on this topic included a review of two alternatives that involved active City Council participation. The first would have been for the Council to pass an ordinance proposing an amendment. This would then be submitted to the Charter Commission for review within 60 days (with an allowance for an additional 90 days) after which it would be returned to the Council for further action. At that point the Council could put the proposed charter changes to the voters.

The second Council-oriented method would be for the Charter Commission to suggest an ordinance amending the charter to the Council which could then consider that ordinance under the City's normal ordinance process. It would effectively amend the charter if it received an

affirmative vote of all members of the City Council. This was the method I recommended as, with the Charter Commission's cooperation of agreed-to language (without the actual initial passage of the ordinance by the Council), this is the most immediate manner of amending the Charter. The one real impediment, of course, would be the absence of a unanimous Council.

The manner of proposing amendments that avoids the direct input of a city council is provided in Subdivision 1 of the statute. It should be said at the outset that this is a process that is not "simple" and is ripe for potential error. Great attention must be paid, in particular, to the witnessing of the signatures necessary, which must number, in total, equal to or more than five percent (5%) of the total votes cast in the previous state general election. No small hurdle.

Since the change being proposed is not particularly large, I would suggest that a summary would not be needed. Rather the petition would need to read as follows:

> "The Undersigned, being registered voters in the City of Ramsey, Minnesota, qualified to Petition to change the Charter of the aforesaid City, do hereby propose the following amendment the Charter of the City of Ramsey, by adding a paragraph to Section 2.4 thereof, as follows:
>
> 'Sec. 2.4 – Incompatible offices.
>
> ...
>
> ***No member of the Council may serve as a member of the City of Ramsey Charter Commission while serving on the Council. No member of the Council may serve as a voting member of any other Commission or Board of the City of Ramsey while he/she remains in office unless such membership is otherwise required by law.'"***

Each sheet of the petition would need to contain the signature of the petitioner (whose signatures can be contained in severality on any given page), as well as their address. Any signature would have to be witnessed by the canvasser, who, in turn, must verify the signatures under oath using the format specifically laid out in the statute.

The proposed change is then submitted to and reviewed by the Charter Commission, which has ten days to review it as to form. The Charter Commission finally receives the completed petitions, which it assembles into a single proposal and submits it to the City Council. The City Clerk has the duty to determine whether a sufficient number of signatures in present and that at least enough of them are "valid", meaning of registered voters in the City. Assuming that there are sufficient signatures, the Clerk certifies that to be the case and the amendment is placed on the ballot in the next general (or special election). Other than setting an election date, there is no active intervention by the Council in this last method, nor is there a need to follow the ordinance procedures since none of this requires the passage of an ordinance by the City Council, unlike the other procedures I have noted above.

I will be ready to discuss this as needed with the Council. Please let me know if you, the staff or the Council members have any questions in the meantime.

Frederic W. Knaak,
City Attorney

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of .....)

) ss.

County of .....)

.... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....

(Signature of Circulator)

Subscribed and sworn to before me

this ..... day of ....

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. **Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: *(1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43*

CC Regular Session **7. 8.**

Meeting Date: 03/22/2022

Submitted For: Kurt Ulrich, Administrative Services

By: Kathy Schmitz, Administrative Services

Information

Title:

Review Charter Amendment via a Petition of the Voters per Mn Statute 410.12

Purpose/Background:

Council Members Howell and Musgrove requested Council review of the Charter Amendment process via a petition of the voters.

The Ramsey Charter and applicable Minnesota Statute are attached for information. The statute provides:

410.12 AMENDMENTS.
Subdivision 1. Proposals. The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

The next general election in the City of Ramsey is Tuesday, November 8. Proposed charter amendments must be submitted at least 17 weeks before the general election, which would be Tuesday, July 12. The City Attorney has been asked to provide information on this topic and will be prepared to answer any questions.

Notification:

NA

Time Frame/Observations/Alternatives:

NA

Funding Source:

NA

Recommendation:

Based on discussion.

Outcome/Action:

Based on discussion.

Attachments

Ramsey City Charter Updated Novemver 2014
MN Statutes 2021 410.12 Amendments
Ltr Methods of Petitioning for Charter Amendment

Form Review

Inbox	Reviewed By	Date
Kurt Ulrich	Kurt Ulrich	03/17/2022 04:51 PM
Form Started By: Kathy Schmitz		Started On: 03/17/2022 01:41 PM
Final Approval Date: 03/17/2022		

RAMSEY CITY CHARTER

Updated
November 2014

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City Charter Originally Adopted on May 22, 1984

CHAPTER 1
NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS

Section 1.1 Name and Boundaries. The City of Ramsey, Anoka County, Minnesota, shall continue to be a municipal corporation under that name and with the same boundaries as now are or hereafter may be established. The city clerk shall keep in his/her office at least two copies of this charter with amendments, and shall maintain in each copy an accurate and up-to-date description of the boundaries. The copies of the charter, amendments and boundary descriptions shall be available for public inspection anytime during regular office hours.

Section 1.2 Powers of the City. The city shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with this charter and with the constitutions of this state and of the United States and with the statutes of this State. It is the intention of this charter to confer upon the city every power which it would have if it were specifically mentioned, unless otherwise provided in this charter. The charter shall be construed liberally in favor of the city, and the specific mention of particular municipal powers in other Sections of this charter does not limit the powers of the city to those thus mentioned. Unless granted to some other officer or body, all powers are vested in the council.

Section 1.3 Charter a Public Act. This charter shall be a public act and need not be pleaded or proved in any case.

- Section 1.1 amended by Ordinance #00-12 – effective January 24, 2001

CHAPTER 2
FORM OF GOVERNMENT

Section 2.1 Form of Government. The form of government established by this charter is the "Mayor-Council Plan" as defined by current Minnesota State Statutes. Except as otherwise provided by state statutes or this charter, all powers of the city are vested in the city council.

Section 2.2 Boards and Commissions. There shall be no separate administrative board of health, library board, or any other administrative board or commission except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by state statutes. The council may, however, establish or abolish by ordinance boards or commissions to advise the council with respect to any municipal function or activity, or to perform quasi-judicial functions. Notice of initial formation and all vacancies shall be published in the city newsletter and in the legal newspaper. Membership of various boards and commissions shall not exceed nine members, at least two-thirds of which shall be residents of the City of Ramsey.

Section 2.3 Council Composition and Election.

2.3.1 Mayor and Council. The council shall be composed of the mayor, elected at-large, two councilmembers elected at-large, and four councilmembers, each of whom shall be elected from a separate Ward as established or amended pursuant to this charter. The mayor and councilmembers shall be qualified electors. Each councilmember elected from a ward shall be a resident of the Ward, but a change in Ward boundaries does not disqualify a councilmember from serving the remainder of a term. Except as hereinafter provided, councilmembers shall serve for a term of four years and until a successor is elected and qualifies. The mayor shall serve for a term of four years and until a successor is elected and qualifies. The elections for the mayor and councilmembers shall be held as provided in Subsection 2.3.3.

2.3.2 Wards. The city shall be divided into four separate Wards. The boundaries of such Wards shall be determined by ordinance based upon population as determined by the most recent federal decennial census and shall be as equal in population as practicable and each Ward shall be composed of compact, contiguous territory. An ordinance designating the boundaries of the City's election Wards shall be enacted within sixty days after the state legislature has been redistricted or by May 10 in the year ending in two, whichever comes first. The Wards shall be designated as ward numbers 1, 2, 3 and 4.

2.3.3 Transition Schedule.

2.3.3.1 For the 2002 Citywide election only:

(1) Councilmembers elected in the year 2000 shall be assigned to the Ward in which he/she resides.
(2) Councilmembers from Ward Numbers 1 and 3 shall be elected.
(3) Two at-large councilmembers shall be elected, with the candidate receiving the highest number of votes serving a four-year term and the

candidate receiving the second highest number of votes serving a two-year term.

2.3.3.2 For the 2004 Citywide election only:

(1) Councilmembers from Ward Numbers 2 and 4 shall be elected.
(2) One at-large councilmember shall be elected to serve a four-year term.
(3) A mayor shall be elected.

2.3.3.3 Thereafter and commencing with the City wide election in 2006, there shall be biennial City wide elections with councilmembers from Ward Numbers 1 and 3 and an at-large councilmember elected, and at the next City wide election councilmembers from Ward Numbers 2 and 4, an at-large councilmember and a mayor shall be elected.

Section 2.4 Incompatible Offices. No member of the council shall hold any paid municipal office or employment through the city other than that to which elected. Further, until one year after the expiration of his/her term, no mayor or councilmember shall be appointed or employed by the city in a compensated position which was created, or the compensation for which was increased, during his/her term as mayor or councilmember.

Section 2.5 Vacancies. A vacancy in the council, whether it be in the office of mayor or councilmember, shall be deemed to exist in the case of the failure of any person elected thereto to qualify, or by reason of the death, resignation in writing filed with the city clerk, removal from office, non-residence in the city, conviction of a felony of any such person after his/her election, or by reason of the failure of any councilmember without good cause to attend council meetings for a period of three consecutive months. In each such case, the council shall publicly declare by resolution, the vacancy to exist within fifteen (15) days of its occurrence and such vacancy shall be filled according to the provisions of Section 4.5.

Section 2.6 The Mayor's Powers and Duties.

2.6.1 The mayor shall preside at meetings of the council and shall have a vote as a member. The mayor shall be recognized as the head of the city government for all ceremonial purposes, by the courts for serving civil process, and by the governor for purposes of martial law, but shall have no administrative duties.

2.6.2 Consistent with the responsibility to accept considerable leadership over the general conduct of city affairs, the mayor shall study the operations of the city government and recommend desirable changes and improvements to the council. The mayor shall also deliver messages to the council and the public, including a comprehensive message on the state of the city, as soon as practicable after the beginning of each year of his/her term of office.

2.6.3 At the first meeting of each year the council shall choose an acting mayor from the councilmembers. He/she shall perform the duties of mayor during the disability or absence of the mayor, or, in the case of vacancy in the office of mayor, until a successor has been appointed and qualifies.

Section 2.7 Salaries. The mayor and councilmembers shall receive such compensation as is fixed by the council in accordance with state statutes. Any increases in such compensation shall not become effective until after the next municipal election. Other officers and employees of the city shall receive such salaries or wages as may be fixed by the council.

Section 2.8 Investigation of City Affairs. The council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The council shall provide for an audit of the city's accounts at least once a year by the state department in charge of such work or by a certified public accountant. At any time, the council may provide for an examination or audit of the city accounts of any city officer or agency, and it may provide for any survey or research study of any subject of municipal concern.

- Section 2.3 amended by General Election, November 5, 1996 – effective December 5, 1996
- Section 2.3 amended by Special Election, November 6, 2001 – effective December 6, 2001
- Section 2.5 amended by Ordinance #00-12 – effective January 24, 2001
- Section 2.1 amended and Section 2.1.1 added by Ordinance #06-35 – ordinance effective April 26, 2007 – but amendment effective January 1, 2011
-Section 2.5 amended by Ordinance #09-18 – effective March 18, 2010
-Section 2.1 amended and Section 2.1.1 deleted by Ordinance #10-03 – and adopted by voters in November 2, 2010 General Election – Effective November 3, 2010

CHAPTER 3
COUNCIL PROCEDURES

Section 3.1 Council Meetings. The council shall meet regularly at least once each month at such times and places as the council may designate by ordinance. The mayor or any three members of the council may call special meetings of the council upon at least twenty-four hours notice to each member, and such reasonable public notices as may be prescribed by council rule in compliance with state statutes. The twenty-four hours notice shall not be required in an emergency. A state of emergency shall be deemed to exist when the public peace, health, morals, safety or welfare are in immediate jeopardy. To the extent provided by state statutes, all meetings of the council and its committees shall be public, and any citizen shall have access to the minutes and records of the council at all reasonable times. During any of its public meetings, the council shall not prohibit, but may place reasonable restrictions upon citizens' comments and questions and citizen input shall be provided for at the beginning of each council meeting.

Section 3.2 deleted (effective December 5, 2002, relating to Liaison Function)

3.2.1 deleted (effective December 5, 2002, relating to Precinct Liaison)

3.2.2 Precinct Boundaries. The precinct boundaries shall correspond to those adopted and revised periodically by council, by resolution.

3.2.3 deleted (effective September 8, 1993 relating to Precinct Liaison Meetings)

Section 3.3 Rules of Procedure and Quorum. Except as otherwise provided in this charter, the council shall determine its own rules and order of business. A majority of all members shall constitute a quorum to do business, but a smaller number may adjourn from time to time. The council may by rule provide means by which a minority may compel the attendance of absent members in accordance with state statutes.

Section 3.4 Ordinances, Resolutions and Motions.

3.4.1 Except as otherwise provided in this charter or state statutes, an affirmative vote of four or more members of the council shall be required for the adoption of all ordinances, resolutions and motions. The votes of councilmembers on any action taken shall be recorded in accordance with state statutes.

3.4.2 Except as otherwise provided in this charter, all legislation shall be by ordinance. The vote on all ordinances shall be by a roll call vote.

3.4.3 The general administrative business of the council shall be conducted by resolution or motion.

Section 3.5 Procedures on Ordinances. Every proposed ordinance shall be presented in writing. No ordinance shall contain more than one subject. Such subject shall be clearly expressed in its title. The enacting clause shall be "The City of Ramsey Ordains". No ordinance, except an emergency ordinance, shall be adopted at the meeting at which it is introduced and at least three days shall elapse between its introduction and final adoption.

Section 3.6 Emergency Ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare, and in such ordinance the emergency is defined and declared in a preamble thereto. An emergency ordinance must be approved by a majority of available members of the city council. An emergency ordinance must be in writing but may be enacted without previous filing or voting, and may be adopted finally at the meeting at which it is first introduced and voted upon by the council. An emergency ordinance shall remain in effect for the duration of the emergency. No prosecution shall be based upon the provisions of an emergency ordinance until twenty-four hours after the ordinance has been adopted, filed with the city clerk, and either has been posted in three conspicuous places in the city or published as provided for in this charter, or the person charged with violation thereof had actual notice of the ordinance prior to the act or omission resulting in the prosecution.

Section 3.7 Signing and Publication of Ordinances. The final version of every ordinance shall be read in full prior to passage by council unless such reading is waived by a majority vote of the council, provided that a copy of the ordinance is posted or otherwise made available to the public at least three working days prior to the meeting at which it is to be adopted. The ordinance shall then be signed by the mayor, attested to by the city clerk, and filed and preserved by the city clerk. Each ordinance, or summary of such ordinance, shall be published at least once in the official newspaper. This summary of each ordinance shall include, in layman's terms, the intent of the ordinance. To the extent and in the manner provided by state statutes, an ordinance may incorporate by reference, a state statute, a state administrative rule or a state regulation, a code, or an ordinance or part thereof, without publishing the material referred to in full.

Section 3.8 Procedure on Resolutions. Every resolution shall be presented in writing and shall be filed and preserved by the city clerk.

Section 3.9 When Ordinances and Resolutions Passed by City Council Take Effect. Every resolution and emergency ordinance shall take effect immediately upon its adoption or at such later date as it specifies. Every other ordinance shall take effect thirty days after its publication or at such later date as it specifies.

Section 3.10 Amendment and Repeal of Ordinances and Resolutions.

3.10.1 An ordinance or resolution which repeals all or part of a previous ordinance or resolution, respectively, shall give the number, if any, in the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone, but an ordinance or resolution which amends such ordinance or resolution, respectively, shall set forth in full each Section to be amended and shall indicate by appropriate type or symbols, matter to be omitted or added. Amendment or repeal of an ordinance or resolution shall require a majority vote of all members of the council, unless otherwise provided in this charter or by state statutes.

3.10.2 Repeal of Initiative Ordinances. An ordinance passed under the initiative power shall not be repealed or amended by the council except by submission to the voters of the question by the council at a regular municipal or special election.

Section 3.11 Review and Revision of Ordinances and Indexing of Resolutions. The city shall review, revise and rearrange its ordinance code and its resolution index with such additions and deletions as may be deemed necessary by the council at least once every two years. The ordinance code and the resolution index may be published in a book, pamphlet or loose-leaf form and copies shall be made available by the council at the office of the city clerk for general distribution to the public for a reasonable charge. Incorporation in such a code shall be a sufficient publication of any ordinance provision not previously published, if a notice is placed in the official newspaper for at least two successive weeks that copies of the codification are available at the office of the city clerk.

- Section 3.2.2 amended by Ordinance #99-15 - effective January 28, 2000
- Section 3.2.3 deleted by Ordinance #93.09 – effective September 8, 1993
- Section 3.5 amended by Ordinance #85-9 – effective September 28, 1985
- Section 3.6 & 3.7 amended by Ordinance #00-12– effective January 24, 2001
- Section 3.8 amended by Ordinance #85-9 – effective September 28, 1985 and amended by Ordinance #00-12 - effective January 24, 2001
- **Section 3.11 amended by Ordinance #00-12 – effective January 24, 2001**
- **Section 3.2 deleted by General Election November 5, 2002 – effective December 5, 2002**
- **Subsection 3.2.1 deleted by General Election November 5, 2002 – effective December 5, 2002**
- **Section 3.1 amended by Ordinance #04-47 – effective March 3, 2005**
- **Section 3.4.1 amended by Ordinance #04-47 – effective March 3, 2005**

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CHAPTER 4
NOMINATIONS AND ELECTIONS

Section 4.1 The Regular Municipal Election. A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year, commencing in 1984, at such places as the city council shall designate. At least fifteen days prior notice shall be given by the city clerk by posting a notice thereof in at least one public place in each election precinct, and by publishing a notice thereof at least once in the official newspaper of the city stating the time and the places of holding such election and of the officers to be elected. Failure to give such notice shall not invalidate such election. Elected and qualified officers provided for by this charter shall assume the duties of office to which they were elected on the first business day in January following such election.

4.1.1 Primary Elections. Primary elections shall be held on the same date as prescribed by the Minnesota Statute, which establishes the statewide primary election date. The primary election shall be for the selection of two nominees for each elective office at the regular municipal election, unless two nominees or fewer file for each elective office.

Section 4.2 Filing for Office. All persons who shall desire to be elected to any elected office shall file an affidavit not more than ten weeks or less than eight weeks before the primary election with the city clerk, paying a filing fee to the city clerk in an amount as set by ordinance.

The city clerk shall prepare and have printed at the expense of the city the necessary ballots or other required material for such election.

The ballots or other material shall contain no political party designation of any candidate and the names of the candidates for each office may be arranged on the ballot alphabetically according to the surname of each candidate.

The ballots or the results shall be counted and preserved and the city clerk shall be the final custodian of such ballots or returns for the city.

A sample ballot or a facsimile representation of the ballot shall be posted at the place of election at least one week before such election by the city clerk, whose duty it is to preserve such sample ballots.

4.2.1 Repealed (effective November 14, 1994)

Section 4.3 Procedure at Elections. Consistent with the provisions of this charter and applicable state statutes, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinances, general state statutes on elections shall apply to municipal elections.

Section 4.4 Special and Advisory Elections Except for Elected Office. The council may by resolution order any special or advisory election deemed appropriate by the council, for any reason, and provide all means for holding it. At least fifteen days prior notice shall be given by the city clerk by posting a notice thereof in at least one public place in each election precinct, and

by publishing a notice thereof at least once in the official newspaper of the city stating the time and the places of holding such election.

Section 4.5 Vacancy of Municipal Elected Office.

4.5.1 When a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, there shall be a special election held within ninety days after the vacancy occurs to elect a successor to serve for the remainder of the unexpired term of the office vacated.

4.5.2 The city clerk shall give at least sixty days published prior notice of such special election, except as set forth under 4.5.5 of this Section.

4.5.3 The procedure at such election and assumption of duties of elected officers following such election shall conform as nearly as practicable to that prescribed for other municipal elections under this charter.

4.5.4 In the case of a vacancy where there remains less than 365 days in the unexpired term, the council shall, by a majority vote, appoint a successor to serve for the remainder of said term. In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

4.5.5 Office Vacancy when less than eight weeks prior to primary election.

4.5.5.1 Special Election. When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a primary election there shall be no primary election, except as provided in Section 4.5.5.3 below. The special election to fill the vacancy shall coincide with the Regular Municipal Election and the notice of such vacancy shall be published as soon as is practicable.

4.5.5.2 Vacancy in offices to be voted on in the Regular Municipal Election. If a vacancy occurs less than eight weeks prior to the primary election, in the office of the mayor or the councilmembers whose seats are to be voted on in the Regular Municipal Election, said vacancy shall be considered not to exist for the purpose of the Regular Municipal Election. The person elected to fill the vacancy in the Regular Municipal Election, if approved by unanimous vote of the sitting Council, may assume the duties of the office to which elected on the first business day following the City Clerk's issuance of a certificate of election to said person.

4.5.5.3 Vacancy in an office not to be voted on in the Regular Municipal Election. If a vacancy occurs in the office of the mayor or a councilmember not standing for election in the Regular Municipal Election, a special primary election and a special election shall be held in January of the subsequent year following the vacancy to fill said vacancy. The election procedures for the special primary election and the special election shall be those election procedures for municipal office candidates as prescribed in Minnesota Statutes and this Charter. Notwithstanding Section 2.3.1 of this Charter, which provides for a four-year term

for the mayor and councilmembers, the term of the mayor and/or a councilmember elected pursuant to this subsection will be for the remainder of the vacant term.

4.5.6 If there are insufficient numbers of candidates in a regular or special election to fill expiring or vacated municipal offices, the city council shall fill said offices by appointment until the next regular municipal election. In the case of a tie vote of the council, the mayor shall make said appointment from the candidates under consideration.

- Section 4.2 amended by Ordinance #88-9– effective October 13, 1988
- Section 4.1 & 4.2 amended by Ordinance #00-12 – effective January 24, 2001
- Section 4.1.1 added by Special Election, November 6, 2001 – effective December 6, 2001
- Section 4.2 amended by Special Election, November 6, 2001 – effective December 6, 2001
- Section 4.2.1 Repealed by Ordinance #94-07 - effective November 14, 1994
- Section 4.4 & 4.5.2 amended by Ordinance #00-12 – effective January 24, 2001
- Section 4.5 amended by Ordinance #04-47 – effective March 3, 2005
-Section 4.5.5 amended by Ordinance #09-18 – effective March 18, 2010
- Section 4.5.5.1 added by Ordinance #09-18 – effective March 18, 2010
- Section 4.5.5.2 added by Ordinance #09-18 – effective March 18, 2010
- Section 4.5.5.3 added by Ordinance #09-18 – effective March 18, 2010
- Section 4.1.1 amended by Ordinance #10-08 – effective August 5, 2010

CHAPTER 5
INITIATIVE, REFERENDUM AND RECALL

Section 5.1 Powers Reserved by the People. The people of the City of Ramsey reserve to themselves the powers in accordance with the provisions of this charter to initiate and adopt ordinances, to require ordinances passed by the council to be referred to the electorate for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum, and the recall, respectively.

Section 5.2 General Provisions for Petitions.

5.2.1 Petition for Initiative and Referendum. A petition for initiative and referendum provided for under this chapter shall be sponsored by a committee of five registered voters of the city whose names and addresses shall appear on the petition. A petition may consist of one or more papers, but each separately circulated paper shall contain at its head, or attached thereto, the information specified in Sections 5.5 or 5.7 which apply, respectively, to initiative and referendum. Each signer shall be a registered voter of the city and shall sign his/her name and give his/her street address. Each separate page of the petition shall have appended to it a certificate by the circulator, verified by oath, that each signature appended thereto was made in his/her presence and that the circulator believes them to be the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the city and registered to vote. Any person who's name appears on a petition may withdraw his/her name by a statement in writing filed with the city clerk before said city clerk advises the council of the sufficiency of the petition.

5.2.2 Petition for Recall of a Ward Councilmember. A petition for recall of a councilmember elected from a separate ward shall be sponsored by a committee of five registered voters whose name and addresses shall appear on the petition and who reside within the ward represented by the councilmember. A petition may consist of one or more papers, but each separately circulated paper shall contain at its head, or attached thereto, the information specified in section 5.8 which applies to recall. Each signer shall be a registered voter of the ward represented by the councilmember subject to the recall and each signer shall sign his/her name and giver his/her street address. Each separate page of the petition shall have appended to it a certificate by the circulator, verified by oath, that each signature appended thereto was made in his/her presence and that the circulator believes them to be the genuine signature of the person whose name it purports to be. The person making the certificate shall be a registered voter of the ward represented by the councilmember subject to the recall. Any person who's name appears on a petition may withdraw his/her name by a statement in writing filed with the city clerk before said city clerk advises the council of the sufficiency of the petition.

Section 5.3 Determination of Sufficiency. The committee shall file the completed petition in the office of the city clerk. The required number of signatures for initiative and referendum shall

be at least twenty percent of the total number of registered voters at the time of the last citywide election. The required number of signatures for recall of the mayor or a councilmember elected at large shall be at least twenty percent of the total number of registered voters in the city at the time of the last citywide election. The required number of signatures for recall of a councilmember elected from a ward shall be at least twenty percent of the total number of registered voters in the ward represented by the councilmember subject to the recall at the time of the last citywide election. Immediately upon receipt of the petition, the city clerk shall examine the petition as to its sufficiency and report to the council within ten days. Upon receiving the report, the council shall determine by resolution the sufficiency of the petition.

Section 5.4 Disposition of Insufficient or Irregular Petition. If the council determines that the petition is insufficient or irregular, as defined in Sections 5.3 and 5.2 respectively, the city clerk shall deliver a copy of the petition, together with a written statement of its defects, to the sponsoring committee. The committee shall have thirty days in which to file additional signature papers and/or to correct the petition in all other particulars, except that, in the case of a petition for recall, the committee may not change the statement of the grounds on which the recall is sought. Within five days of receipt of the corrected petition, the city clerk shall again report to the council. If the council finds that the petition is still insufficient or irregular, the city clerk shall file the petition in his/her office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the council from referring the subject matter of the petition to the voters at the next regular or special election.

Section 5.5 Initiative. Any ordinance may be proposed by a petition, which shall state at the head of each page or attached thereto the exact text of the proposed ordinance. If the council passes the proposed ordinance with amendments, and a majority of the sponsoring committee do not disapprove the amended form by a statement filed with the city clerk within ten days of its passage by the council, the ordinance need not be submitted to the voters. If the council fails to enact the ordinance in a form acceptable to the majority of the sponsoring committee within sixty days after the final determination of sufficiency of the petition, the ordinance as originally proposed shall be placed on the ballot at the next election occurring in the city. If no election is to occur within 120 days after the filing of the petition, the council shall call a special election on the ordinance to be held within such period.

Section 5.6 Initiative to Amend the Charter. Nothing in this charter shall be construed in any way as affecting the right of the electors to propose amendments to this charter.

Section 5.7 Referendum. Prior to the date an ordinance takes effect, it may be subjected to referendum by a petition, which shall state at the head of each page, or attached thereto, the exact text of the ordinance to be considered by the voters. If the petition is found to be sufficient under the provisions of Section 5.3 of this chapter, the said ordinance shall thereby be prevented from going into operation, and the subject matter of the petition shall be placed on the ballot at the next election occurring in the city. If no election is to occur within 120 days after the filing of the petition, the council shall call a special election to be held within such period, providing the petition has been found to be sufficient. If a majority of the voters voting thereon vote for the ordinance contained in the petition, it shall take effect immediately upon certification of the election results by the council.

Section 5.8 Recall. Consideration by the electorate of the recall of any elected officer of the city may be initiated by petition. The petition shall state at the head of each page, or attached thereto, a certificate stating the name of the officer whose removal is sought, the grounds for recall, which shall be malfeasance, misfeasance or nonfeasance in office, is not more than 250 words, and the intention of the sponsoring committee to bring about the officer's recall. Such petition shall be filed in the city clerk's office prior to circulation. If the petition or amended petition is found sufficient under the provisions of Section 5.3 of this chapter, the city clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall, at its next meeting, by resolution, provide for the holding of a special recall election within ninety days after such meeting, the council may, in its discretion, provide for the holding of the recall vote at that time. If the special recall election involves a councilmember elected from a separate ward, the special recall election shall be conducted only within the ward of such councilmember. If the special recall election involves the mayor, a councilmember who is elected at large, the election shall be a citywide election. The city clerk shall include with the published notice of the election the statement of the grounds for the recall and, also, in not more than 500 words, the answer of the officer concerned in justification of his/her course of office. If a vacancy occurs due to recall election, Section 4.5 herein shall apply to fill such vacancy.

- Sections 5.2, 5.3, 5.4, 5.5, 5.8 amended by Ordinance #00-12– effective January 24, 2001
- Section 5.3 amended by Special Election, November 6, 2001 – effective December 6, 2001
- Section 5.2.1, 5.2.2, 5.3 & 5.8 amended by Ordinance #04-47 – effective March 5, 2005

CHAPTER 6
ADMINISTRATION OF CITY AFFAIRS

Section 6.1 Administrative Responsibility. The council, as a body, shall be responsible for the administration of the city. The council shall appoint an administrative officer to assist in the administration of city affairs. For purposes of reference in this charter, this administrative officer shall be referred to as the city administrator.

Section 6.2 Administrative Organization.

6.2.1 The council may by ordinance establish city departments, offices and agencies and prescribe their functions. No power or duty conferred by this charter upon a particular office or agency shall be transferred to any other.

6.2.2 The city council shall by resolution hire or remove heads of departments, and such other future officers and personnel as may be required to operate the city efficiently. The council shall determine the qualifications thereof and prescribe the duties to be performed by each, except as otherwise prescribed in this charter.

6.2.3 The heads of departments and other officers designated by the council shall report in person to the council and to the public at least once each quarter at a regularly scheduled council meeting.

Section 6.3 Duties of the City Administrator. The city administrator shall be the chief administrative officer for the council. The council shall establish by resolution, the powers, duties and reporting requirements of the city administrator.

Section 6.4 Purchases and Contracts. All purchases shall be made and all contracts let by the council. Contracts shall be made in compliance with the uniform contracting law, and whenever competitive bids are required, the contract shall be let to the lowest responsible bidder. All contracts, bonds and instruments of any kind to which the city is a party shall be signed by the mayor and the city administrator on behalf of the city and shall be executed in the name of the city. The council may by ordinance adopt further regulations for the making of bids and the letting of contracts.

Section 6.5 Subordinate Officers. There shall be a city clerk and such other officers subordinate to the city administrator as the city council may create by ordinance. The city clerk, subject to the direction of the city administrator, shall keep the public records, and shall have other duties as the city administrator shall prescribe. In addition, the city clerk shall have other powers and duties imposed by state law, this charter, city ordinance and city resolution. The Council may by ordinance abolish offices which have been created by ordinance, and may by resolution, abolish offices which have been created by resolution. It may combine the duties of various offices as it may see fit.

- Sections 6.1, 6.3, 6.4 & 6.5 amended by Ordinance #00-12 – effective January 24, 2001

CHAPTER 7
TAXATION AND FINANCES

Section 7.1 Council to Control Finances. The council shall have full authority over the financial affairs of the city except as limited or prohibited by the state constitution, state laws, or this charter. It shall provide for the collection of all revenues and other assets, and the auditing and settlement of accounts. It shall further provide for the safekeeping and disbursement of public moneys.

Section 7.2 Fiscal Year. The fiscal year of the city shall be the calendar year.

Section 7.3 System of Taxation. Subject to the state constitution, and except as forbidden by it, or by state statutes, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by ordinance to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the state constitution, by this charter or by state statutes imposing restriction upon the city, irrespective of charter provisions.

Section 7.4 Submission of Budget.

7.4.1 Annually, the city administrator shall submit to the council the budget recommendations in accordance with a budget calendar to be established by resolution. The budget shall provide a complete financial plan for all city funds and activities for the ensuing fiscal year and, except as required by state statutes or this charter, shall be in such form as the council may require. It shall include a summary and show in detail all estimated income and all proposed expenditures, including debt service and comparative figures for the current fiscal year, actual and estimated, and the preceding year. In addition to showing proposed expenditures for current operations, it shall show proposed capital expenditures to be made during the year and the proposed method of financing each such capital expenditure. The total proposed operating budget to be provided from the property tax shall not exceed the amounts authorized by state statutes and this charter. Consistent with these provisions, the budget shall contain such information and be in the form prescribed by ordinance and by state statues. The Annual Financial Statement shall be in such form as state statutes, this charter or the council may prescribe.

7.4.2 For each utility operated by the city, its budget shall show anticipated net surplus or deficit and the proposed method of its disposition; and subsidiary budgets for each utility giving income and expenditure information shall be included or attached as appendices.

Section 7.5 Long-term Financial Plan.

7.5.1 The city council shall have prepared a long-term financial plan of at least five years. This information shall be revised and extended each year. The city council shall hold an annual public hearing on the long-term financial plan and adopt it by resolution with or without amendment. The financial plan, at minimum, shall consist of three elements as specified in Sections 7.5.2 through 7.5.4 which follow.

7.5.2 The Public Service Program. The program shall be a continuing five-year plan for all public services, estimating future needs for the public health, safety and welfare of the city. It shall measure the objectives and needs for each city department, the standard of services desired, and the impact of each such service on the annual operating budget.

7.5.3 The Capital Improvement Program. This program shall consist of projects and facilities that are or will be needed by the city in carrying out the anticipated program of public services. It shall include a list of all capital improvements proposed to be undertaken during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements; the priority of each anticipated improvement; cost estimate, method of financing and recommended time schedule for each such improvement; and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. This information shall be revised and extended each year for capital improvements still pending or in process.

7.5.4 Five Year Financial Forecast. This forecast shall detail the estimated revenue and expenditures necessary to carry out the Public Service and Capital Improvement Programs as described in Sections 7.5.2 and 7.5.3. In addition, the forecast will identify financing sources and uses, cash flow projections, and financial policies that impact and exercise control over revenues and expenditures.

7.5.5 A summary of the long-term financial plan shall be published in the city newsletter annually.

Section 7.6 Council Action on Budget.

7.6.1 The budget public hearing dates, procedures to be followed during the hearing, and publications, are established by state statute. However, the actual adoption of the proposed annual budget and the municipal levy shall take place at the next regularly, scheduled council meeting following the mandated public hearing(s) to ensure that comments received during the public hearing(s) are given due consideration before the final budget and municipal tax levy are adopted. The council may revise the proposed budget but no amendment to the budget shall increase the authorized expenditures to an amount greater than the estimated funds available. The council shall adopt the budget by a resolution that shall set forth the total for each budgeted fund and each department function or program, with such segregation as to objects and purpose of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget, and the city administrator shall certify the tax resolution to the county auditor in accordance with state law. Adoption of the budget resolution shall constitute appropriations at the beginning of the fiscal year of the sums fixed in the resolution of the several purposes named.

7.6.2 At least two weeks before the proposed budget is adopted, for the ensuing fiscal year, a summary of the proposed budget and municipal levy increases and decreases shall be given in the city newsletter. Such summary shall be set forth in language designed to be readily understood by the layperson, and shall provide appropriate supporting information as to the necessity for any increases. Failure to provide the specified

summary will not invalidate the budget. A summary of the adopted final budget shall be printed in the city newsletter as soon as is practical after the adoption.

Section 7.7 Enforcement of the Budget.

7.7.1 The city council shall enforce the provisions of the budget. It shall approve and authorize payments of bills, at each regularly scheduled council meeting, that have been presented for payment, supported by an itemized bill, payroll time sheet, or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness. Bills that are of an ongoing operating nature, have been appropriated in the budget, and been approved by the responsible city officer, may be paid prior to regular council meetings to avoid late penalties or to take advantage of available discounts. Other payments may occur in the event it is unreasonable or untimely to obtain council approval for funding an emergency or unforeseen expenditure which is necessary for the routine operation of the city as directed by council in a purchasing policy which shall be adopted by ordinance.

7.7.2 Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution, or for any amount in excess of the amount authorized, shall be a personal obligation upon the person incurring the obligation and such person will be subject to appropriate disciplinary or criminal action. No check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, time sheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness.

Section 7.8 Alterations to the Budget. After the budget resolution has been adopted, the council shall not increase the amounts fixed in the resolution beyond the estimated funds available except to the extent that actual receipts exceed the estimated funds available. At anytime, the council may, by resolution approved by a 4/5 vote of its members, reduce the sums appropriated for any purpose by the budget resolution, or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 7.9 Funds. There shall be maintained in the city treasury a general fund and such other funds as may be required by state statutes, resolution or ordinance. The council shall, by resolution or ordinance, create and abolish funds and shall define which funds are eligible for interfund loans as it may deem necessary and appropriate.

Section 7.10 City Indebtedness.

7.10.1 Except as provided in Sections 7.11 and 7.12, no obligation shall be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with state statutes and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this charter or state statutes, no such obligation shall be issued and sold without the approval of the majority of the voters voting on the question at a general or special election.

7.10.2 A description of each such proposed issue shall be published in the city newsletter, but failure to publish such description, or any defect in the description, shall not invalidate the issue. However, corrections shall be published at the earliest practical time.

Section 7.11 Tax Anticipation Certificates. At anytime after January 1, the council may issue tax anticipation certificates in anticipation of state and federal aids and the collection of taxes levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year together with interest thereon until maturity shall not exceed 90 percent of the total state and federal aids and current taxes due to the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due no later than April 1 of the year following their issuance. The proceeds of the tax levied and such state or federal aids as the governing body may have allocated for the fund against which tax anticipation certificates are issued, and the full faith and credit of the city shall be irrevocably pledged for the redemption of the certificates.

Section 7.12 Emergency Debt Certificates.

7.12.1 If in any year, the receipt from taxes or other sources should, for some unforeseen cause, become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue on such terms and in such manner as the council determines, emergency debt certificates to run not in excess of three years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing the issue of the emergency debt certificates shall state the nature of the emergency and be approved by at least four members of the council. It may be passed by emergency ordinance as defined in Section 3.6 except that the ordinance shall be enacted by a 4/5 vote of the council.

7.12.2 A description of each such proposed certificate shall be published in the city newsletter, but failure to publish such description, or any defect in the description, shall not invalidate the certificate. However, corrections shall be published at the earliest practical time.

- Sections 7.1 through 7.12 amended by Ordinance #94-03 - effective March 25, 1994
- Sections 7.4.1 & 7.6.1 amended by Ordinance #00-12– effective January 24, 2001

CHAPTER 8
PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 8.1 Power to Make Improvements and Levy Assessments. The city may make any type of local improvement not forbidden by law and levy special assessments to pay all or part of the cost of such local improvements. The total of the assessments for any local improvement may not exceed the cost of the local improvement, plus all costs and expenses connected therewith, including interest. No assessment shall exceed the benefit to the property assessed as measured by the increase in the market value of the property assessed as a result of the local improvement.

Section 8.2 Application of Charter. All local improvement projects shall be carried out exclusively under the provisions of this charter. The term "local improvement" as used in this Section shall mean a public improvement financed partly or wholly from special assessments.

Section 8.3 Assessments for Services. The council may provide by ordinance that the cost of the city services to streets, sidewalks, or other public or private property may be assessed against property benefited and may be collected in the same manner as special assessments.

Section 8.4 Local Improvement Procedure. When the city undertakes any local improvement to which the state local improvement code Minn. Stat. Chapter 429 applies, it shall comply with the provisions of that law, except as modified below. The council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefore.

8.4.1 Sixty Day Waiting Period. A period of sixty (60) days shall elapse after the conclusion of the public hearing required by law to precede the ordering of the construction of a local improvement project (the "Public Hearing") before the actual ordering of the local improvement by the council and the council entering into a contract for the local improvement construction.

8.4.2 Percentage of Owners Required. When the local improvement has been petitioned for by the owners of not less than 50 percent in frontage of the real property abutting on streets named in the petition as the location of the local improvement the resolution ordering the local improvement by the council may be approved by vote of a majority of all members of the council. When there has been no such petition, the resolution may be adopted only by vote of four-fifths of all members of the council.

8.4.3 Petition Against the Local Improvement. A proposed local improvement may be initiated by petition of the owners of real property abutting on the streets named in the petition. If, within thirty (30) days of the conclusion of the public hearing, a petition against such local improvement is filed with the city administrator which petition is signed by a percentage of the owners of real property abutting on the streets named in the initiating petition as the location of the improvement which percentage is greater than the percentage of owners of real property who signed the initiating petition, the council shall not make such local improvement at the expense of the abutting property owners. For purposes of the foregoing sentence, "owners of real property" shall not include owners of properties zoned for commercial or industrial uses or owners of properties zoned

residential greater than 10 acres in size based on zoning classifications in effect at the date of such petition, or owners of non-homestead real property greater than one acre in size.

8.4.4 Counter Petition in Favor of the Improvement. If within thirty (30) days of the filing with the city administrator of a petition against the local improvement as described in Section 8.4.3 above, there is filed with the city administrator a petition in favor of the local improvement, signed by owners of real property abutting on the streets named in the initiating petition as the location of the improvement, in a percentage greater than the percent of owners of real property who signed the petition against the local improvement, then in such event the council may disregard the petition against the local improvement and proceed with the local improvement.

8.4.5 Petition Against Council Initiated Improvement. If the local improvement was initiated by council resolution without an initiating petition and, within sixty (60) days of the conclusion of the public hearing, a petition is filed with the city administrator against such local improvement and which petition is signed by 60 percent or more of the owners of real property proposed to be assessed for and benefited by the local improvement, the council shall not make such local improvement at the expense of the benefited property owners. For purposes of the foregoing sentence, "owners of real property" shall not include owners of properties zoned for commercial or industrial uses or owners of properties zoned residential greater than 10 acres in size based on zoning classifications in effect at the date of such petition, or owners of non-homestead real property greater than one acre in size.

8.4.6 Withdrawal of Name from Petition. Any person whose name appears on a petition to the council in favor of a local improvement, or on a petition to the council filed against a local improvement, may withdraw his/her name by a statement in writing filed with the city administrator before such petition is presented to the council or in person at a city council meeting before the city council accepts said petition.

8.4.7 Filing of Petition with City Council. All completed petitions filed with the city administrator as described herein shall be presented to the council by the city administrator at the council's next regularly scheduled meeting.

8.4.8 One Year Before Any Further Action. When a proposed local improvement is disallowed pursuant to the petition process described in the foregoing Sections, the council shall not vote on the same improvement within a period of one year after the public hearing on said improvement.

Section 8.5 Computation of Time. Where the performance or doing of any act or matter is required by this charter, and the period of time is prescribed and fixed by this charter, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. When the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

Section 8.6 Sewer and Water Projects. This Section applies to any Local Improvement Project completed after January 1, 1996, which includes extending Urban Services (Sewer and/or Water) to an existing home or neighborhood.

8.6.1 Connection Policy. The City may not compel any property owner with a functional private sewer and water system to connect to City Sewer and/or Water.

8.6.2 Assessment Policy. The City may not levy an assessment for any component of any project which includes Sewer and/or Water improvements against a property whose owner elects to remain on a functional private Sewer and/or Water system.

8.6.3 Request for Urban Services. Property owners who remain on private Sewer and Water systems after Urban Services become available may request connection to Urban Services at any time. Upon connection to Urban Services an assessment may be levied provided it is consistent with the original assessment.

- Section 8.1 through 8.5 amended by Ordinance #92-12 - effective January 25, 1993
- Section 8.6 added by Special Election, May 20, 1996 – effective June 20, 1996
- Section 8.4.2, 8.4.3 and 8.4.4 amended by Ordinance #06-22 – effective October 16, 2006
- Section 8.4, 8.4.2 (added) 8.4.2 made 8.4.3 – and so on, amended by Ordinance #12-08 - effective October 1, 2012
-Section 8.4.5 amended by Ordinance #14-07 – effective November 2014

CHAPTER 9
EMINENT DOMAIN

Section 9.1 Acquisition of Property. The city may acquire by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the city for any public purpose. In acquiring property by exercising the power of eminent domain, the city shall proceed according to Minnesota Statutes, Chapter 117, or other applicable laws.

CHAPTER 10
FRANCHISES

Section 10.1 Except as otherwise provided by state statutes, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon or under any street or public place for the purpose of operating a public utility, or for any other purpose, without a franchise therefore from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. No exclusive franchise shall be granted unless the proposed ordinance is submitted to the voters of the city following a public hearing and approved by at least a majority of those voting thereon. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the city clerk to guarantee publication before the ordinance is passed.

Section 10.2 Term. No perpetual franchise or privilege shall be created, nor shall any exclusive franchise or privilege be granted for a period of more than twenty-five years.

Section 10.3 Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the city newsletter and in the official newspaper not less than ten days prior to the date of the hearing. Failure to publish said notice or any defect in said notice shall not invalidate the notice. However, correction(s) must be published at the earliest practical time.

Section 10.4 Power of Regulation Reserved. Subject to any applicable state statutes, the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable state or municipal law, or regulation, or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 10.5 Renewals or Extensions. Every extension, renewal, or modification of any existing franchise, or of any franchise granted thereafter, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

- Section 10.1 amended by Ordinance #00-12 – effective January 24, 2001

CHAPTER 11
PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Section 11.1 Acquisition and Operation of Utilities. The city may own and operate any gas, water, heat, power, light, telephone or other public utility for supplying its own needs for utility service, or for supplying utility service to private consumers or both. It may construct all facilities reasonably needed for that purpose, and may acquire any existing utility properties so needed; but such action shall only be taken by ordinance, which shall not be an emergency ordinance. The operation of all public utilities owned by the city shall be under the supervision of the city council.

Section 11.2 Rates and Finances. The council may, by ordinance, fix rates, fares and prices for municipal utilities, but such rates, fares and prices shall be just and reasonable. The council shall make each municipal utility financially self-sustaining. Before any rates, fares or prices for municipal utilities shall be fixed by the council, the council shall hold a public hearing on the matter in accordance with Section 11.6 of this chapter. The council shall prescribe the time and the manner in which payments for all such utility services shall be made, and may make such other regulations as may be necessary, and prescribe penalties for violations of such regulations.

Section 11.3 Purchase in Bulk. The council may, in lieu of providing for the local production of gas, electricity, water and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix. Before such rates are fixed by the council, the council shall hold a public hearing on the matter in accordance with Section 11.6 of this chapter.

Section 11.4 Lease of Plant. The council may, if the public interest will be served thereby, contract with any responsible person, co-partnership or corporation for the operation of any utility owned by the city upon such rentals and conditions as it may deem necessary; but such contract shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten years.

Section 11.5 Public Utility. How Sold. No public utility owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefore, shall be embodied in an ordinance approved by a majority of the registered voters voting thereon at a general or special election. Before such ordinance is submitted to a vote, the council shall hold a public hearing on the matter in accordance with Section 11.6 of this chapter.

Section 11.6 Notice of Public Hearing. Notice of public hearing required by this chapter shall be published at least once in the official newspaper and in the city newsletter at least ten days prior to the date of the hearing. Failure to publish said notice or any defect in said notice shall not invalidate the notice. However, the correction(s) must be published at the earliest practical time.

CHAPTER 12
MISCELLANEOUS AND TRANSITORY PROVISIONS

Section 12.1 Official Publication. The council shall annually designate a legal newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by state statutes and this charter to be so published, as well as such other matters as the council may deem it in the public interest to have published in this manner.

Section 12.2 Oath of Office. Every officer of the city shall, before entering upon the duties of his/her office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affix:) to support the constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as (mayor, councilmember, city administrator, etc.) of the City of Ramsey to the best of my judgment and ability".

Section 12.3 City Officers Not to be Interested in Contracts. Except as otherwise permitted by state statutes, no officer of the city, who is authorized to take part in any manner in any contract with the city, shall voluntarily have a personal financial interest in such contract or personally benefit financially therefrom.

Section 12.4 Official Bonds. The city administrator and other such officers or employees of the city as may be provided for by ordinance shall each, before entering upon the duties of his/her respective office or employment, give a corporate surety bond to the city in such form and such amount as may be fixed by the council as security for the faithful performance of his/her official duties. This corporate surety bond may be in the form of either individual or blanket bonds at the discretion of the council. They shall be approved by the council, and approved as to form by the city attorney, and filed with the city administrator. The premiums on the bonds shall be paid by the city.

Section 12.5 Sales of Real Property. No real property of the city, with the exception of cemetery plots, shall be disposed of except by ordinance. The proceeds of any sale of such property shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction, or improvement of this or other property used for the same public purpose. If there is no such outstanding indebtedness, the council may by resolution designate some other public use for the proceeds.

Section 12.6 Vacation of Streets. The council may by ordinance vacate any street or alley or other public grounds or part thereof within the city. Such vacation may be made only after published notice in the official newspaper and an opportunity for affected property owner and public to be heard, and upon such further terms and by such procedure as the council by ordinance may prescribe. A notice of completion of such procedure shall be filed in accordance with state statutes.

Section 12.7 Statutes Not Affected by Charter. All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Ramsey operating under home rule charters, and not inconsistent with the provisions of this charter, or the ordinances of this city, shall apply to the City of Ramsey, and shall be construed as supplementary to the provision of this charter.

Section 12.8 City to Succeed to Rights and Obligations of Former City. The city shall succeed to all property, rights, and privileges, and shall be subject to all legal obligations of the former city.

Section 12.9 Existing Ordinances and Resolutions Continued. All ordinances, resolutions and regulations of the municipality in force when this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

Section 12.10 Officers to Continue for Present Terms. All elective and appointive officers of the city holding office on the effective date of this charter shall continue in office for the terms to which they were elected or appointed, and until their successors shall have been elected or appointed and have qualified.

Section 12.11 Pending Condemnations and Assessments. Any condemnation or assessment proceeding in progress when this charter takes affect shall be continued and completed under the state statutes under which such proceeding was begun. All assessments made by the municipality prior to the time when this charter takes effect shall be collected, and the lien thereof enforced in the same manner as if this charter had not been adopted.

Section 12.12 Ordinances to Make Charter Effective. The council shall by ordinance, resolution, or other appropriate action make such regulations as may be necessary to carry out and make effective the provisions of this charter.

Section 12.13 A Newsletter. A newsletter shall be published by the city at regular intervals at least six times each year. The postal role for the city shall be used for the distribution.

Section 12.14 This charter becomes effective thirty days after adoption.

- Section 12.2 & 12.4 amended by Ordinance #00-12 – effective January 24, 2001

Ramsey City Charter Adopted by Special Election – May 22, 1984

CHAPTER 13
POLICE DEPARTMENT

Section 13.1 Department Created. The existing police department for the city shall forthwith be established as permanent and shall consist of a chief of police, and such other officers and members as may be provided for by the council.

Section 13.2 Appointments. The chief of police shall be appointed by the council. All other appointments to or promotions within the department shall be made as provided by law.

Section 13.3 Rank. The chief of police shall be the head of the department and have supervision over all officers and members thereof.

Section 13.4 Duties of Chief. The chief of police shall keep such records and make such reports concerning the activities of his/her department as may be required by statute or by the city council. The chief shall be responsible for the performance by the police department of its functions, and all persons who are members of the police department shall serve subject to the orders of the chief of police.

Section 13.5 Duties. It shall be the duty of the officers of the police department to see to the enforcement of all of the ordinances of the city and all statutes applicable therein, and to preserve order and prevent infractions of the law and arrest violators thereof.

Section 13.6 Conduct of Members. It shall be the duty of every member and officer of the police department to conduct himself or herself in a proper and law-abiding manner at all times. Each member and officer of the department shall obey the orders and directions of his/her superior.

Section 13.7 Rules and Regulations. The chief of the police department may make or prescribe such rules and regulations as he/she shall deem advisable, such rules, when approved by the council, shall be binding on such officers and members. Such rules and regulations may cover, besides the conduct of the officers and members, uniforms and equipment to be worn or carried, hours of service, vacation, and all other similar matters necessary or desirable for the efficiency of the department.

Section 13.8 Equal Opportunity. In making appointments to the police department, no person shall be deprived of an opportunity to serve on the police department because of race, religion, skin color, national origin or sex. No arbitrary rules on height, weight, or achievement of strength unrelated to job needs shall be imposed. No handicapped person shall be denied, merely by virtue of being handicapped, appointment to a position on the police department which the handicapped person is competent to fill.

- Chapter 13 added by Ordinance #88-21 - effective December 13, 1988

CHAPTER 14
METROPOLITAN URBAN SERVICE AREA

- Chapter 14 added by Special Election, August 15, 1995 – effective September 15, 1995
- Section 14.2 added by Special Election, September 22, 1997 – effective October 22, 1997
- Chapter 14 deleted by General Election, November 5, 2002 – effective December 5, 2002

CHAPTER 15
ADOPTION OF COMPREHENSIVE MUNICIPAL PLAN

Section 15.1 Comprehensive Plan. Minnesota Statutes, Chapter 462 requires that the City prepare and adopt a comprehensive municipal plan which plan is defined as a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs. The comprehensive plan represents the City's planning agency's recommendations for the future development of the City.

15.1.1 Adoption of Comprehensive Plan. The City Council may by resolution by a majority vote of all its members adopt and amend the comprehensive plan or portion thereof as the official municipal plan upon such notice and hearing as may be prescribed by ordinance.

- Chapter 15 added by Special Election, November 6, 2001 – effective December 6, 2001

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of .....)

) ss.

County of .....)

.... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....

(Signature of Circulator)

Subscribed and sworn to before me

this ..... day of ....

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. **Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: *(1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43*

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March 21, 2022

Mr. Kurt Ulrich
City Administrator, City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

RE: Methods of Petitioning by Citizens of a Charter Amendment

Dear Mr. Ulrich:

Upon request of the Council, you've asked me to provide a description detailing the procedure that would need to occur for citizens in the City of Ramsey to petition for a City Charter amendment.

Amendment procedures are provided in Minnesota Statutes §410.12, a copy of which I've attached. The options provided in that statute are the only ones allowed for amending a charter under Minnesota law.

You'll recall that the earlier discussion by the Council on this topic included a review of two alternatives that involved active City Council participation. The first would have been for the Council to pass an ordinance proposing an amendment. This would then be submitted to the Charter Commission for review within 60 days (with an allowance for an additional 90 days) after which it would be returned to the Council for further action. At that point the Council could put the proposed charter changes to the voters.

The second Council-oriented method would be for the Charter Commission to suggest an ordinance amending the charter to the Council which could then consider that ordinance under the City's normal ordinance process. It would effectively amend the charter if it received an

affirmative vote of all members of the City Council. This was the method I recommended as, with the Charter Commission's cooperation of agreed-to language (without the actual initial passage of the ordinance by the Council), this is the most immediate manner of amending the Charter. The one real impediment, of course, would be the absence of a unanimous Council.

The manner of proposing amendments that avoids the direct input of a city council is provided in Subdivision 1 of the statute. It should be said at the outset that this is a process that is not "simple" and is ripe for potential error. Great attention must be paid, in particular, to the witnessing of the signatures necessary, which must number, in total, equal to or more than five percent (5%) of the total votes cast in the previous state general election. No small hurdle.

Since the change being proposed is not particularly large, I would suggest that a summary would not be needed. Rather the petition would need to read as follows:

> "The Undersigned, being registered voters in the City of Ramsey, Minnesota, qualified to Petition to change the Charter of the aforesaid City, do hereby propose the following amendment the Charter of the City of Ramsey, by adding a paragraph to Section 2.4 thereof, as follows:
>
> 'Sec. 2.4 – Incompatible offices.
>
> ...
>
> ***No member of the Council may serve as a member of the City of Ramsey Charter Commission while serving on the Council. No member of the Council may serve as a voting member of any other Commission or Board of the City of Ramsey while he/she remains in office unless such membership is otherwise required by law.'"***

Each sheet of the petition would need to contain the signature of the petitioner (whose signatures can be contained in severality on any given page), as well as their address. Any signature would have to be witnessed by the canvasser, who, in turn, must verify the signatures under oath using the format specifically laid out in the statute.

The proposed change is then submitted to and reviewed by the Charter Commission, which has ten days to review it as to form. The Charter Commission finally receives the completed petitions, which it assembles into a single proposal and submits it to the City Council. The City Clerk has the duty to determine whether a sufficient number of signatures in present and that at least enough of them are "valid", meaning of registered voters in the City. Assuming that there are sufficient signatures, the Clerk certifies that to be the case and the amendment is placed on the ballot in the next general (or special election). Other than setting an election date, there is no active intervention by the Council in this last method, nor is there a need to follow the ordinance procedures since none of this requires the passage of an ordinance by the City Council, unlike the other procedures I have noted above.

I will be ready to discuss this as needed with the Council. Please let me know if you, the staff or the Council members have any questions in the meantime.

Frederic W. Knaak,
City Attorney

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of .....)

) ss.

County of .....)

.... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....

(Signature of Circulator)

Subscribed and sworn to before me

this ..... day of ....

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. **Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: *(1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43*