



CITY OF MANZANITA

P.O. Box 129, Manzanita, OR 97130-0129
Phone (503) 368-5343 | Fax (503) 368-4145 | TTY Dial 711
ci.manzanita.or.us

COUNCIL REGULAR SESSION

Pine Grove Community Center
<https://ci.manzanita.or.us>

AGENDA

December 6, 2023
06:00 PM Pacific Time

Council will hold this meeting at the Pine Grove Community Center

Video Information: The public may watch live on the

[City's Website: ci.manzanita.or.us/broadcast](https://ci.manzanita.or.us/broadcast)

or by joining via Zoom:

<https://us02web.zoom.us/j/87127848854?pwd=eUpLbGYyd3oyUVhTSEdUcVB5OEYydz09>

Meeting ID: 871 2784 8854 Passcode: 244824

Call in number: +1 253 215 8782

If you would like to submit written testimony to the City Council on items included on the agenda, please send your comments to cityhall@ci.manzanita.or.us and indicate the agenda item and date of meeting.

Note: Agenda item times are estimates and are subject to change

1. CALL TO ORDER (6:00 p.m.)

2. AUDIENCE PARTICIPATION

Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to cityhall@ci.manzanita.or.us), or in person to city staff**

3. CONSENT AGENDA

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

A. Approval of Minutes

- a. November 08, 2023, Regular Session
- b. November 08, 2023, Special Session
- c. November 15, 2023, Work Session

B. Approval of Bills

4. CITY MANAGER REPORT

5. OLD BUSINESS

A. Public Hearing - Ordinance 23-03 – 2nd Reading

Amending Goal 12 Transportation Policies, and Goal 11 Public Facilities Relating to Street Policies of the City's Comprehensive Plan, Rescinding the Downtown Transportation Plan and Replacing it with Volume 2 of the Nehalem Bay Transportation System Plan for Manzanita

Leila Aman, City Manager

B. Public Hearing – Ordinance 23-04 – 2nd Reading

Annexation and Zoning Property Following Consent Filed with the City Council by Landowners in Said Area Pursuant to ORS 222.120 and ORS 222.170; Manzanita Transfer Station

*please note that the zone for the property to be annexed has been updated to reflect the correct zoning

Leila Aman, City Manager

6. NEW BUSINESS

A. Off Season Tourism Grant Award Recommendations

Nan Devlin, Tillamook Coast Visitors Association

B. Mayor Appointment Process

Linda Kozlowski, Council President

C. Nehalem Intertie Inter Governmental Agreement (IGA)

Leila Aman, City Manager

Dan Weitzel, Public Works Director

D. Special Public Works Fund Loan with Business Oregon

Leila Aman, City Manager

E. COVID Relief Funds

Leila Aman, City Manager

F. Budget Committee Council Appointment and Criteria

Leila Aman, City Manager

G. City Manager Review Process

Linda Kozlowski, Council President

7. COUNCIL UPDATES

8. ADJOURN (7:50)

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at [2](#) or phone at 503-368-5343. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's youtube channel](#).



MEMORANDUM

To: City Council

Date Written: November 30, 2023

From: Leila Aman, City Manager

Subject: **December 6, 2023, City Council Regular Session**

OLD BUSINESS

A. Public Hearing - Ordinance 23-03 – 2nd Reading

Amending Goal 12 Transportation Policies, and Goal 11 Public Facilities Relating to Street Policies of the City's Comprehensive Plan, Rescinding the Downtown Transportation Plan and Replacing it with Volume 2 of the Nehalem Bay Transportation System Plan for Manzanita

See staff Report

B. Public Hearing – Ordinance 23-04 – 2nd Reading

Annexation and Zoning Property Following Consent Filed with the City Council by Landowners in Said Area Pursuant to ORS 222.120 and ORS 222.170; Manzanita Transfer Station

See staff Report

NEW BUSINESS

A. OFF SEASON TOURISM GRANT AWARD RECOMMENDATIONS

See Staff Report

B. MAYOR APPOINTMENT PROCESS

Council President Linda Kozlowski will provide an overview of the process to fill the position of Mayor on the Manzanita City Council. There are no attachments for this agenda item.

C. NEHALEM INTER TIE INTERGOVERNMENTAL AGREEMENT

See Staff Report

D. SPECIAL PUBLIC WORKS FUND LOAN WITH BUSINESS OREGON

See Staff Report

E. COVID RELIEF FUNDS

See staff Report

F. BUDGET COMMITTEE COUNCIL APPOINTMENT AND CRITERIA

Staff would like to begin the process for appointments for the Budget Committee. These appointments need to be completed by March 6, 2024. There are two positions open for applications for members of the community. First, there is currently one vacant seat open because of the resignation of Kathryn Stock, who was appointed to the City Council. The person appointed will complete the remainder of Councilor Stock's Budget Committee term which expires in March of 2026. Councilor Stock will still serve on the Budget Committee as a member of the City Council. A second position, currently held by Dave Dillon, who currently serves as chair of the Budget Committee, expires in March of 2024.

Staff is requesting Council:

1. Appoint a member of council to serve on the selection committee for appointing members to the budget committee.
2. Approve criteria for selection of budget committee members.

At the January 4, 2023 meeting, city council approved criteria for making budget committee selections. Staff is proposing to use the same criteria for the next round of appointments. The criteria is as follows:

- Committee Members can demonstrate a readiness to be prepared to participate actively in the budget process. This includes taking the training provided by the Oregon Department of Revenue, reviewing, and understanding the budget document, and understanding their role of the budget committee.
- Has a solid basis or background in finance and or budgeting experience in either the public or private sectors. If private the candidate must have a willingness to learn the differences between private sector finance and public budgeting processes and experience should be substantial or significant in nature.
- Committee members should be able to take an active role in developing, evaluating and proposing policy that ensures the city's financial wellbeing. While this will likely happen outside of the budget process members will be asked for guidance and feedback on proposed financial policies.
- Committee members should have experience working in a constructive and collaborative committee format that is focused on supporting the development of a budget that advances the city's fiscal health and wellbeing and serving the public interest.

There are no attachments for this agenda item.

G. CITY MANAGER REVIEW PROCESS

Council President Kozlowski will review the current process for conducting the annual City Manager Review to prepare council for a discussion on the process at a work session in January. There are four attachments included in the packet – the City Managers Job Description, The City Manager Self Evaluation Form, City Manager Staff Evaluation Form and the City Manager Eval Form City Council.

CITY OF MANZANITA
NOVEMBER 8, 2023
CITY COUNCIL REGULAR SESSION

1. CALL TO ORDER: The meeting was called to order on November 8, 2023, at 6:03pm at the Pine Grove Community Center by Mayor Deb Simmons.

Roll: Council members present: Deb Simmons, Jerry Spegman, and Kathryn Stock. Members via zoom: Linda Kozlowski. Staff present: City Manager Leila Aman, Police Sergeant Mike Sims, Police Officer John Garcia, and Assistant City Recorder Nancy Jones. Staff Present via Zoom: Accounting Manager Nina Crist, and Public Works Director Dan Weitzel. Panelist's present: Justin Weise with Tillamook County. Panelist present via Zoom: City Attorney James Walker with Miller Nash LLP and Kara Hall with Fehr and Peers. Council Applicants: Brad Hart, Mark Kuestner, Jamie Schuermyer, William Stone, and Dennis Tong.

2. AUDIENCE PARTICIPATION: There were 29 people in attendance, 29 attended via zoom, 28 attended via website. There were no public comments.

3. CONSENT AGENDA:

- A. APPROVAL OF MINUTES –
 - a. September 06, 2023, City Council Regular Session
 - b. September 13, 2023, City Council Work Session
 - c. October 11, 2023, City Council Work Session

B. APPROVAL OF BILLS FOR PAYMENT

A motion was made by Stock, seconded by Kozlowski, to approve the consent agenda that included approval of the September 06, 2023, Regular Session Minutes; September 13, 2023, Work Session Minutes; October 11, 2023, Work Session Minutes; Approved payment of bills and all subsequent bills subject to approval by the Mayor or Council President and City Manager; Motion passed Unanimously.

4. CITY MANAGER REPORT- City Manager Leila Aman

City Manager Leila Aman acknowledged and thanked two staff members for reaching milestones at the city: Police Officer John Garcia has been with the city for 10 years, and Public Works Director Dan Weitzel has been with the city for 20 years.

-There were three surveys recently conducted: Wayfinding Manzanita, Dark Skies, and 20 is Plenty. The city received approximately 200 responses.

- Businesses that plan to apply for the City's Off Season Tourism grant; the deadline to apply is November 15, 2023.

- The Planning Commission voted to change their meeting to the second Monday of each month. The goes into effect starting December 11th.
- The City offices will be closed on November 10th in observance of Veterans Day.
- The City's 2nd annual tree lighting ceremony will be held at Underhill Plaza on December 2nd. Event times are 3pm to 7pm, with Santa arriving at 4:30pm.

5. NEW BUSINESS:

A. Appointment of New City Council Member - Mayor Deb Simmons

Councilor Mayerle resigned from the City Council effective September 8, 2023. Applications for the vacant council position closed on October 27, 2023, with five candidates applying: Brad Hart, Mark Kuestner, Jamie Schuermyer, William Stone, and Dennis Tong. City Council conducted a public interview, which included five identical questions for each candidate. At the conclusion of the interview, a vote was taken by ballot to determine which candidate would fill the empty seat. By a vote of 3 to 1, Brad Hart was selected. Brad Hart was sworn in by City Manager Leila Aman. Councilor Hart's term will end in December 2026.

B. Public Hearing – Ordinance 23-03 – 1st Reading – City Manager Leila Aman

City Manager Leila Aman spoke about the findings of the Transportation Systems Plan, amending Goal 11 and Goal 12 of the city's Comprehensive plan. She explained the plans goals, and the objectives and policies that are being furthered by the update. She presented the facts that were used in making the decision to make the update, and explained how it will serve the public's needs.

Kara Hall with Fehr and Peers has been working on this update since it started in 2020. She shared a brief overview of the process and development of this plan. Manzanita is currently relying on the downtown Transportation Plan for their Transportation goals and policies. New needs have been identified in the city, so it is necessary to update the Comprehensive Plan. Hall communicated what the new plan will and won't do and explained how it will be used. She shared both regional and local goals, project categories and the timeline for implementation of established goals.

Allowed for public comment: There were no public comments.

A motion was made by Hart to accept the First Reading of Ordinance 23-03, Amending Goal 12 Transportation Policies, and Goal 11 Public Facilities Relating to Street Policies of the City of Manzanitas Comprehensive Plan, Rescinding the Downtown Transportation Plan and Replacing it with Volume 2 of the Nehalem Bay Transportation System Plan for Manzanita. Seconded by Spegman; Motion passed Unanimously.

C. Public Hearing – Ordinance 23-04 – 1st Reading– City Manager Leila Aman
City Manager Leila Aman spoke about the history of this request and the findings of facts. She shared a map of the annexation area for a visual illustration, and stated that the Planning Commission approved the annexation application on August 21, 2023.

Justin Weise with Tillamook County spoke about the two-phase construction project that began in 2022 to increase capacity. He said that the need to increase capacity began during the pandemic, as there has been an increase in garbage collection that has not subsided.

Allowed for public comment: There was one public comment.

A motion was made by Stock to accept the First Reading of Ordinance 23-04, Annexing and Zoning Property following Consent Filed with the City Council by Landowners in Said Area Pursuant to ORS 22.120 and ORS 222.170. Seconded by Spegman; Motion passed Unanimously.

D. Mayor Residency Discussion – Councilor Jerry Spegman
Councilor Jerry Spegman began a discussion regarding Mayor Deb Simmons' current residency. It was decided to schedule an Executive Session to discuss this topic in more detail.

6. COUNCIL REPORTS: Council members took turns sharing information and updates of what they were involved in for the month.

7. INFORMATION AND ADJOURN:

Manzanita Municipal Court will be held December 15, 2023, and continues to remain closed to the public.

Mayor Simmons adjourned the meeting at 8:10PM.

**MINUTES APPROVED THIS
6th Day of December, 2023**

Linda Kozlowski, Council President

Attest:

Leila Aman, City Manager

**CITY OF MANZANITA
NOVEMBER 8, 2023
CITY COUNCIL SPECIAL SESSION**

1. CALL MEETING TO ORDER: The meeting was called to order on November 8, 2023, at 5:05pm at the Pine Grove Community Center by Mayor Deb Simmons.

ROLL: Members present: Deb Simmons, Jerry Spegman, and Kathryn Stock. Members via zoom: Linda Kozlowski. Staff present: City Manager Leila Aman, Police Sergeant Mike Sims, and Assistant City Recorder Nancy Jones. Staff via zoom: Accounting Manager Nina Crist, and Public Works Director Dan Weitzel. Panelist: Jason Stegner with Cove Built. Panelist via zoom: Jessie Steiger with The Klosh Group.

2. Early Work Amendment to CMGC Contract for Abatement and Demolition of the Schoolhouse and Quonset Hut on Underhill Plaza: Leila Aman, City Manager

City Manager Leila Aman spoke about an The Early Work Amendment to the Construction Manager/General Contractor contract. She shared an update of the abatement and demolition costs of the buildings on Underhill Plaza and presented the new cost estimate of \$319,772.00. She stated that the amount of \$324,850.00 was included in the Fiscal Year 2023/2024 budget. It is listed under Capital Outlay.

Jason Stegner explained the next steps of the abatement and demolition of the existing buildings on Underhill Plaza. He stated that it will take approximately fifteen days to remove all the hazardous materials from the existing buildings. After removal of the hazardous materials, an environmental consultant will need to verify that all the hazardous materials have been removed. Once confirmation is received, then Top Grade Excavation will begin to tear down the existing buildings and salvage some materials for future use. It will take approximately two days to demolish the buildings. Stegner said that this work is scheduled to begin after the Thanksgiving holiday.

A motion was made by Kozlowski to accept Resolution #23-21, Authorizing the City Manager to Execute an Early Work Amendment to Cove Built GMGC Contract for Hazardous Materials Abatement and Demolition of Structures on Underhill Plaza. Seconded by Stock; Motion Passed Unanimously.

3. Amendment to Police Contract with Oregon Parks and Recreation Department: Leila Aman, City Manager
City Manager Leila Aman asked the City Council to approve an amendment to the Intergovernmental Agreement with Oregon Parks and Recreation. This amendment would allow Code Enforcement Personnel to enforce parking violations and extends the term of the Agreement to 2028.

A motion was made by Spegman to amend the Intergovernmental Agreement with Oregon Parks and Recreation Department, to Permit Code Enforcement Personnel to Enforce Parking Violations. Seconded by Kozlowski; Motion Passed Unanimously.

4. Comprehensive Plan Advisory Committee: Leila Aman, City Manager

City Manager Leila Aman asked City Council to appoint a council member to serve on the Comprehensive Plan Advisory Committee, along with her and Planning Commissioner John Collier. This Committee will evaluate proposals to select the comprehensive plan consultant, establish the framework and characteristics of the comprehensive plan advisory committee, and sit on the Advisory committee after it has been formed.

Spegman nominated Kathryn Stock and she accepted. Linda Kozlowski volunteered to serve as an alternate committee member.

5. Revenue Diversification Update: Leila Aman, City Manager

City Manager Leila Aman presented an update to the Revenue Diversification timeline associated with the implementation of four revenue sources. The four sources she spoke about are Transportation Utility Fees, Prepared Food and Beverage Tax, a General Obligation Bond, and Paid Parking. She shared information on each option and explained what needs to be completed prior to implementation, how to implement them, and the timeframe it would take.

6. Adjourn: Mayor Deb Simmons adjourned the meeting at 5:52pm.

**MINUTES APPROVED THIS
6th Day of December, 2023**

Linda Kozlowski, Council President

Attest:

Leila Aman, City Manager

**CITY OF MANZANITA
NOVEMBER 15, 2023
CITY COUNCIL WORK SESSION**

1. CALL MEETING TO ORDER: The meeting was called to order on November 15, 2023, at 2:00pm via Zoom by Council President Linda Kozlowski.

ROLL: Members present: Linda Kozlowski, Jerry Spegman, Kathryn Stock and Brad Hart. Staff present: City Manager Leila Aman, Accounting Manager Nina Aiello, Public Works Director Dan Weitzel Development Services Manager Scott Gebhart, and Assistant City Recorder Nancy Jones. Panelist present: Jessie Steiger with Klash, and Chris Keane with Bearing Architecture.

2. City Hall Update: City Manager Leila Aman

City Manager Leila Aman presented an update on the new City Hall building project. She presented a review of the city's design process, the land use process, the design development budget, and funding sources. She announced that the design development phase has been completed and the team is now working on construction documents. Aman shared an overview of the current development budget estimate and shared the description of terms. She reviewed funding source strategies, provided an update to the Special Public Works Fund loan terms and process, and led a discussion of the Covid Relief funds. The city must decide by December 2024 on how to disperse the Covid Relief funds and the money must be spent by December 2026. Council directed staff to come back with a proposal for the COVID funds outlining all of the potential uses. The design of the building will proceed when the city receives the land use approval. Once the construction documents are complete, the Construction Manager/General Contractor will conduct competitive bidding for construction.

Chris Keane with Bearing Architecture communicated the design process from the original choice of scheme one to the current design with the police station separated from the main building. He explained that due to the risk category four requirement for the police station, and emergency operations center the foundation will need to be approximately sixty feet deep. He shared design development information and spoke about the exterior finishes of the building.

Jessie Steiger with Klash spoke about balancing the amount of contingency and the amount of predictable risk. She said there will be challenges ahead and believes it is manageable within the budget that has been presented. Abatement and demolition of the existing buildings on Underhill Plaza went to bid, has been accepted, and the work will begin soon. Staff estimated that they will return to the city council with a Guaranteed Maximum Price (GMP) Amendment in March.

3. Adjourn: Council President Linda Kozlowski adjourned the meeting at 3:53pm.

**MINUTES APPROVED THIS
6th Day of December 2023**

Linda Kozlowski, Council President

Attest:

Leila Aman, City Manager

BILLS FOR APPROVAL OF PAYMENT

From 11/1/2023 - 11/30/2023

VENDOR	TOTAL	ADMIN	POLICE	BLDG	COURT	PARKS	CH EXP	ROADS	Visitors Center	WATER
3J CONSULTING (CITY PLANNER)	\$3,882.00	\$3,882.00								
AXON ENTERPRISE (UNIFORM & SUPPLIES)	\$1,174.82		\$1,174.82							
BOLI (CAPITAL PROJECT STATE FEES)	\$4,231.17						\$4,231.17			
911 SUPPLY (MATERIALS & SUPPLIES)	\$95.53		\$95.53							
BEARING ARCHITECTURE (CITY ARCHITECT)	\$24,489.10						\$24,489.10			
CASELLE (SOFTWARE SUPPORT)	\$2,220.00	\$1,663.00								\$557.00
CHARTER (INTERNET SERVICE)	\$479.94	\$219.98	\$129.98							\$129.98
CITY OF NEHALEM (FINES & ASSESSMENTS)	\$683.00				\$683.00					
CITY OF WHEELER (FINES & ASSESSMENTS)	\$396.00				\$396.00					
DATA CENTER (BULK MAILING SERVICE)	\$1,311.03									\$1,311.03
DMV (RECORDS REQUEST)	\$4.75				\$4.75					
EVERGREEN AUTO (VEHICLE MAINTENANCE)	\$25.00			\$25.00						
FERGUSON (MATERIALS & SUPPLIES)	\$657.44									\$657.44
GALLS (UNIFORM & SUPPLIES)	\$70.27		\$70.27							
GVT ETHICS COMM. (ANNUAL SUBSCRIPTION)	\$945.68	\$945.68								
GRAND PEAKS (FINANCIAL CONSULTANT)	\$3,256.25	\$3,256.25								

BILLS FOR APPROVAL OF PAYMENT

From 11/1/2023 - 11/30/2023

VENDOR	TOTAL	ADMIN	POLICE	BLDG	COURT	PARKS	CH EXP	ROADS	Visitors Center	WATER
HDR ENGINEERING (PROFESSIONAL SERVICES)	\$5,270.00									\$5,270.00
HEADLIGHT HERALD (ANNUAL SUBSCRIPTION)	\$70.00	\$70.00								
JASON WEISS (STAFF REIMBURSEMENT)	\$188.72									\$188.72
KLOSH GROUP (OWNERS REP.)	\$5,939.82						\$5,939.82			
LARRY BLAKE (MUNICIPAL JUDGE)	\$400.00				\$400.00					
LB BUILDING (INSPECTOR SERVICES)	\$968.90			\$968.90						
MILLER NASH (CITY ATTORNEY)	\$97,751.50	\$90,137.50								\$7,614.00
MORGAN CPS (PLANNING TRAINING)	\$4,500.00	\$4,500.00								
MPH INDUSTRIES (VEHICLE MAINT. & SUPPLIES)	\$2,239.00		\$2,239.00							
NEHALEM BAY WW (SEWER UTILITY)	\$688.50		\$162.00	\$81.00		\$364.50				\$81.00
OLD REPUBLIC SURETY (ANNUAL BOND)	\$227.00									\$227.00
ONE ELEVEN (EQUIPMENT)	\$5,803.47	\$5,803.47								
ONE ELEVEN (IT SERVICES)	\$4,060.00	\$4,030.00								\$30.00
OR ASSOC OF WATER UTIL (PROFESSIONAL SERVICES)	\$15,355.00									\$15,355.00
OREGON DEPT OF REV (FINES & ASSESSMENTS)	\$853.23				\$853.23					
PACIFIC OFFICE (POSTAGE & COPIER)	\$929.24	\$365.89	\$528.85							\$34.50

BILLS FOR APPROVAL OF PAYMENT

From 11/1/2023 - 11/30/2023

VENDOR	TOTAL	ADMIN	POLICE	BLDG	COURT	PARKS	CH EXP	ROADS	Visitors Center	WATER
PINE GROVE COM. CENTER (IN PERSON COUNCIL MTGS)	\$338.00	\$338.00								
RHINO ONE (GEOTECHNICAL SERVICES)	\$6,137.50						\$6,137.50			
RHYNO NETWORKS (NETWORK SERVICES)	\$255.00	\$136.00	\$68.00							\$51.00
RTI (PHONE SERVICE)	\$496.91	\$96.20	\$100.87							\$299.84
SCOVEL INK (UNIFORM)	\$968.90			\$968.90						
SHELDON OIL CO. (FUEL)	\$1,235.65		\$670.03	\$122.71		\$19.83		\$99.17	\$46.22	\$277.69
STATE FORESTER (ANNUAL FIRE PROTECTION)	\$523.17	\$523.17								
STAPLES (OFFICE SUPPLIES)	\$792.24	\$792.24								
STATE OF WASHINGTON (RECORDS REQUEST)	\$0.20				\$0.20					
TILLAMOOK CO. MOTOR (VEHICLE REPAIR)	\$100.00		\$100.00							
TILLAMOOK CO PAYABLE (FINES & ASSESSMENTS)	\$289.03				\$289.03					
TILL CO VISITORS ASSOC. (VC COORDINATOR)	\$5,991.50								\$5,991.50	
TILLAMOOK PUD (ELECTRIC SERVICE)	\$3,356.94	\$81.06	\$122.83			\$91.25		\$609.00	\$72.26	\$2,380.54
US BANK (CITY VISA)	\$6,023.36	\$3,409.75					\$1,605.40	\$395.46		\$612.75
VALVOLINE (VEHICLE MAINT.)	\$124.96		\$124.96							
VERIZON (TELEPHONE)	\$643.74	\$96.76	\$256.70	\$96.76					\$96.76	\$96.76

BILLS FOR APPROVAL OF PAYMENT

From 11/1/2023 - 11/30/2023

VENDOR	TOTAL	ADMIN	POLICE	BLDG	COURT	PARKS	CH EXP	ROADS	Visitors Center	WATER
WANDAS CAFE (BAKED GOODS)	\$160.00								\$160.00	
ZUMAR INDUSTRIES (MATERIALS & SUPPLIES)	\$240.56							\$240.56		
TOTALS	\$216,844.02	\$120,346.95	\$5,843.84	\$2,263.27	\$2,626.21	\$475.58	\$42,402.99	\$1,344.19	\$6,366.74	\$35,174.25



City of Manzanita

COUNCIL STAFF REPORT

To: City Council

Date Written: November 28, 2023

From: Leila Aman, City Manager

Subject: Amending Goal 12 Transportation Policies, and Goal 11 Public Facilities Relating to Street Policies of the City of Manzanitas Comprehensive Plan, Rescinding the Downtown Transportation Plan and Replacing it with Volume 2 of the Nehalem Bay Transportation System Plan for Manzanita.

ACTION REQUESTED

To hold a public hearing and conduct the second reading of an Ordinance to amend Goal 12 Transportation Policies, and Goal 11 Street Policies of the City of Manzanitas comprehensive plan, rescinding the downtown transportation plan and replacing it with Volume 2 of the Nehalem Bay Transportation System Plan for Manzanita.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[September 20, 2021](#) – The Planning Commission received an update on the Transportation Systems Plan (TSP)

[October 6, 2021](#) - The City Council received an update on the TSP.

[January 24, 2022](#) – The Planning Commission received an update on the TSP Community Conversations.

[February 8, 2023](#) – City Council received an update on the final draft of the TSP.

[July 17, 2023](#) – The Planning Commission received an update on the final TSP.

[July 31, 2023](#) – The Planning Commission deliberated and made a formal recommendation to the City Council to adopt the TSP and update Goal 12 of the comprehensive plan.

[November 8, 2023](#) – The City Council held a public hearing and conducted a first reading of Ordinance 23-03.

ANALYSIS

A Transportation Systems Plan (TSP) is a policy document that describes a transportation system, outlines projects, programs and policies to meet transportation needs now, and into the future based on the aspirations of the community. TSPs are required by Oregon's Transportation Planning Rules (TPR) and is documented in OAR 660.012.0015. The TPR implements Goal 12 at the state level and specifies what must be included in local planning efforts for transportation and what must be addressed and included in a local TSP.

Fundamentally the resulting plan should support a variety of transportation modes that minimizes adverse social, economic and environmental impacts. The Manzanita TSP will be the first TSP adopted by the city and is compliant with the TPR.

The TSP can be found as Attachment 1 to this staff report, and includes a summary of the community involvement process, goals, projects and policies. Staff is requesting that the City Council adopt the TSP by reference and update the policies in the comprehensive plan. The Ordinance, included as Attachment 2 to this staff report includes the recommended policy changes to the comprehensive plan derived directly from the TSP.

Goal 1 of the City's comprehensive plan (Plan) outlines the requirements for making a change to the Plan.

Findings of fact as a minimum shall be presented for a change request, which, as a minimum:

1. Explain what plan goals, objectives or policies are being furthered by the change.
2. Present the facts used in making the decision to change.
3. Explain how the change will serve the public need.

Findings of Fact

1. Explain what plan goals, objectives or policies are being furthered by the change.

The proposed changes to the policies in Goal 12 of the comprehensive plan are outlined in Attachment 2, Sections 2 and 3. The proposed changes include removal of policies 2 and 3 of the existing plan policies and rescinds the downtown transportation plan. The TSP includes updated and modern cross sections that better reflect the multimodal network. The Plan retains the remaining policies in Goal 12 and adds 18 new policies focused on creating a safe multi modal network, with bicycle and pedestrian enhancement as a priority. The new policy framework for Goal 12 focuses on ensuring compliance with the American Disabilities Act, implementing cost effective solutions, and encouraging the development of transportation funding sources. The change also includes updating the Street Policies in Goal 11 of the comprehensive plan and removes policy 5 referencing the downtown transportation plan. Overall, the new policies more accurately reflect and implement the TSP and community aspirations for a much more robust pedestrian and bicycle network.

2. Present the facts used in making the decision to change.

Extensive analysis of the city's existing transportation system, safety data such as crashes, injuries and fatalities, population growth projections, and existing plans contributed to the update of the policies and projects within the TSP. In addition, significant public outreach was conducted to ensure that the plan policies and goals were based on the values of the local community.

3. Explain how the change will serve the public need.

The City of Manzanita is growing, and with a robust tourist industry the city is staying busier year round. As a result of this there is a desire for the city to become even more pedestrian and bike friendly to help reduce the impact of automobiles on the transportation network, to reduce parking demand and to provide more options for residents and visitors alike to travel without the need to use a car for every trip. By

diversifying the opportunities for travel choices, the updated policies will help guide future city investments in transportation that serve the greatest public benefit.

BUDGET IMPACT

The TSP was funded by a grant from the Oregon Department of Transportation. Implementation of the TSP policies will not have a significant cost. However, the implementation of the policies through zoning changes and changes to public works street standards to implement the TSP will require resources. The ODOT grant included funding for drafting of Manzanita Zoning Ordinance changes. If there are significant changes to the proposed recommendations this may also result in additional costs for our contract planner to review and finalize code language. Those are included in a technical memorandum that the Planning Commission is reviewing and will begin discussing in October.

WORKLOAD IMPACT

Adoption of the TSP and policies will have some workload impact on the City Manager. Implementation of the policies through zoning changes will have a greater impact on the City Manager, and Public Works Directors workload. This action will require the revision of the Manzanita Zoning Ordinance (95-4) and Street Improvement Standards Ordinance (91-2) and Manzanitas Subdivision Ordinance (95-5) to implement the new policies in the comprehensive plan. Staff anticipate multiple staff reports, and meetings with the Planning Commission and City Council to accomplish this task. Depending on how (if) any changes are made by the PC or CC to the proposed zoning and street standard amendments this could be a moderate workload or significant workload impact.

COORDINATION, CONCURRENCE, OR DISSENT

The City Attorney has reviewed the Ordinance. The Oregon Department of Transportation participated in the development of the Plan.

STAFF RECOMMENDATION

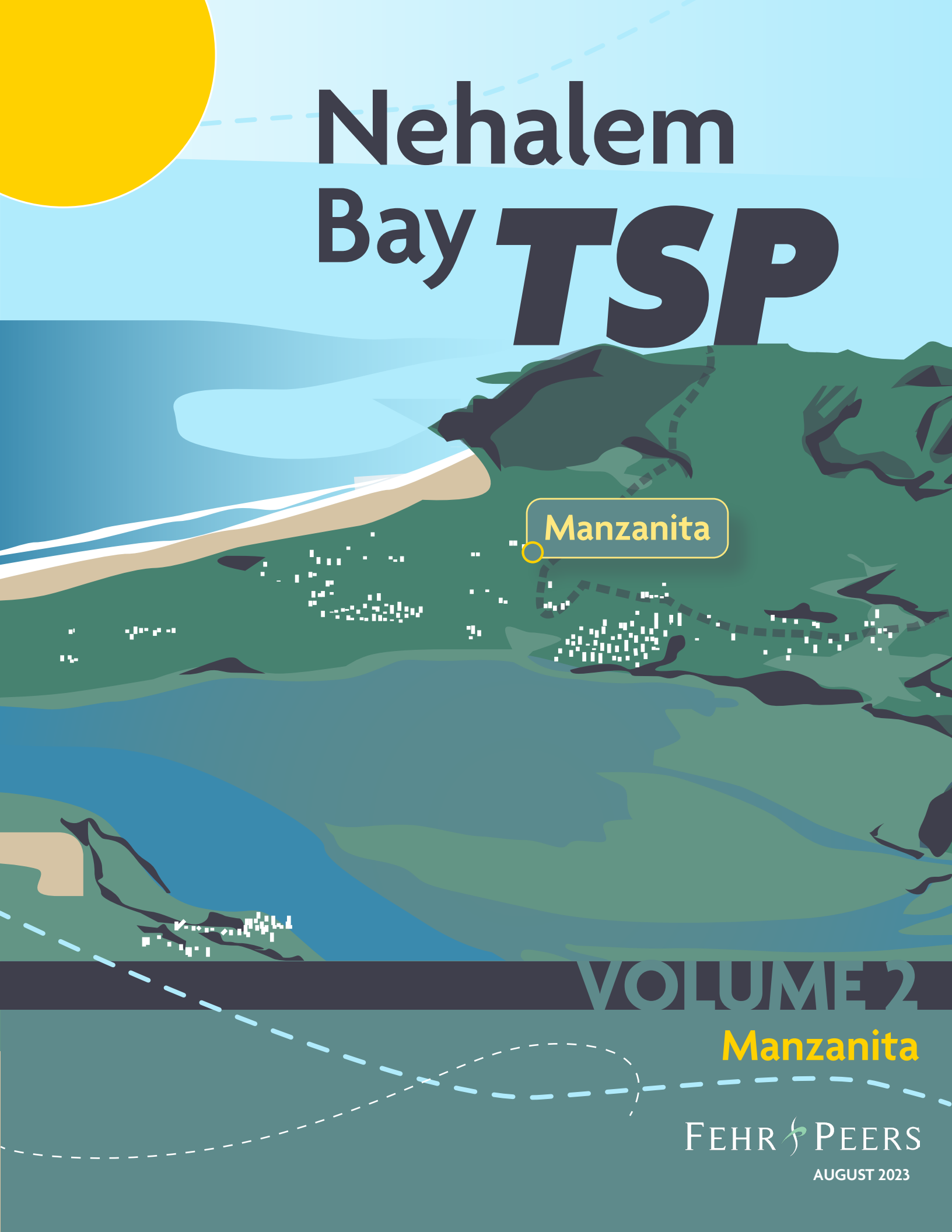
City Council conduct a second public hearing, take public testimony, and approve the second reading of the Ordinance to update the policies in Goal 12 and Goal 11 related to street policies of the comprehensive plan and adopt the TSP by reference.

ALTERNATIVES

The City Council may elect to not approve the TSP. This will require the city to conduct a separate update of Goal 12 as part of the comprehensive plan update.

ATTACHMENTS

1. Volume 2 – Manzanita Transportation Systems Plan
2. Ordinance 23- 03

A stylized landscape illustration featuring a large yellow sun in the top left corner. The background is a light blue sky with a dashed line. Below the sky is a blue body of water. In the foreground, there are green hills and a sandy beach. A yellow callout box with the word 'Manzanita' is positioned over a cluster of white dots on the green hills. The overall style is modern and graphic.

Nehalem Bay **TSP**

Manzanita

VOLUME 2

Manzanita

FEHR & PEERS

AUGUST 2023



TABLE OF CONTENTS

Volume 2: Executive Summary	6
Chapter 1: Existing & Future Conditions	11
Chapter 2: Goals & Policies	20
Chapter 3: Manzanita's Transportation System.....	27
Chapter 4: Projects.....	37
Chapter 5: Funding & Implementation.....	48



LIST OF FIGURES

Figure 1 TSP Planning Area	14
Figure 2 Existing Bicycle & Pedestrian Network.....	15
Figure 3 Existing Roadway Network.....	16
Figure 4 Manzanita Crash Countermeasures.....	17
Figure 5 Transportation Needs in Manzanita	20
Figure 6 Roadway Functional Classification.....	29
Figure 7 Major Collector Cross-Section.....	30
Figure 8 Minor Collector Cross-Section	31
Figure 9 Local Road Cross Section	31
Figure 10 Proposed Pedestrian Network	33
Figure 11 Proposed Bicycle Network	35
Figure 12 Separated Bicycle Facility Cross-Section	36
Figure 13 Sharrow Cross-Section	36
Figure 14 Advisory Bike Lane Cross-Section	37
Figure 15 Trail Cross-Section	37
Figure 16 Project Map	41



Nehalem Bay **TSP**

LIST OF TABLES

Table 1 Goals & Objectives	8
Table 2 High Priority Projects	11
Table 3 Historical and Forecasted Population Growth in Nehalem Bay ..	18
Table 4 Goals & Objectives	21
Table 5 Evaluation Criteria	26
Table 6 Manzanita Roadway Standards by Functional Class	30
Table 7 Timeline for Implementation	40
Table 8 Manzanita TSP Projects	42
Table 9 20 Year Financial Forecast	49



VOLUME 2: MANZANITA



ACKNOWLEDGEMENTS

Project Team

City

Leila Aman, City Manager
Dan Weitzel, Public Works Director

Oregon Department of Transportation

Caroline Crisp
James Feldmann
Ken Shonkwiler

Fehr & Peers

Briana Calhoun
Kara Hall
Sarah Peters

JLA

Kalin Schmoldt

MIG

Clinton "CJ" Dorse
Darci Rudzinski

Planning Commission

Karen Reddick-Yurka, Chair
John Collier
Frank Squillo
Lee Hiltenbrand
Phil Mannon
Thomas Christ
Bert Gregory

City Council

Deb Simmons, Mayor
Linda Kozlowski, Council President
Jerry Spegman
Kathryn Stock



VOLUME 2: EXECUTIVE SUMMARY

Transportation System Plan Introduction

Manzanita's Transportation System Plan (TSP) establishes a vision for the transportation system in Manzanita and serves as a long-range planning tool to bring that vision to fruition. This Volume of the Nehalem Bay TSP addresses the unique context and needs within the City of Manzanita.

Within Manzanita, this TSP serves to:

- Define regional transportation needs based on input gathered from the community throughout the process
- Document existing transportation infrastructure
- Identify transportation improvements that will be needed in the future as the region continues to grow
- Identifies potential funding sources for transportation projects
- Identifies high-priority projects

While the TSP serves as a guide for future investments, it does not include:

- Project refinement and design
- Specific timing for when projects will be designed and constructed
- Allocation of funding to any recommended projects

For a summary of Title VI and Environmental Justice Outreach, see **Volume 1**.

Community Involvement

Throughout development of the TSP, community members, business owners, and visitors were engaged to help shape the future of transportation in Manzanita. Input from community members was gathered through a Planning Advisory Committee (PAC) and a series of online and in-person open-houses that were open to all community members.

The PAC met at key milestones throughout the project and helped to provide local context while serving as a sounding board for components of the TSP including the Goals, Objectives, and Recommended Projects. The PAC was comprised of members from each of the three cities and a representative from Tillamook County. Throughout the TSP process community members had the opportunity to participate in three open-houses:

- **COMMUNITY TOUCHPOINT #1** provided an opportunity for community members to share their issues and concerns with travel in Manzanita and provide feedback on the Goals and Objectives.
- **COMMUNITY TOUCHPOINT #2** provided an opportunity for participants to provide feedback on the projects identified and included community conversations which provided an opportunity share feedback directly with the project team.
- **COMMUNITY TOUCHPOINT #3** provided an opportunity for community members to help identify high priority projects included in the TSP.



TSP Goals

There were six goals developed to help guide regional investment and two unique goals developed to address the unique challenges and desires within Manzanita. The six goals, shown below, were used to evaluate all projects within Manzanita to ensure that recommendations in the TSP will address the issues, needs, and desires shared by the community.

Table 1/ Goals & Objectives


GOAL	OBJECTIVES
<div><p>GOAL #1: QUALITY OF LIFE</p><p>Create a transportation system that provides equitable multimodal access for underserved and vulnerable populations and balances the needs of local travelers and regional through-traffic.</p></div>	<div><p>1. Provide equitable access for underserved and vulnerable populations by requiring American with Disabilities Act (ADA) compliance for new transportation infrastructure and upgrading existing infrastructure that does not meet ADA standards.</p><p>2. Increase connections to recreational opportunities by supporting the development of planned regional bicycle and pedestrian trails, including the Salmonberry Trail, Oregon Coast Trail, and Tillamook County Water Trail.</p><p>3. Create comfortable downtown spaces by identifying appropriate streetscape improvements, including landscaping, pedestrian scale lighting, benches, and street trees.</p><p>4. Reduce vehicle travel between cities by exploring options for visitors to 'park once', such as a regional shuttle service or water taxi.</p></div>



Table 1/ Goals & Objectives

GOAL	OBJECTIVES
 <p>GOAL #2: CREATE SAFE CONNECTIONS</p> <p>Create safer connections between the Nehalem Bay communities for people walking, biking, or using other non-auto modes and identify strategies to reduce crashes for all users when traveling on U.S. 101.</p>	<ol style="list-style-type: none"> 1. Identify key non-motorized routes between the Nehalem Bay communities and prioritize pedestrian and bicycle facilities on these routes. 2. Connect businesses and recreational destinations with neighborhoods by enhancing pedestrian and bicycle crossings on U.S. 101. 3. Improve areas with higher crash risk by improving the visibility of transportation users in constrained areas, such as on hills and blind curves. 4. Address known safety issues at locations with fatal or severe injury crashes, crashes involving a bicyclist or pedestrian, and vehicles entering and exiting U.S. 101. 5. Collaborate with the Oregon Department of Transportation (ODOT) to implement engineering and traffic calming strategies on U.S. 101, where appropriate, to reduce vehicle speeds.
 <p>GOAL #3: PLAN FOR THE FUTURE</p> <p>Collaborate with ODOT and Tillamook County to create a transportation system that is resilient to extreme weather events, able to safely accommodate evacuation and recovery efforts, and consistent with the goals and objectives of each City, Tillamook County, and the state.</p>	<ol style="list-style-type: none"> 1. Maintain local infrastructure so that facilities can withstand extreme weather events and aid in evacuation efforts. 2. Improve traffic circulation and access for fire and emergency vehicles. 3. Collaborate with ODOT to develop and implement improvements to U.S. 101 that fit the land use context and are consistent with ODOT's Highway Design Manual (HDM) and other local and regional planning efforts.



Table 1/ Goals & Objectives





GOAL	OBJECTIVES
 GOAL #4: SUPPORT FISCAL RESPONSIBILITY Plan for a transportation system that is financially viable with consideration for life cycle costs by identifying new funding sources to make local dollars go farther.	<ol style="list-style-type: none"> 1. Develop transportation solutions that are cost effective. 2. Identify outside funding sources for transportation projects such as grants, developer contributions, or transportation system charges. 3. Prioritize investments and maximize partnerships to provide maximum benefit and return on investment for the associated cost. 4. Consider future operation and maintenance costs in investment choices.
 GOAL #5: MANAGE ACCESS Manage access from U.S. 101 to Manzanita and the recreational opportunities in the area to minimize cut through traffic and seasonal congestion.	<ol style="list-style-type: none"> 1. Improve connections within Manzanita and to the neighborhoods within the UGB to improve local vehicle circulation and encourage local traffic to use local roads. 2. Support other planning efforts to create non-motorized and transit connections from key destinations to the commercial core.
 GOAL #6: ENHANCE ECONOMIC VIBRANCY Support economic vibrancy and reduce parking demand by providing walking, biking, and transit connections to the commercial core and the beach.	<ol style="list-style-type: none"> 1. Prioritize low stress bicycle and pedestrian facilities on arterials and collectors to enhance connections to local destinations. 2. Develop transportation and land use solutions that balance the needs of all users in the downtown area and to/from residential areas to the downtown core and beach.



High Priority Projects

The TSP includes 16 projects that will improve how people travel in Manzanita over the next 20 years. The projects listed in Table 2 were identified as high priority projects for Manzanita based on alignment with the TSP goals and input from community members. For the full list of recommended projects and locations, see **Table 8** and **Figure 16** in **Chapter 4**.

Table 2 | High Priority Projects

ID	Project Name & Description	Extents	Cost	Timeline
M1	CARMEL ROAD PEDESTRIAN ENHANCEMENTS: Enhance delineation between pedestrians and cyclists and look for opportunities to increase safety.	Laneda Ave to Necarney Blvd	\$180,000	 MEDIUM-TERM
M3	LANEDA AVENUE IMPROVEMENTS: Create a connection between the downtown core and the beach by improving Laneda Avenue to feel like a main street through the use of traffic calming measures. This could include painting a solid yellow stripe, providing curb extensions at key intersections, considering back-in angled parking, and constructing consistent curbs. This project should also ensure that ADA parking requirements are being met.	4th Street to Ocean Rd	\$600,000	 LONG-TERM
M9	CLASSIC STREET BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance Classic Street to provide advisory bike lanes creating space for people walking and biking and a connection from downtown core to planned multimodal facilities.	Manzanita Ave to Laneda Ave	\$110,000	 NEAR-TERM
M10	BICYCLE & PEDESTRIAN CONNECTION TO NEHALEM BAY STATE PARK: Provide a separated path for people walking to connect people walking and biking between the Manzanita and Nehalem Bay State Park along the Classic Street alignment. Further analysis would be required to identify final cross-section and alignment. This project should also include wayfinding to encourage visitors to walk and bike to the state park and will require coordination with Nehalem Bay State Park for connections into the State Park and reconstructing the road.	Dorcas Ln to end of UGB	\$1.5M	 LONG-TERM



CHAPTER 1: EXISTING & FUTURE CONDITIONS

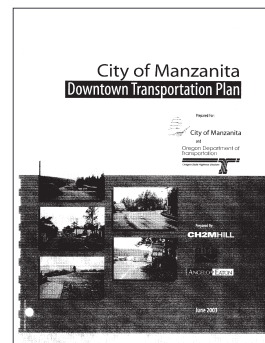
This chapter documents the local context and transportation system in Manzanita today and how conditions are expected to change by 2040.

The following sections in this chapter include:

- A summary of the local plans that served as a starting point for Manzanita's first Transportation System Plan (TSP)
- An inventory of transportation infrastructure in Manzanita today
- How Manzanita will grow over the next 20 years and the transportation system's ability to accommodate that growth
- Feedback from community members that informed the development of goals and needs the TSP should address

Local Plans

There are three local plans that provided context for Manzanita's TSP, the Manzanita Downtown Transportation Plan, the City's Trail Master Plan, and Manzanita's Comprehensive Plan.



The **Manzanita Downtown Transportation Plan**, adopted in 2003, was developed to address key transportation issues in the city and was focused on the U.S. 101 intersections with Laneda Avenue and Manzanita Avenue, the extension of Classic Street, and improvements to Laneda Avenue.



Manzanita last amended its Comprehensive Plan in 2014. As the **City of Manzanita Comprehensive Plan** serves as the City's guide for achieving its vision on a wide variety of topics, including transportation, this document informed development of goals and policies, to ensure alignment with the city's broader vision.

In 2021, the City completed its **Trail Master Plan**. The Trail Master Plan identifies existing and proposed natural surface trails and paved paths separated from vehicle traffic. In addition to recommendations on where new trails should be developed, the plan also identifies next steps for prioritization and implementation of trails within the City.



Manzanita Today

The City of Manzanita, located on the north side of Nehalem Bay, has the largest land area of the three Nehalem Bay cities and a population of 617 people. While Manzanita is predominately made up of medium and low-density residential areas, including Bayside Gardens which is within the city's Urban Growth Boundary (UGB), it does have an active downtown along Laneda Avenue. Seasonal tourism is a primary economic driver for the City and causes the population and traffic in Manzanita to increase over the busy summer months as people visit the beach and Nehalem Bay State Park, both of which visitors must travel through Manzanita to access. Manzanita has the only library and police department in the region, and has a vibrant commercial center with grocery stores, restaurants, and shopping. Directly south of the city limits is Nehalem Bay State Park, which receives approximately 700,000 visitors a year. The park has an airport, boat launch, and a variety of year-round recreational offerings. While U.S. 101 only touches the northeast edge of the City, it is the City's only regional connection as shown in **Figure 1**.

Today, Manzanita's transportation system primarily serves people driving, with few facilities dedicated to people walking, biking, or taking transit. As shown in **Figure 2**, sidewalks are limited to the areas in and around Downtown and there is one shared bicycle and pedestrian facility on the east side of Carmel Avenue south of Laneda Avenue. There is one transit stop in Manzanita, served by the Tillamook County Transportation District (TCTD), operating the NW Connector, which is located on 5th Street south of Laneda Avenue.

Figure 3 shows the city's existing roadway network. U.S. 101 is the City's only Principal Arterial as its primary purpose is to serve regional trips. Laneda Avenue is a major collector while Ocean Road, Nehalem Road, Carmel Avenue, and Classic Street are all minor collectors within the city limits. All other streets are classified as Local streets, primarily connecting people to residential areas and local destinations.

In Manzanita, technical analysis focused on evaluating capacity on U.S. 101 and historical crash data. On U.S. 101, traffic operations analysis found that the existing capacity of the roadway is adequate to serve the number of vehicles that travel on U.S. 101 near Manzanita. Crash data was also evaluated to identify any locations where improvements may be needed to improve safety. In Manzanita, the most common type of crashes between 2014 and 2018 was turning movement crashes. Within city limits, 43 percent of crashes occurred at intersections and there was one crash involving a bicyclist on U.S. 101 just east of the city within the UGB, as shown on **Figure 4**.

For more detail on the existing conditions assessment, see **Technical Memorandum (TM) #5: Existing Conditions Assessment**, provided in Volume 5.



Figure 1 | TSP Planning Area





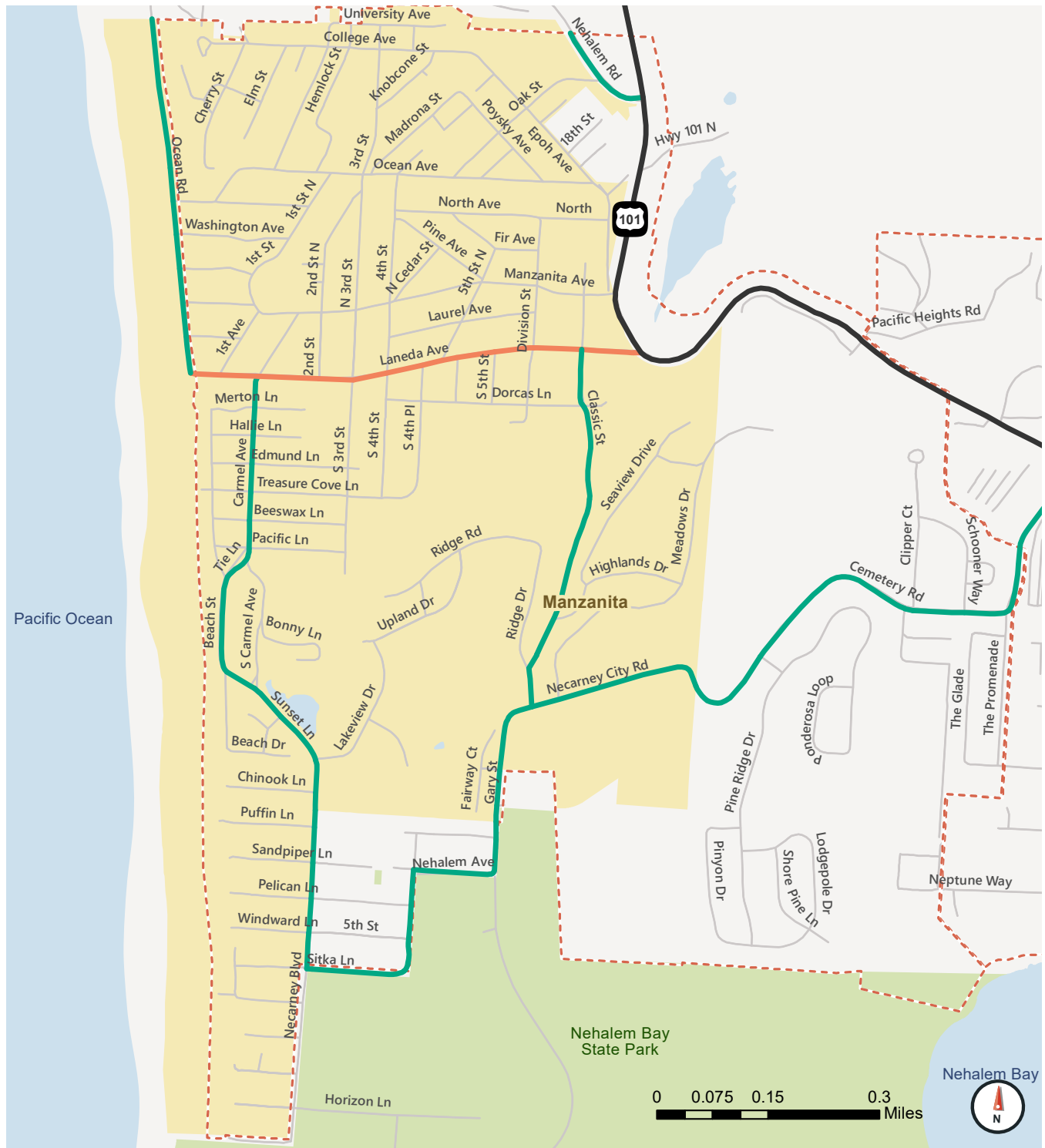
Figure 2 | Existing Bicycle & Pedestrian Network



- U.S. 101
- Streets
- Park
- City
- Urban Growth Boundary (2019)
- Existing Pedestrian Lane
- Existing Separated Facilities
- Existing Sidewalk
- Existing Trail
- Existing Wide Shoulder



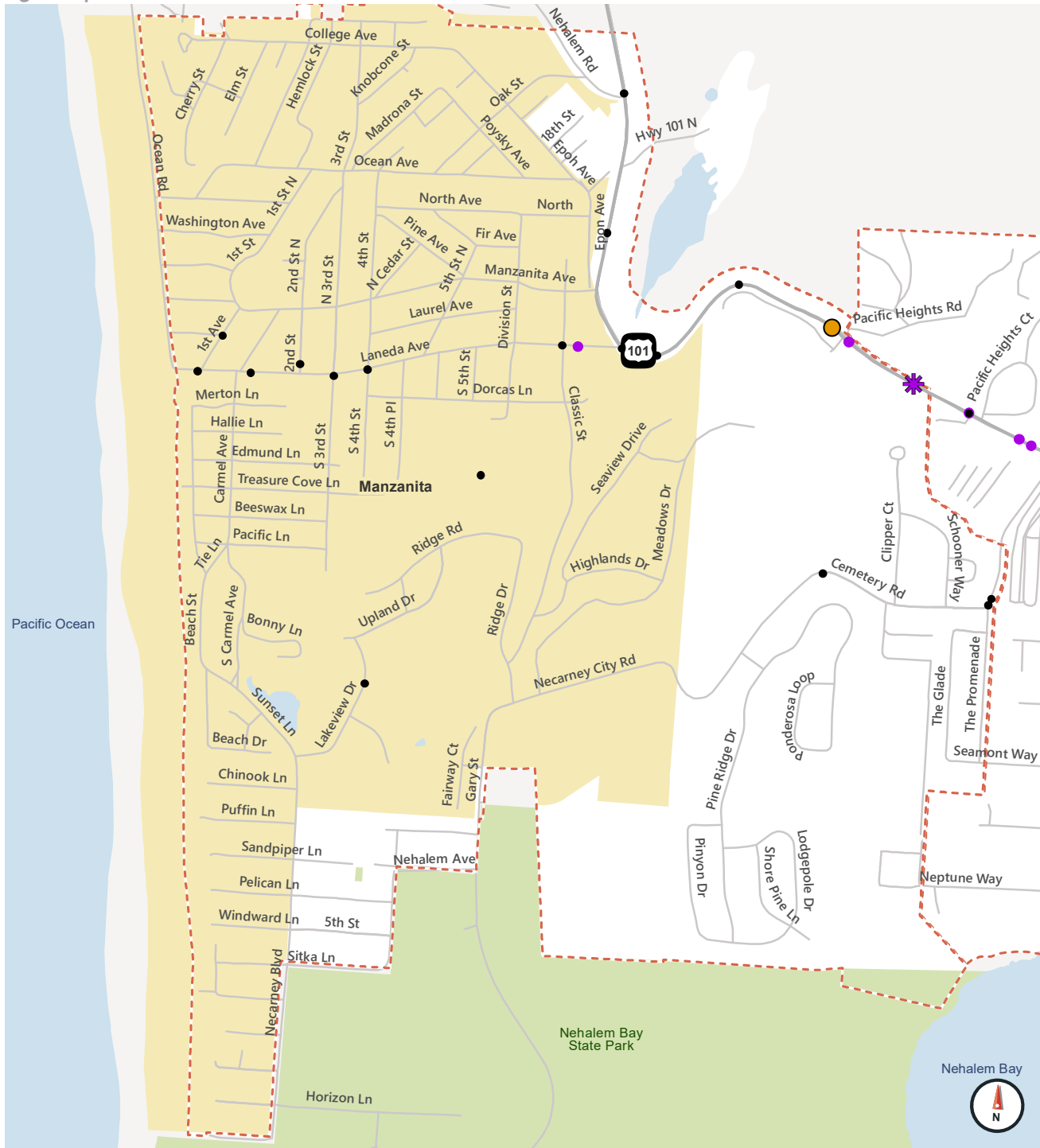
Figure 3 | Existing Roadway Network



- Principal Arterial
- Major Collector
- Minor Collector
- Local
- City
- Park
- Urban Growth Boundary (2019)



Figure 4 | Manzanita Crash Countermeasures



- Local Street
- City
- Park
- - - Urban Growth Boundary (2019)
- Suspected Serious Injury
- Minor Injury
- Property Damage Only
- ✱ Bicyclist Injured

Manzanita in 2040

Analysis of future transportation conditions in Manzanita was completed based on growth forecast to occur in the region. As land use and the population grows, additional pressure will be put on the transportation network to accommodate this new growth.

The pattern of growth can also change transportation patterns and the need for new infrastructure – for example, a new housing development in an otherwise undeveloped area might prompt the need for additional roads, sidewalks, or bicycle facilities that are not needed under current conditions.

Land Use

The City of Manzanita is already experiencing infill development within the City Core, which is expected to continue. The City also anticipates that approximately 300 new homes will be built on currently vacant land east of Classic Street within the next eight years.

Population

The Population Research Center at Portland State University publishes historical population trends

and estimated future population growth for cities and counties throughout the state. In 2017, growth estimates from 2017 to 2067 were published. Historically, Tillamook County’s population grew at an average rate of 0.4 percent per year between 2000-2010. However, it is predicted that the County’s population will grow at a slightly faster pace through 2035 and will increase by more than 2,800. Manzanita saw higher growth from 2000-2010 than the County average and is predicted to grow at a faster rate through 2035 as shown in **Table 3**.

Planned Transportation Projects

As there are no local transportation projects with funding identified at this time, no transportation improvements were assumed in the baseline analysis for 2040 conditions.

Table 3 | Historical and Forecasted Population Growth in Nehalem Bay

LOCATION	HISTORICAL			FORECAST				
	2000	2010	AAGR ¹ (2000-2010)	2017	2035	2067	AAGR ¹ (2017-2035)	AAGR ¹ (2035-2067)
Tillamook County	24,262	25,250	0.4%	26,071	28,879	32,747	0.6%	0.4%
Manzanita UGB	712	827	1.5%	884	1,156	1,567	1.5%	1.0%

Source: U.S. Census Bureau, 2000 and 2010 Censuses; Forecast by Population Research Center, Portland State University
¹ Average Annual Growth Rate (AAGR)



Transportation System Operations & Needs

Using the expected growth on U.S. 101 based on forecasts developed by ODOT, traffic forecasts were developed for 2040. These forecasts were then used to evaluate if the transportation system will be able to accommodate the expected growth and identify deficiencies in the existing system.

Traffic operations analysis completed using traffic volume forecasts for 2040 found that all study roadway segments in Manzanita have enough capacity to accommodate expected growth.

Key needs that were identified as part of the future conditions assessment and used to inform the recommended projects include:

- Traffic calming to lower vehicle speeds on local roads
- Sidewalk improvements to address existing deficiencies and ensure that facilities are consistent with ADA standards
- More facilities for people walking and biking, specifically to connect people to the commercial center, Bayside Gardens, and Nehalem Bay State Park

For more detail on the future conditions assessment and transportation needs, see **TM #6: Future Traffic Forecast Methodology and Results** and **TM #7: Future Transportation Conditions & Needs**, included in Volume 5.

Community Touchpoint #1 – Needs & Desires

The first community touchpoint provided an opportunity for community members to share their experience traveling in Manzanita, including issues and barriers to travel, and to review the draft Goals & Objectives following vetting by the PAC.

Input was gathered through an online open-house which presented an opportunity for community members to both review the data that had been collected and share their feedback through an online survey.

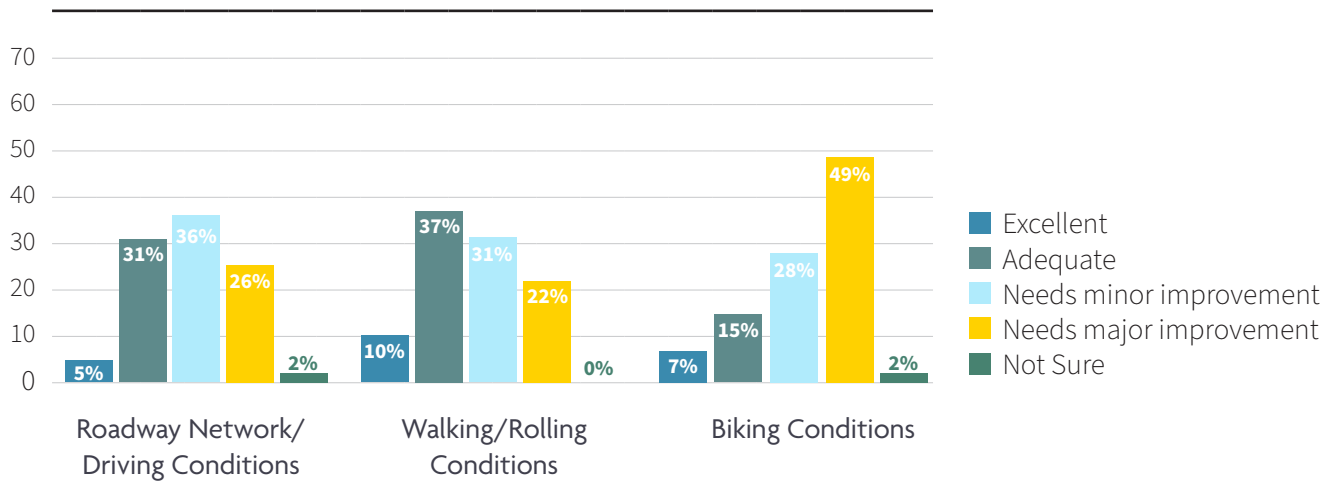
This event ran from August 2 to August 20, 2021. During this time, 225 community members viewed the site. Of the over 200 community members that visited the site, 66 visitors responded to the survey questions, of which 26 (40 percent) stated their primary residence was in Manzanita while three community members selected Bayside Gardens as their primary residence.

When asked if the draft goals would address the issues they experience when traveling, most community members responded with yes; however, many reiterated the need for improved infrastructure for walking and bicycling and a desire to see that reflected in the goals and objectives. As shown on **Figure 5**, most respondents identified existing bicycling infrastructure as needing major improvements.

As part of each touchpoint, efforts were made to reach people whose voices are not typically heard. For a summary of how Title VI and Environmental Justice was incorporated in the community engagement for this project, see the summary included in Volume 1.



Figure 5 | Transportation Needs in Manzanita





CHAPTER 2: GOALS & POLICIES

This chapter presents the goals, objectives, policies, and evaluation criteria that were developed to align the outcomes of this TSP with the needs, desires, and vision for Manzanita's transportation system. The goals, objectives, and evaluation criteria were developed based on input from the PAC. Community members also vetted the goals and objectives as part of the first touchpoint with the community.

Goals & Objectives

Six goals were established for the TSP. These goals aim to address existing needs and barriers to travel for people walking, biking, and rolling while maintaining Manzanita's unique character and natural resources.

Table 4 | Goals & Objectives


GOAL	OBJECTIVES
<p>GOAL #1: QUALITY OF LIFE</p>  <p>Create a transportation system that provides equitable multimodal access for underserved and vulnerable populations and balances the needs of local travelers and regional through-traffic.</p>	<ol style="list-style-type: none"> 1. Provide equitable access for underserved and vulnerable populations by requiring ADA compliance for new transportation infrastructure and upgrading existing infrastructure that does not meet ADA standards. 2. Increase connections to recreational opportunities by supporting the development of planned regional bicycle and pedestrian trails, including the Salmonberry Trail, Oregon Coast Trail, and Tillamook County Water Trail. 3. Create comfortable downtown spaces by identifying appropriate streetscape improvements, including landscaping, pedestrian scale lighting, benches, and street trees. 4. Reduce vehicle travel between cities by exploring options for visitors to 'park once', such as a regional shuttle service or water taxi.





Table 4 | Goals & Objectives

GOAL	OBJECTIVES
 <p>GOAL #2: CREATE SAFE CONNECTIONS</p> <p>Create safer connections between the Nehalem Bay communities for people walking, biking, or using other non-auto modes and identify strategies to reduce crashes for all users when traveling on U.S. 101.</p>	<ol style="list-style-type: none"> 1. Identify key non-motorized routes between the Nehalem Bay communities and prioritize pedestrian and bicycle facilities on these routes. 2. Connect businesses and recreational destinations with neighborhoods by enhancing pedestrian and bicycle crossings on U.S. 101. 3. Improve areas with higher crash risk by improving the visibility of transportation users in constrained areas, such as on hills and blind curves. 4. Address known safety issues at locations with fatal or severe injury crashes, crashes involving a bicyclist or pedestrian, and vehicles entering and exiting U.S. 101. 5. Collaborate with ODOT to implement engineering and traffic calming strategies on U.S. 101, where appropriate, to reduce vehicle speeds.
 <p>GOAL #3: PLAN FOR THE FUTURE</p> <p>Collaborate with ODOT and Tillamook County to create a transportation system that is resilient to extreme weather events, able to safely accommodate evacuation and recovery efforts, and consistent with the goals and objectives of each City, Tillamook County, and the state.</p>	<ol style="list-style-type: none"> 1. Maintain local infrastructure so that facilities can withstand extreme weather events and aid in evacuation efforts. 2. Improve traffic circulation and access for fire and emergency vehicles. 3. Collaborate with ODOT to develop and implement improvements to U.S. 101 that fit the land use context and are consistent with ODOT's HDM and other local and regional planning efforts.
 <p>GOAL #4: SUPPORT FISCAL RESPONSIBILITY</p> <p>Plan for a transportation system that is financially viable with consideration for life cycle costs by identifying new funding sources to make local dollars go farther.</p>	<ol style="list-style-type: none"> 1. Develop transportation solutions that are cost effective. 2. Identify outside funding sources for transportation projects such as grants, developer contributions, or transportation system charges. 3. Prioritize investments and maximize partnerships to provide maximum benefit and return on investment for the associated cost. 4. Consider future operation and maintenance costs in investment choices.



Table 4 | Goals & Objectives

GOAL	OBJECTIVES
 GOAL #5: MANAGE ACCESS Manage access from U.S. 101 to Manzanita and the recreational opportunities in the area to minimize cut through traffic and seasonal congestion.	<ol style="list-style-type: none"> 1. Improve connections within Manzanita and to the neighborhoods within the UGB to improve local vehicle circulation and encourage local traffic to use local roads. 2. Support other planning efforts to create non-motorized and transit connections from key destinations to the commercial core.
 GOAL #6: ENHANCE ECONOMIC VIBRANCY Support economic vibrancy and reduce parking demand by providing walking, biking, and transit connections to the commercial core and the beach.	<ol style="list-style-type: none"> 1. Prioritize low stress bicycle and pedestrian facilities on arterials and collectors to enhance connections to local destinations. 2. Develop transportation and land use solutions that balance the needs of all users in the downtown area and to/from residential areas to the downtown core and beach.





Transportation Policies

The policies listed below reflect the TSP goals and objectives and will ensure that future land use and transportation decisions in Manzanita help to bring the transportation system envisioned in this document to fruition.

1. Efforts to reduce speeding on Laneda Avenue should be carried out by the city. This should take the form of maintaining a low speed (20 MPH), requesting that the City police and Tillamook County Sheriff's Department maintain a high level of enforcement and installing appropriate warning signs. (Amended by Ord.14-02; passed on April 9, 2014)
2. Crosswalks in the downtown commercial area should be a high priority for the city. Consideration should be given to the installation of planters or other landscaping devices in conjunction with the crosswalks.
3. The city and state shall cooperate to retain the airport at Nehalem Bay State Park. It is the position of the city that the airport should be surfaced, that "T-Hangers" should be installed, and that a caretaker should be stationed at the airport. It is the goal of the city that the facility be improved for existing traffic rather than expanded.
4. The city and state shall cooperate to limit the number of accesses onto U.S. 101 to as few as possible. Limited access shall be permitted north of Laneda, or in other locations where traffic visibility is limited.
5. The city will work with ODOT to coordinate plans and projects particularly through the Oregon Transportation Plan and the U.S. 101 Corridor Study. Specifically, the city wishes to have direct input into highway improvement plans on U.S. 101 in the vicinity of the city, and on future uses of the unused highway right-of-way.
6. The City discourages property owners from improving street rights-of-way with landscaping, driveways, walkways and similar projects, especially in the vicinity of water, sewer, and storm drainage lines. All parking required by the zoning ordinance must be useable by the property owners, generally not exceeding 10% grade from the street.
7. The city will support equitable access for underserved and vulnerable populations through compliance with ADA standards for new transportation infrastructure improvements and upgrades to existing infrastructure that does not meet ADA standards.
8. The city will support the development of planned regional bicycle and pedestrian trails, including the Salmonberry Trail, Oregon Coast Trail, and Tillamook County Water Trail.
9. The city will support streetscape improvements to improve downtown areas, including, but not limited to, improved landscaping pedestrian scale lighting, benches, bicycle racks, and street trees.
10. The city will support alternative travel modes that reduce vehicle travel between cities, including, but not limited to, regional shuttle services or water taxis.
11. The city should prioritize improvements to non-motorized routes that include pedestrian and bicycle facilities between Nehalem Bay communities.
12. The city should prioritize enhancing pedestrian and bicycle crossings on U.S. 101 that connect businesses and recreational destinations with neighborhoods.
13. The city will support improvements that increase visibility of transportation users in constrained areas, such as hills and blind curves.



14. The city shall prioritize improvements that address known safety issues at locations with fatal or severe injury crashes, crashes involving bicyclists or pedestrian, and vehicles entering and exiting U.S. 101.
15. The city will coordinate with ODOT to implement engineering and traffic calming strategies where appropriate on U.S. 101 to reduce vehicle speeds and are consistent with ODOT's HDM and other local and regional planning efforts.
16. The city should maintain transportation infrastructure so that facilities can withstand extreme weather events and aid in evacuation efforts.
17. The city will support improvements to traffic circulation and access for fire and emergency vehicles.
18. The city shall prioritize cost-effective transportation improvements.
19. The city should seek additional funding sources for transportation improvements, such as, but not limited to, grants, developer contributions, and transportation system charges.
20. The city should support partnerships that maximize the benefit and return on investment for associated costs when prioritizing transportation investments.
21. The city should support improvements that increase local vehicle circulation and encourage local traffic to use local roads.
22. The city should support non-motorized and transit connections from key destinations and the commercial core.
23. The city should prioritize bicycle and pedestrian facilities on arterials and collectors that enhance connections to local destinations.
24. The city should prioritize transportation and land use solutions that support all road-users in the downtown area and to/from residential areas to the downtown core and beach.

Public Facilities & Services

1. The demographic trends of North Tillamook County, and increasing costs of mandated regulations, encourages cooperation between communities relative to Public Facilities and Services.

Street Policies

1. The cost of constructing streets in new subdivisions, planned developments, or in rights-of-way where no improved street exists shall be the responsibility of the developer or the adjacent property owners. The City shall share costs in the following way:
 - a. On existing dedicated, but unimproved streets, which are arterials or feeders, the City will pay the difference in pavement width between the existing width and arterial or collector width. On existing dedicated unimproved or underimproved residential streets, the abutting property owners shall pay all costs of the improvement.
 - b. Substantial improvement of existing street intersections shall be the responsibility of the City.
 - c. There shall be no city participation in bearing the cost of streets in subdivisions or planned developments. Owners wishing to build access to their property on unimproved rights-of-way must adhere to City Street Standards.
4. Asphaltic concrete pavement shall be required for all streets.
5. Storm drainage, as determined by the Public Works Department, shall be required for all street improvements and construction.
6. Street right-of-way which cannot be improved due to steep topography, or other valid reason, should be used for other purposes, such as public infrastructure, emergency preparedness, parks or open space, walking trails or greenbelts.

For more information on the policies, see **TM #12: Implementing Ordinances**, included in **Volume 5**.





Evaluation Criteria

The evaluation criteria, presented in Table 5, were used to evaluate each potential project's alignment with the TSP goals. Evaluation criteria was vetted by the PAC and City staff to ensure that the evaluation process resulted in projects that aligned with the desired outcomes of the TSP process.

Table 5 | Evaluation Criteria







GOAL	EVALUATION CRITERIA
 1. QUALITY OF LIFE	Project improves access for underserved or vulnerable populations.
	Project improves a route predominately used by local travelers off U.S. 101.
	Project improves the experience of people traveling through Nehalem Bay.
 2. CREATE SAFE CONNECTIONS	Project addresses a location with a history of fatal/severe injury crashes and/or bike/ped crashes.
	Project creates new connections off U.S. 101 for active transportation modes between Nehalem Bay communities.
	Project includes a traffic calming element aimed at slowing vehicle traffic to improve safety and comfort for active transportation users.
	Project addresses a location with a latent risk of crashes.
 3. PLAN FOR THE FUTURE	Project maintains or rebuilds critical infrastructure; or improves access for emergency vehicles.
	Project includes a maintenance component on local roads.
	Project improves U.S. 101 consistent with ODOT's Highway Design Manual or other regional planning efforts.
 4. SUPPORT FISCAL RESPONSIBILITY	Project builds on investments in transportation funded primarily by entities other than the cities. (state, regional, county, grants, or development impact fees).
	Project decreases future operation and/or maintenance costs.



Table 5 | Evaluation Criteria

GOAL	EVALUATION CRITERIA
 5. MANAGE ACCESS	<p>Project improves local roadway connections and/or wayfinding within Manzanita's UGB.</p> <p>Project supports efforts to create connections between key destinations and the commercial core.</p>
 6. ENHANCE ECONOMIC VIBRANCY	<p>Project creates new connections for active transportation modes on arterials or collectors.</p> <p>Project builds roadway shoulders to city standards/greater than standard where no bike/ped facility is available.</p>





CHAPTER 3: MANZANITA'S TRANSPORTATION SYSTEM

One desire that was consistently shared by community members throughout development of the TSP was the desire for a transportation system that improves safety and comfort for people who choose to walk and bike, including enhancing connections for these travelers off U.S. 101. To achieve this, the TSP includes proposed networks for pedestrian, bicycles, and vehicles. This chapter presents the proposed network for each of these modes.

Autos

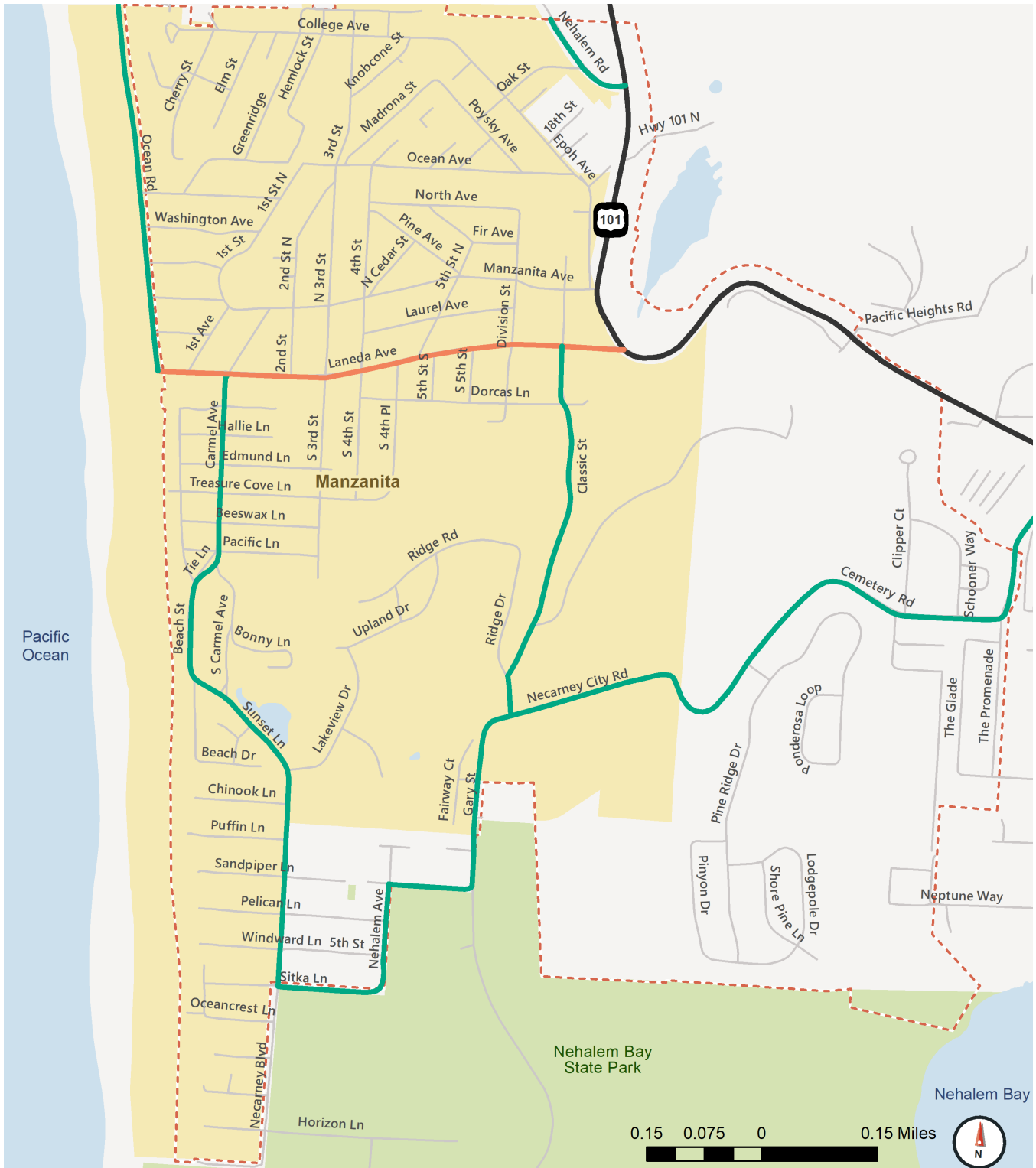
Figure 6 shows the proposed roadway network for Manzanita. This is followed by **Table 6** which defines each functional class. The cross-sections for collectors and local streets within Manzanita are shown on **Figure 7** through **Figure 9**.

When determining the needs that must be met by a specific road, relying on the surrounding land use context results in a context-sensitive approach to determining the appropriate cross-section and facilities that should be provided. Based on the six urban contexts, with the term urban applying to any area with an Urban Growth Area (UGA), the area surrounding U.S. 101 in Manzanita is identified as Suburban Fringe. This land use context was used to identify the appropriate elements and dimensions for U.S. 101, identified as a Principal Arterial within Manzanita.





Figure 6 | Roadway Functional Classification



- Principal Arterial
- Major Collector
- Minor Collector
- Local
- Urban Growth Boundary (2019)
- Park
- City

**Table 6 | Manzanita Roadway Standards by Functional Class**

FUNCTIONAL CLASS	PEDESTRIAN REALM	TRANSITION REALM			TRAVELWAY REALM		
	SIDEWALK	BICYCLE FACILITIES	BUFFER ZONE	MINIMUM ON-STREET PARKING WIDTH	NUMBER OF TRAVEL LANES	MINIMUM LANE WIDTH	MEDIAN/CENTER TURN LANE
Principal Arterial ¹	6 to 8 feet	6 feet	3 to 5 feet	None	2	11 to 12 feet	12 to 13 feet
Major Collector	6 to 8 feet	None	None	8 feet	2	11 feet	None
Minor Collector ²	Minimum 8 feet		None	8 feet/None	2	11 feet	None
Local ^{2,3}	None	Advisory Bike Lanes or Sharrows	None	8 feet or None	1	20 feet	None

¹ As the only Principal Arterial in Manzanita is U.S. 101, which is under the jurisdiction of ODOT, values presented above are consistent with recommendations for a Rural Community roadway based on guidance in the ODOT HDM. Widths shown provide a range of options based on local context consistent with the HDM.

² While local roadways only require one lane, the width would allow for two-way travel.

³ The Manzanita Bicycle Network Map (Figure 11) identifies the appropriate bicycle facilities for Minor Collectors and Local roadways in the City.

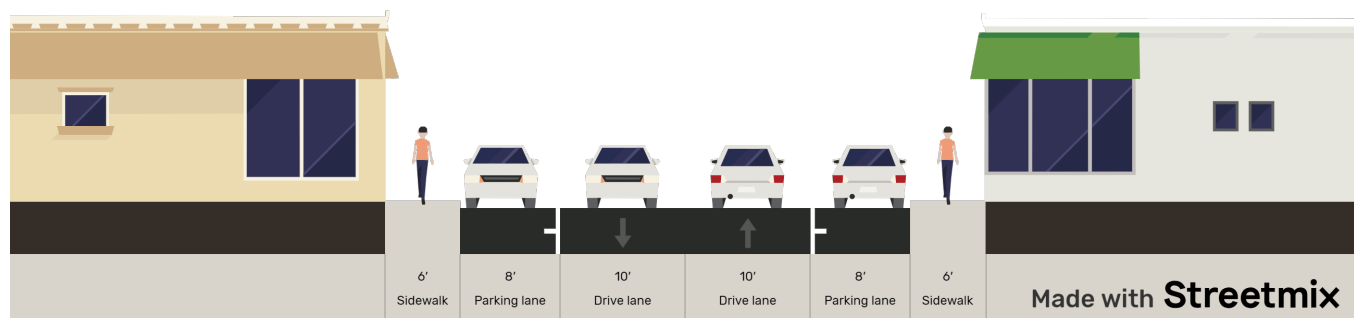
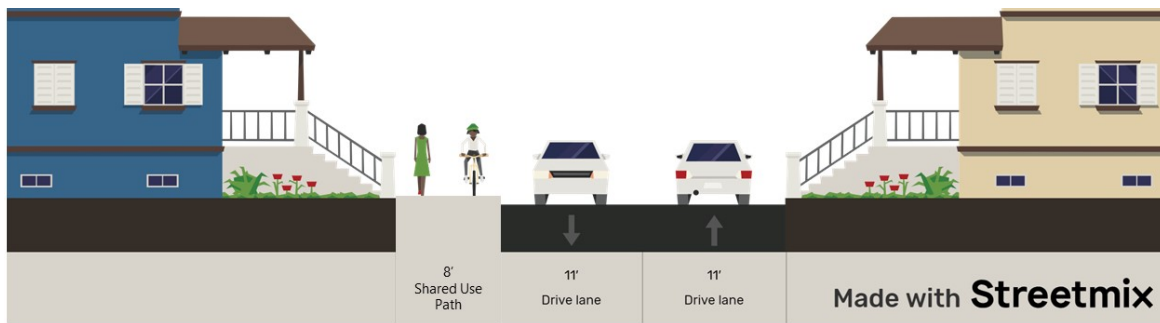
Figure 7 | Major Collector Cross-Section



Figure 8 | Minor Collector Cross-Section



Minor Collector Cross-Section with Parking

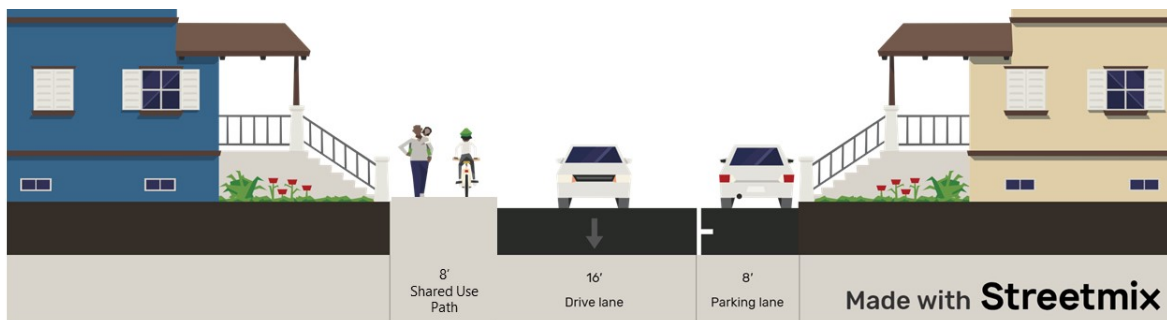
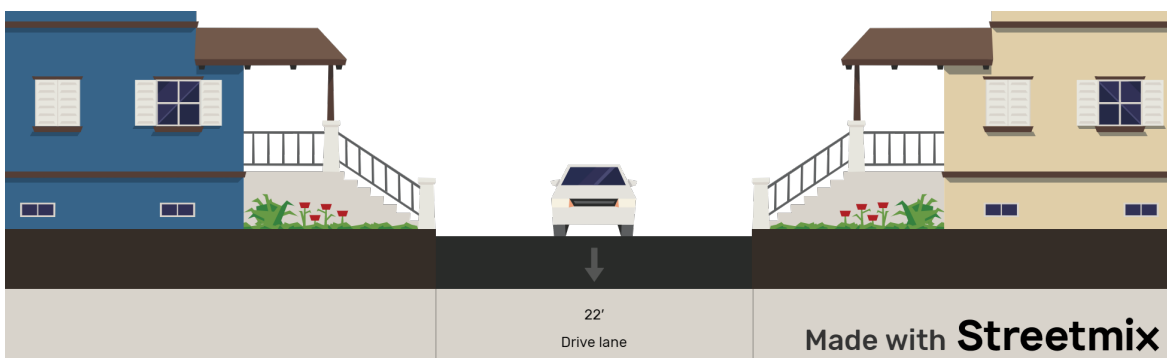
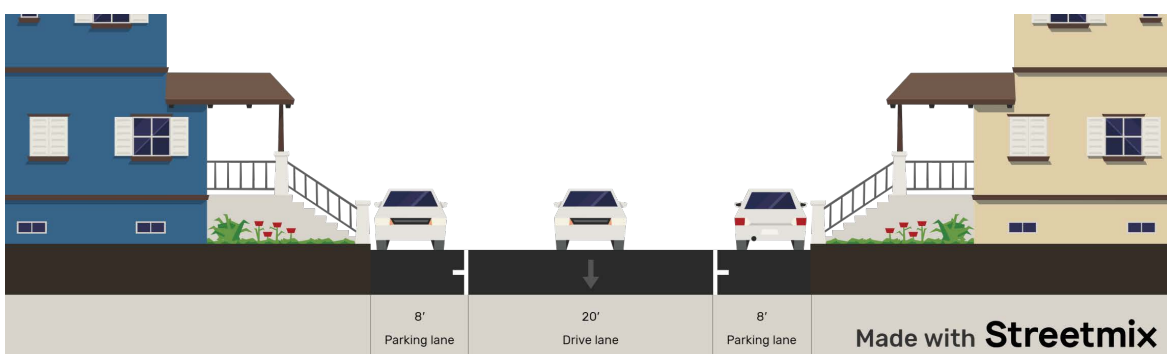


Figure 9 | Local Road Cross Section



Local Road Cross Section with Parking





Pedestrians

Within Manzanita, there are two key streets where sidewalks are needed to connect people to key destinations: Laneda Avenue and Ocean Road, as shown on **Figure 10**.

Laneda Avenue is a key pedestrian corridor connecting people from the commercial core to the beach, while Ocean Avenue provides access to the beach. Given the high pedestrian volumes on these key routes, it is recommended that, when feasible, 10 feet of pedestrian throughway be provided. Where space allows, additional space should be provided for frontage (up to four feet) for a total maximum of 14 feet. Where space is constrained, the additional buffer may be eliminated as shown in the Major Collector Cross-Section above, as the on-street parking lane provides separation for the pedestrian realm and the travelway realm.

The ADA requires that transportation facilities accommodate the needs of people with varying abilities. By building a pedestrian network that meets






the needs of people with varying abilities improves accessibility and results in a high-quality system for all users. To achieve this, the City should incorporate the following features when building new sidewalks or improving existing sidewalks:

- Ensure that sidewalks are free of obstructions. While objects up to 27 inches above the ground can be detected by a white cane, objects between 27 and 80 inches in the pedestrian circulation area may cause injury to blind and low vision users. If objects must protrude into the pedestrian circulation area, detectable delineation to warn users should be provided.
- Provide detectable warning surfaces at curb ramps, railroad crossings, and transit stops that contrast with adjacent surfaces.
- Design sidewalks to include firm and ADA compliant surfaces, adequate clear width, and limited cross-slope.
- Provide an accessible sloped entrance and exit to transition to and from the walkway where the facility begins and ends.





This map of Manzanita, Oregon, displays a network of streets and local landmarks. A highlighted route is shown in purple, starting from the Pacific Ocean on the west, passing through Ocean Rd, Washington Ave, 1st St, 2nd St, 3rd St, 4th St, 5th St, and ending near the highway 101. Other streets shown include University Ave, College Ave, Hemlock St, Knobcone St, Madrona St, Oak St, Poysky Ave, 18th St, Epiph Ave, North Ave, North, Fir Ave, Manzanita Ave, Laurel Ave, Laneda Ave, Dorcas Ln, Classic St, Seaview Drive, Meadows Dr, Highlands Dr, Ridge Dr, Upland Dr, Fairway Ct, Garry St, Nehalem Ave, Horizon Ln, Pitka Ln, 5th St, Woodward Ln, Pelican Ln, Sandpipe Ln, Puffin Ln, Chinook Ln, Beach Dr, Sunset Ln, Lakeview Dr, Bonny Ln, S Carmel Ave, S 3rd St, S 4th St, S 4th Pl, Treasure Cove Ln, Beeswax Ln, Pacific Ln, Tie Ln, Carmel Ave, Edmund Ln, Hallie Ln, Merton Ln, 1st Ave, 1st St N, 2nd St N, 3rd St N, 4th St, 5th St N, Division St, Epon Ave, Hwy 101 N, Pacific Heights Rd, Pacific Heights Ct, Schorner Way, The Glade, The Promenade, Seamount Way, Neptune Way, Lodgespole Dr, Shore Pine Ln, Pinyon Dr, Pine Ridge Dr, Necarney City Rd, Cemetery Rd, Clipper Ct, and Pacific Ocean. The map also shows the Pacific Ocean to the west and Nehalem Bay State Park to the south. A scale bar indicates distances from 0 to 0.3 miles, and a north arrow is located in the bottom right corner.

- Streets
 Park
 City
 Urban Growth Boundary (2019)
- Existing Trail
 Existing Pedestrian Lane
 Existing Sidewalk
 Proposed Sidewalk



Bicycles

As shown on **Figure 11**, the bicycle network within the City of Manzanita relies on four types of facilities:

- **Separated Bike Lane:** Separated Bike Lanes are part of the street that is designated for bicycle travel, and in some cases pedestrian travel, that are separated from vehicles by a street buffer that contains a vertical element (e.g. curb, parking, or bollards).
- **Sharrows:** These are quiet slow streets that prioritize bicycles and automobiles. The shared lane marking (sharrows) indicate that bicycles and automobiles should share the lanes and are typically used when there is a sidewalk or other space allocated for people walking and to complete the bicycle network.

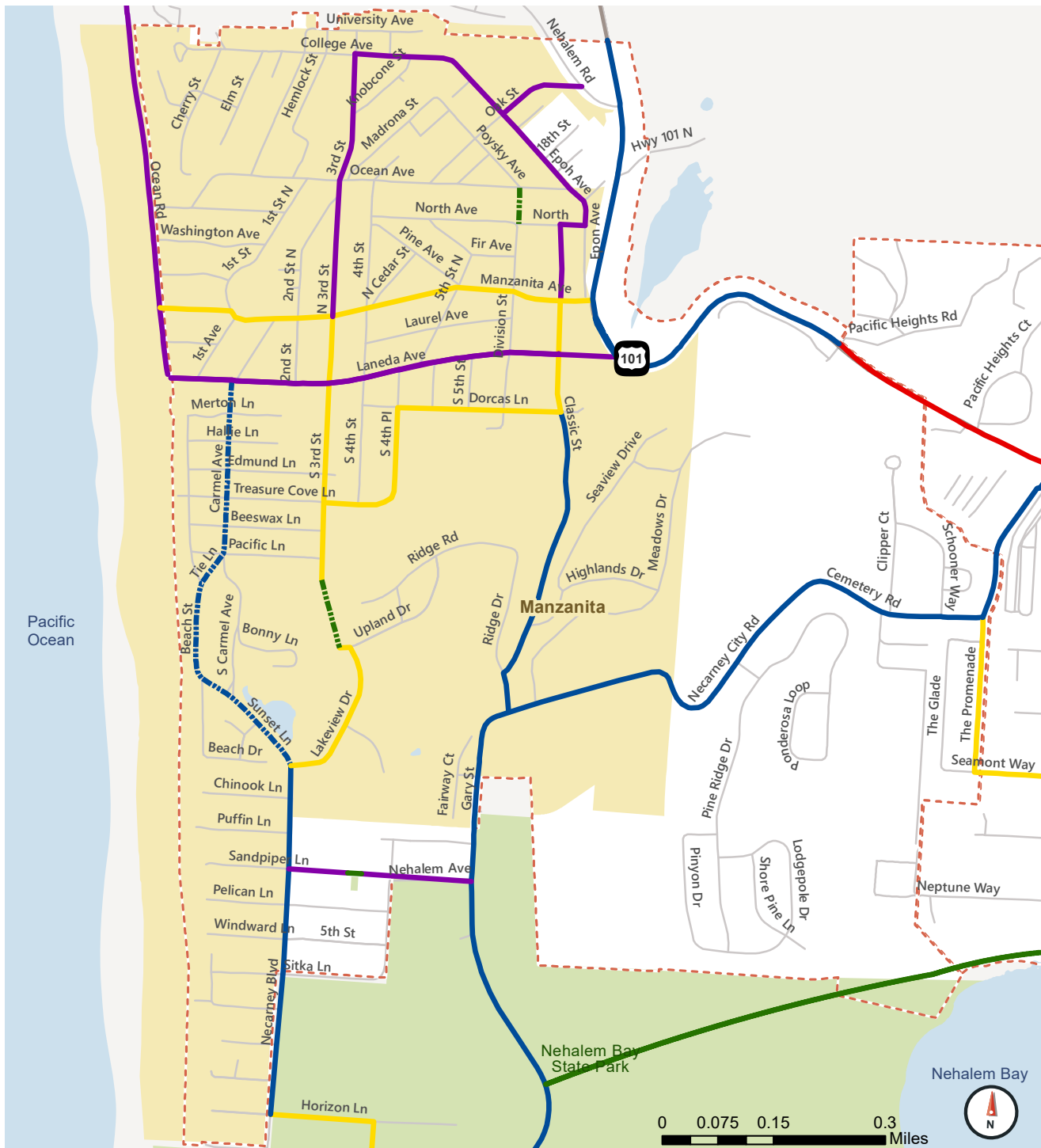
- **Advisory Bike Lanes:** These are quiet slow streets that prioritize bicycles and pedestrians. A shoulder, available for use by bicyclists and pedestrians, is delineated by striping allowing for vehicles to use the shoulder when no pedestrians or bicyclists are present to pass oncoming vehicles.
- **Trails:** Trails, which are typically constructed using a soft-surface and used for recreational travel provide a space for people walking and bicyclists. Trails have dedicated right-of-way and connect people between regional destinations. While trails may parallel a roadway, they may also create a new connection for people walking and bicycling.

The cross-sections for the four types of bicycle facilities within Manzanita are shown on **Figure 12** through **15**.





Figure 11 | Proposed Bicycle Network



- | | | |
|-------------------------------------|-------------------------------------|------------------------------------|
| ----- Existing Trail | ----- Proposed Sharrows | ----- Park |
| ----- Existing Separated Facilities | ----- Proposed Separated Facilities | ----- City |
| ----- Proposed Wide Shoulder | ----- Proposed Advisory Bike Lanes | ----- Urban Growth Boundary (2019) |
| ----- Proposed Trail | | |



Figure 12 | Separated Bicycle Facility Cross-Section

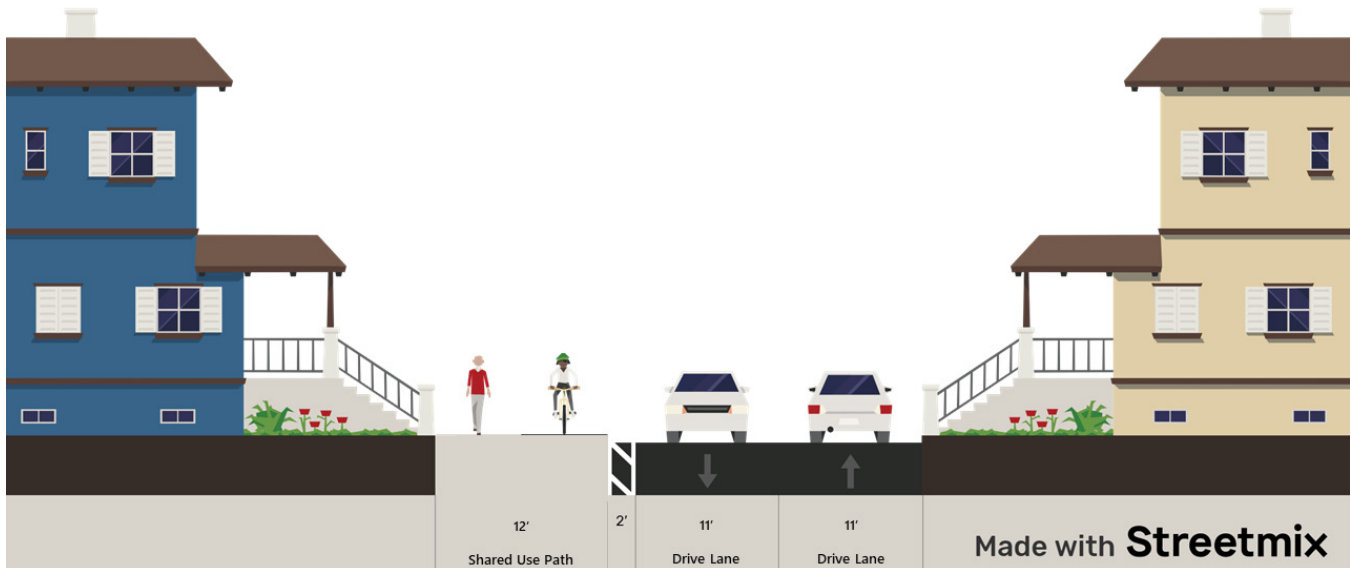


Figure 13 | Sharrow Cross-Section

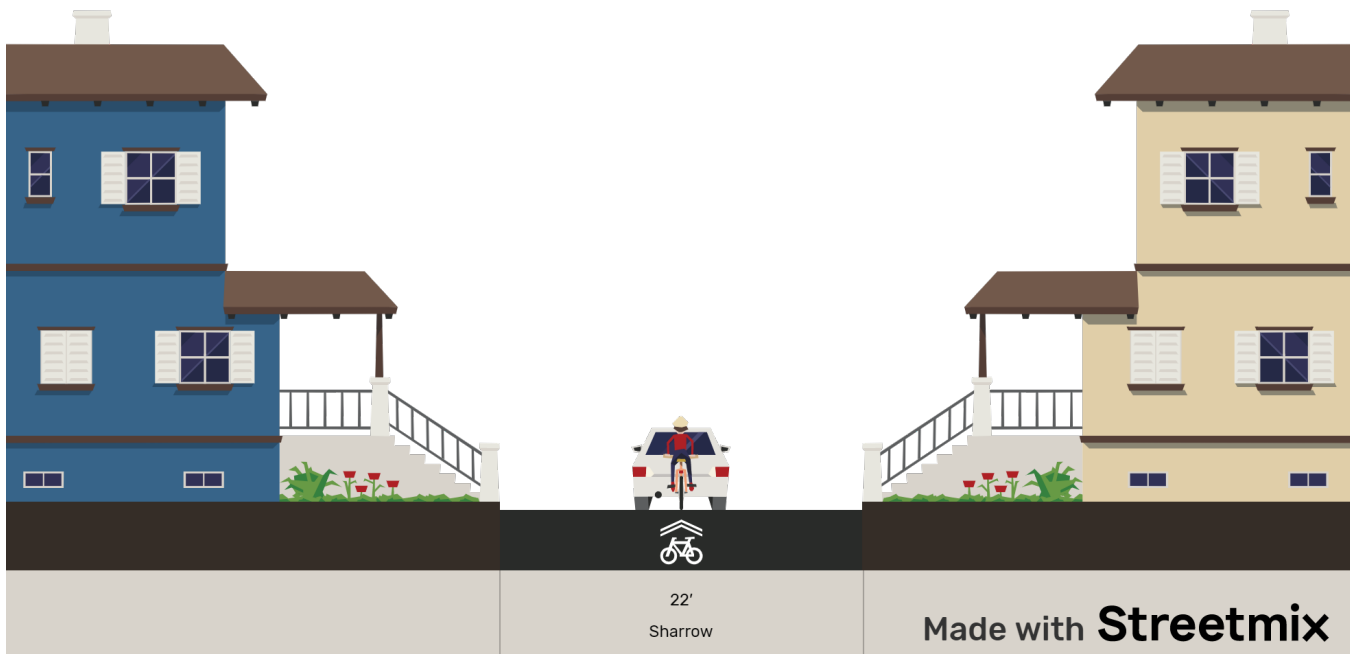




Figure 14 | Advisory Bike Lane Cross-Section

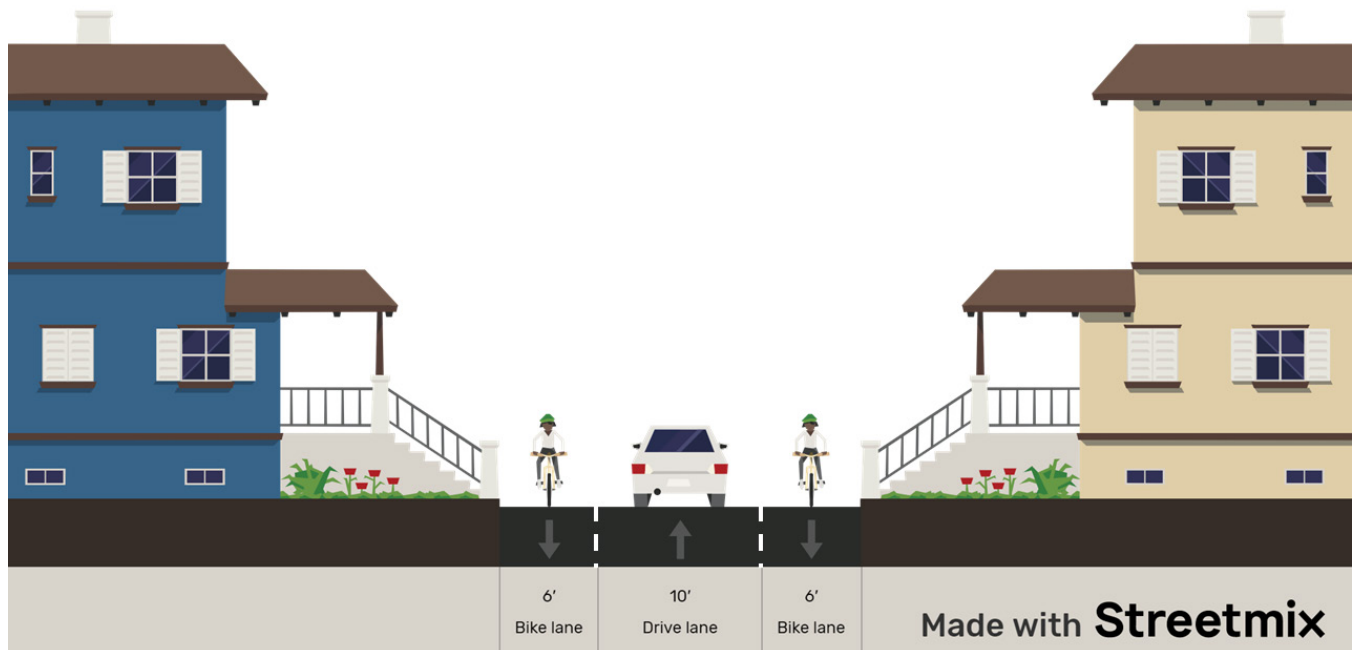
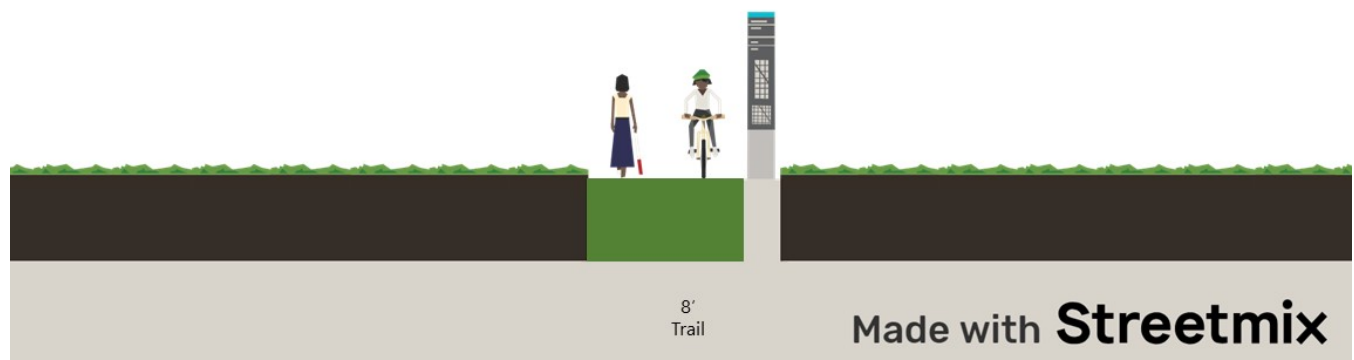


Figure 15 | Trail Cross-Section





CHAPTER 4: PROJECTS

This chapter begins with a summary of community input that informed development of the TSP project list. This is followed by the 16 projects that have been included on the TSP project list based on community input and alignment with the TSP goals.

Community Input

The second and third touchpoints with the community informed development of the project list and identification of high priority projects.

Community Touchpoint #2 – Draft Project List

The second community touchpoint, which took place in January and February 2022, was held online due to the ongoing COVID-19 pandemic. This touchpoint included a community listening session, which allowed community members to share feedback directly and ask questions about the proposed projects. The community conversation was followed by an online open-house which allowed community members to review the project list and provide feedback through an online survey.

Six community members joined the Manzanita community conversation and 14 respondents provided input on the proposed projects in Manzanita through the online survey.

While all of the respondents said that the proposed list of projects would advance the City's transportation goals, additional issues that were identified for inclusion on the project list include:

- Traffic volume on Classic Street makes it feel unsafe for people walking and biking
- On some roadways, shared space for bicycles and pedestrians is not appropriate
- Dedicating more space to pedestrians in the commercial core would enhance the visitor experience
- Proposed projects would significantly increase the number of facilities and space for people and walking and biking

Community Touchpoint #3 – High Priority Projects

The third community touchpoint included multiple opportunities for community members to share their feedback in-person and online. These events, which occurred in June and July 2022, shared the proposed TSP project list and asked community members to provide input that was used to identify high priority projects.



In Manzanita, 73 percent of respondents agreed with the draft project list either as presented or with some changes. When asked to identify projects they viewed as high-priority within the community the following projects were identified:

- Classic Street Bicycle and Pedestrian Enhancements
- Bicycle and Pedestrian Connection to Nehalem Bay State Park
- Bayside Gardens to Manzanita Bicycle and Pedestrian Connection
- Bicycle Parking

The Projects

Based on the evaluation that was completed to align recommendations with the goals and feedback from the community, a set of high priority projects were identified. High Priority projects are those that address multiple needs and are essential to moving the City towards its vision for a safe and connected transportation system for all users. The following pages provide more detail on the recommended.

A timeline for implementation was also identified for each of the projects. The timeline for implementation was determined based on complexity of the project, the amount of coordination required with multiple agencies for implementation, and cost. There are five categories of projects that have been identified to meet the needs and desires identified for Manzanita, including:

- **Signage/Wayfinding & Other:** These projects would add enhanced signage/wayfinding, primarily

to connect people walking and biking to key destinations in the region without driving. Also included are projects that would create “gateways” to the Cities, alerting drivers of the change in context and helping to lower vehicle speeds.

- **Bicycle/Pedestrian Enhancements:** These projects enhance an existing facility to create dedicated space for people walking and biking within the existing Right-of-Way (ROW) or enhance existing separation of modes.
- **Roadway:** These projects address operational deficiencies or improve the quality of a roadway that is currently hazardous or challenging to navigate because of the condition of the roadway.
- **Safety:** Projects identified as safety enhancements address areas where crashes have historically occurred or where a safety concern was shared by community members.
- **New Bicycle/Pedestrian Connection:** These solutions create new facilities for people walking and biking. These solutions may provide a separated space next to an existing roadway or fill a gap between key destinations in the region by creating a new connection.

The location of recommended projects and project descriptions are shown on **Figure 18** and in **Table 6**, respectively. This is followed by additional information on the high priority projects.

Table 7 | Timeline for Implementation




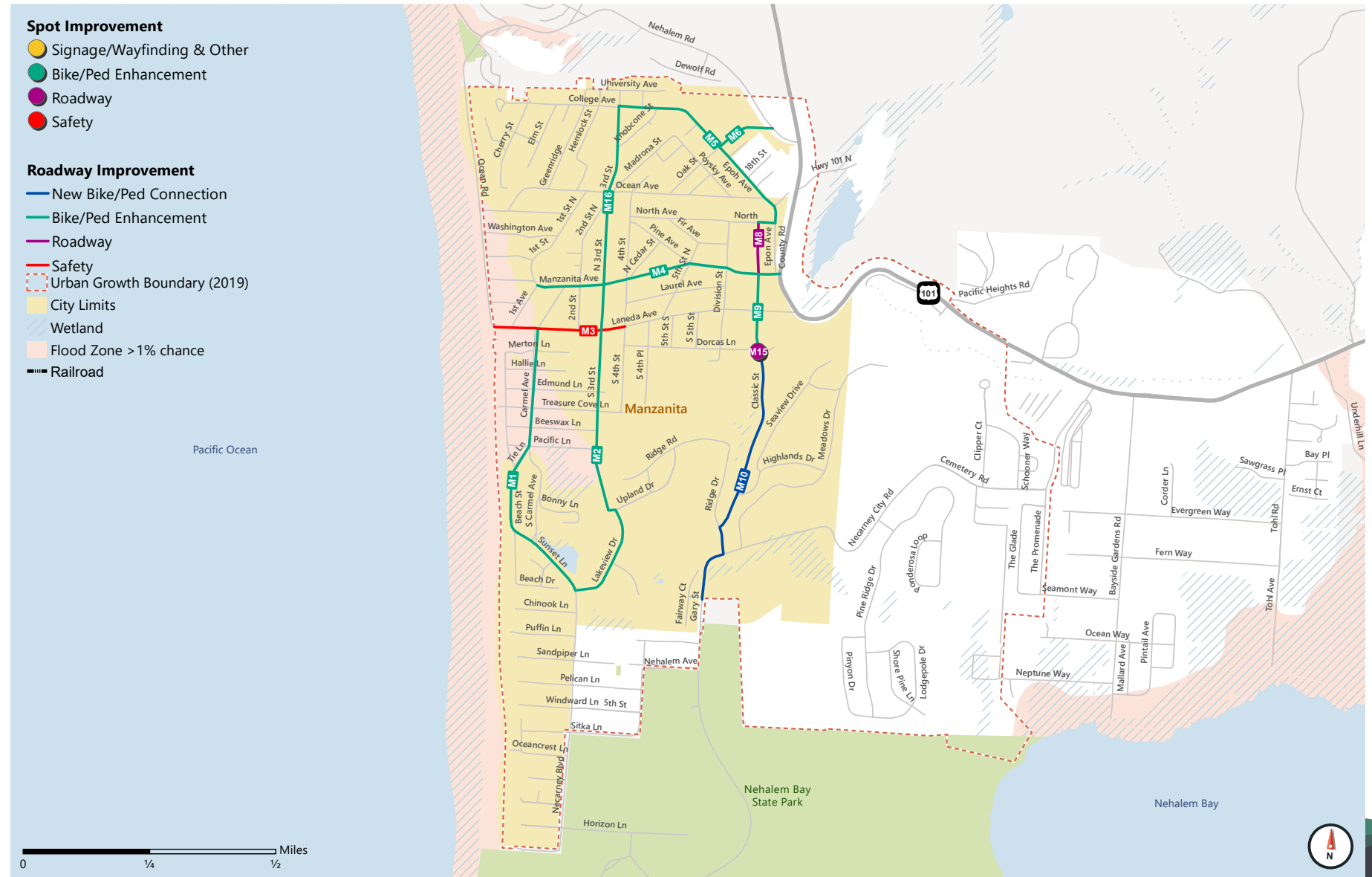
TIMELINE	DESCRIPTION
 1. NEAR-TERM	Projects identified for NEAR-TERM implementation are those that could be implemented within the next five years. These projects generally improve existing facilities or improve spot locations and are programmatic in nature.
 2. MEDIUM-TERM	Projects identified for MEDIUM-TERM implementation are likely to require between five and 10 years to implement based on cost and complexity. These projects may cross jurisdictional boundaries, requiring coordination between multiple agencies to implement, require more substantial upgrades to existing facilities or would require construction of off-street facilities.
 3. LONG TERM	Projects identified for LONG-TERM implementation are high-cost projects that will require more than 10 years to secure funding and design. Long-term projects are those that would construct new facilities on or parallel to U.S. 101 and would require substantial coordination with agencies and community members in the region.













Figure 16 | Project Map



NOTE: M11, M12, M13, and M14 are not shown on the map











Table 8 | Manzanita TSP Projects

ID	Project Name & Description	Extents	Category	Cost ¹	Timeline
M1	CARMEL ROAD PEDESTRIAN ENHANCEMENTS: Enhance delineation between pedestrians and cyclists and look for opportunities to increase safety.	Laneda Avenue to Lakeview Drive	Bike/Ped Enhancement	\$180,000	 MEDIUM-TERM
M2	3RD STREET/ LAKEVIEW DRIVE BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance 3rd Street/Lakeview Drive with advisory bike lanes to provide space for people walking and biking.	Manzanita Avenue to Necarney Blvd	Bike/Ped Enhancement	\$98,000	 MEDIUM-TERM
M3	LANEDA AVENUE IMPROVEMENTS: Create a connection between the downtown core and the beach by improving Laneda Avenue to feel like a main street through the use of traffic calming measures. This could include painting a solid yellow stripe, providing curb extensions at key intersections, considering back-in angled parking, and constructing consistent curbs. This project should also ensure that ADA parking requirements are being met.	4th Street to Ocean Road	Safety	\$600,000	 LONG-TERM
M4	MANZANITA AVENUE SAFETY ENHANCEMENTS: Enhance Manzanita Avenue with advisory bike lanes identify space for people walking and biking and improve safety at intersections. Project may also include removing landscaping and shrubbery near intersections where needed to improve intersection sight distance.	U.S. 101 to Ocean Road	Bike/Ped Enhancement	\$120,000	 MEDIUM-TERM
M5	EPOH AVENUE BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance Epoh Avenue with sharrows to indicate where people biking should travel.	3rd Street to North Avenue	Bike/Ped Enhancement	\$23,000	 NEAR-TERM
M6	OAK STREET BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance Oak Street with sharrows to indicate where people biking should travel.	Nehalem Road to Epoh Avenue	Bike/Ped Enhancement	\$4,000	 NEAR-TERM
M7	NORTH AVENUE BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance North Avenue with sharrows to indicate that bikes should use the vehicle lane.	Epoh Avenue to Classic Street Extension	Bike/Ped Enhancement	\$3,200	 NEAR-TERM
M8	CLASSIC STREET EXTENSION: Construct an extension of Classic Street from Manzanita Avenue to North Avenue and include sharrows to indicate that bikes should use the vehicle lane.	North Avenue to Manzanita Avenue	Roadway	\$1,500,000	 LONG-TERM

 High Priority Projects
¹ Costs shown are based on 2023 dollars.



Table 8 | Manzanita TSP Projects

ID	Project Name & Description	Extents	Category	Cost ¹	Timeline
M9	CLASSIC STREET BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance Classic Street to provide space for people walking and biking and create a connection from downtown core to planned multimodal facilities. Treatments could include constructing consistent shoulders to provide space for people walking and adding sharrows to indicate that bicyclists should use the travel lane.	Manzanita Avenue to Laneda Avenue	Bike/Ped Enhancement	\$110,000	 MEDIUM-TERM
M10	BICYCLE & PEDESTRIAN CONNECTION TO NEHALEM BAY STATE PARK: Provide a separated path for people walking to connect people walking and biking between the Manzanita and Nehalem Bay State Park along the Classic Street alignment. Further analysis would be required to identify final cross-section and alignment. This project should also include wayfinding to encourage visitors to walk and bike to the state park and will require coordination with Nehalem Bay State Park for connections into the State Park and reconstructing the road.	Dorcas Lane to end of UGB	New Bike/Ped Connection	\$1,500,000	 LONG-TERM
M11	COMPLETE TRAIL CONNECTIONS: Complete trail connections identified in the City's Trail Master Plan to create more local connections for people biking and walking.	Citywide	New Bike/Ped Connection	-	 MEDIUM-TERM
M12	BICYCLE PARKING: Provide dedicated areas for bicycle parking near the beach and in the downtown core.	Citywide	Bike/Ped Enhancement	\$5,000	 NEAR-TERM
M13	PARKING SIGNAGE: Provide signage near the beach and downtown core to direct visitors to public parking areas.	Citywide	Signage/Wayfinding	\$2,000	 NEAR-TERM
M14	WAYFINDING SIGNS: Provide wayfinding and educational signs in the downtown core and beach to direct visitors to local destinations, enhancing visitors ability to park once. Signage should also include messaging about where pedestrians should walk.	Citywide	Signage/Wayfinding	\$6,000	 NEAR-TERM
M15	DORCAS LANE & CLASSIC STREET INTERSECTION IMPROVEMENTS: Construct intersection improvements, potentially a mini or compact roundabout, to improve safety and operations as development continues.	Dorcas Lane & Classic Street	Roadway	\$500,000	 LONG-TERM
M16	3RD STREET BICYCLE & PEDESTRIAN ENHANCEMENTS: Enhance 3rd Street with sharrows to indicate where people biking should travel.	Manzanita Avenue to College Avenue	Bike/Ped Enhancement	\$40,000	 NEAR-TERM

 High Priority Projects

¹ Costs shown are based on 2023 dollars.

Carmel Road Pedestrian Enhancements

PROJECT M1

CATEGORY

Bicycle and Pedestrian
Enhancement

COST

\$180,000

TIMELINE



Mid-Term

PROJECT LOCATION

Laneda Avenue to Lakeview Drive

PROJECT DESCRIPTION

Today, Carmel Road is striped to identify space for people walking and bicycling; however, the space does not delineate between people walking and bicycling and separation from the vehicle lane is limited to paint. Community members shared that this space is highly utilized and therefore delineation between the space for people walking and bicycling is needed to address the different speeds of these travelers. This project would also explore other opportunities to enhance safety, specifically at crossings.

GOALS THIS PROJECT ADVANCES



Enhance
Quality of
Life



Create Safe
Connections



Plan for the
Future



Support Fiscal
Responsibility



Manage
Access



Enhance
Economic
Vibrancy



Example of on-street facilities with separation and enhanced crossings.

Source: ITE NY Upstate



U.S. 101 Bicycle & Pedestrian Path

PROJECT M3

CATEGORY

Safety

COST

\$500,000

TIMELINE



Long-Term

PROJECT LOCATION

4th Street to Ocean Road

PROJECT DESCRIPTION

While portions of Laneda Avenue were recently improved, this portion from 4th Street to Ocean Road needs additional improvements to be accessible to users of all ages and abilities and maintain the “main street” connection to the ocean. This project would enhance that connection by installing traffic calming measures, restriping the road with a solid yellow stripe, providing curb extensions at key intersections, considering back-in or angled parking and constructing consistent curbs. This project should also ensure that ADA requirements are met for all infrastructure.

GOALS THIS PROJECT ADVANCES



Enhance
Quality of
Life



Create Safe
Connections



Plan for the
Future



Support Fiscal
Responsibility



Manage
Access



Enhance
Economic
Vibrancy



Source: Strongtowns.com

Classic Street Bicycle & Pedestrian Enhancements

PROJECT M9

CATEGORY

Bicycle and Pedestrian
Enhancement

COST

\$110,000

TIMELINE



Mid-Term

PROJECT LOCATION

Manzanita Avenue to Laneda Avenue

PROJECT DESCRIPTION

Classic Street is an important connection for residents and business located along or north of Manzanita Avenue to the City’s core located on Laneda Avenue. This project would enhance Classic Street between Manzanita Avenue and Laneda Avenue with consistent shoulders and advisory bike lanes to create a space where people can walk and bicycle in the roadway. This would also help create a connection to existing and planned facilities for people walking and bicycling on Laneda Avenue and along Classic Street to the south.

GOALS THIS PROJECT ADVANCES



Enhance
Quality of
Life



Create Safe
Connections



Plan for the
Future



Support Fiscal
Responsibility



Manage
Access



Enhance
Economic
Vibrancy



Example of an advisory bike
lane.

Source: Rural Design Guide



Bicycle & Pedestrian Connection to Nehalem State Park

PROJECT M10

CATEGORY	COST	TIMELINE
New Bicycle & Pedestrian Connection	\$1,500,000	 Long-Term

PROJECT LOCATION

Dorcas Lane to UGB

PROJECT DESCRIPTION

Creating a connection from Manzanita to Nehalem Bay State Park for people who choose not to drive was identified as a key outcome from this TSP desired by many community members. This project would create a new connection for people walking and bicycling along Classic Street, a highly-traveled road, often used by large vehicles that make people walking and bicycling feel unsafe. While additional analysis would be required to identify the appropriate cross-section and alignment, this project would create a shared use path parallel to Classic Street and include reconstruction of Classic Street within the UGB.

GOALS THIS PROJECT ADVANCES



Enhance
Quality of
Life



Create Safe
Connections



Plan for the
Future



Support Fiscal
Responsibility

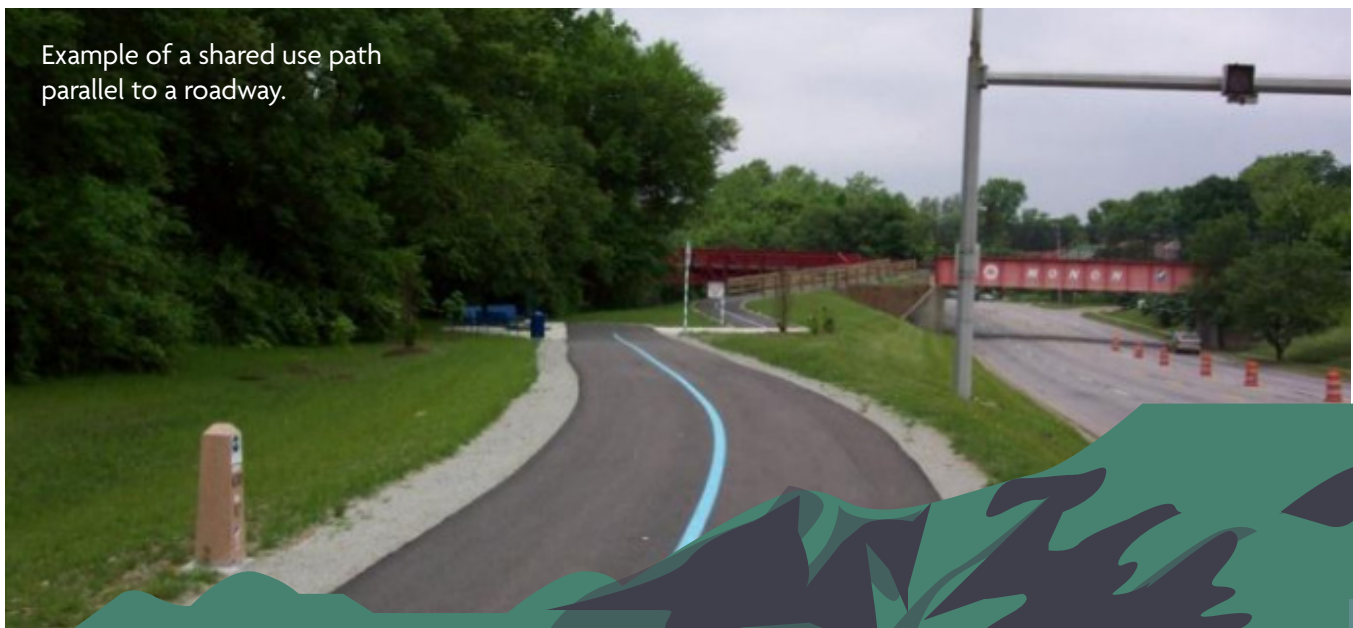


Manage
Access



Enhance
Economic
Vibrancy

Example of a shared use path
parallel to a roadway.



Source: Purdue.edu

Complete Trail Connections

PROJECT M11

CATEGORY	COST	TIMELINE
New Bicycle and Pedestrian Enhancement	N/A	 Mid-Term

PROJECT LOCATION

Citywide

PROJECT DESCRIPTION

Community members in Manzanita spearheaded development of the City’s Trail Master Plan. This community led effort identified a number of trail connections that could be completed to connect existing facilities in Manzanita and enhance user experience for people walking and bicycling within Manzanita. This project would develop a program to prioritize and fund construction of the identified trails as funding is available.

GOALS THIS PROJECT ADVANCES

					
Enhance Quality of Life	Create Safe Connections	Plan for the Future	Support Fiscal Responsibility	Manage Access	Enhance Economic Vibrancy



CHAPTER 5: FUNDING & IMPLEMENTATION

This chapter presents the forecast for available funding over the 20-year planning horizon for this document along with an overview of how projects identified in the TSP can be implemented over the next 20 years.

Financial Forecast

Historically, revenue for the City's Road Fund has come from franchise and utility agreements, street permit fees, grants, transfers from the general fund, and the motor vehicle tax. **Table 9** presents the annual revenues, expenditures and the 20-year forecast for transportation related funds based on actual revenues and expenditures from FY 2019/2020 and FY 2020/2021.

Table 9 | 20 Year Financial Forecast

LINE ITEMS	ACTUALS		AVERAGE	20-YEAR FORECAST
	FY 19/20	FY 20/21		
REVENUES				
Franchise & Utility Agreements	\$ 83,617	\$ 89,140	\$ 86,379	\$ 1,727,570
Street Permit Fees	\$ 2,000	\$ 4,300	\$ 3,150	\$ 63,000
Motor Vehicle Tax	\$ 41,076	\$ 46,404	\$ 43,740	\$ 874,800
Grants	\$ 5,919	\$ 40,478	\$ 23,199	\$ 463,970
Earned Interest	\$ 5,376	\$ 2,336	\$ 3,856	\$ 77,120
TOTAL	\$ 137,988	\$182,658	\$160,323	\$3,206,460
EXPENDITURES				
Personnel Services	\$ 82,504	\$ 63,409	\$ 72,957	\$ 1,459,130
Materials & Services	\$ 28,895	\$ 44,527	\$ 36,711	\$ 734,220
Transfers to Other Funds	\$ 9,200	\$ 9,200	\$ 9,200	\$ 184,000
TOTAL	\$ 120,599	\$ 117,136	\$ 118,868	\$ 2,377,350
POTENTIALLY AVAILABLE FUNDS (REVENUES-EXPENDITURES)			\$ 41,456	\$ 829,110



As shown in **Table 9**, Manzanita is forecast to have approximately \$41,000 available annually and \$830,000 available of the next 20 years for transportation related projects.

The 20-year forecast, shown in the table above, assumes that revenues and expenditures will not substantially change over the next 20 years. For purposes of this forecast, available cash on hand was not considered under revenues, and one-time costs (capital outlay) were not included under expenditures.

Other Funding Options

System Development Charges

System Development Charges (SDCs) are charges that may be applied to new development within the City. Once in place, these charges may be used to increase the system capacity to accommodate new users. In Oregon, cities may charge SDCs for services including water, transportation, sewer, stormwater, and parks and recreation. If adopted, revenue from SDCs could be used to complete TSP projects that build new transportation facilities, including off-street connections for people walking and biking. Manzanita currently has SDCs for water, storm water, and parks but not for transportation. The City should consider updating its SDCs to include funding for transportation facilities.

Local Gas Taxes

Another local option to supplement funding available for street projects is the local gas tax. At the local level, gas taxes are implemented by levying a business license tax on fuel dealers. This tax is set at a rate of cents per

gallon of fuel sold by the dealer. HB 2001 requires that any proposed gas taxes or increases to existing taxes must be approved through a public vote. A review of current tax rates, available through ODOT, indicates that 35 cities currently have local gas taxes with rates ranging from \$0.015 to \$0.10 per gallon.

Urban Renewal Areas

Urban Renewal Areas (URAs) or Tax Increment Financing (TIF) have been used by communities across the state to fund transportation improvements. Creating a URA is a way to improve poorly developed or under-developed areas using a portion of the revenue generated by property taxes from properties in the URA.

Transportation Utility Fees

Transportation Utility Fees (TUFs) are monthly fees that are collected from residences and business as part of their water/sewer bills. These fees are applied based on the number of trips the land use is likely to generate. Most cities use these funds to supplement funds for road and sidewalk maintenance, but these funds can be used for one time capital improvements. Based on data gathered in 2011, 19 cities in Oregon have adopted this revenue source, the nearest to Nehalem being Bay City. These are typically assessed as a flat fee for residential uses and either size of commercial space or in some cases, the number of trucks. In cities where TUFs are in place, this revenue contributes to between 15 and 20 percent of the revenue in the city's street fund.



Statewide Transportation Improvement Program (STIP)

One funding option for projects of regional significance is the Statewide Transportation Improvement Program (STIP). The STIP is ODOT's capital improvement plan for state and federally funded projects. The STIP is developed by the Oregon Transportation Commission and ODOT in coordination with a wide range of stakeholders and the public. The STIP includes the following investment areas:

- Fix-it programs
- Enhance highway programs
- Safety programs
- Non-Highway programs
- Local government programs
- Other functions

Funding allocated by the STIP is typically directed to regionally important projects that will enhance safety and improve operations at the regional level. Projects included on the Manzanita TSP project list that may be eligible for funding through the STIP are the safety projects on U.S. 101.

The most effective way to secure STIP funding for a project is by seeking support through the Northwest Oregon Area Commission on Transportation (NWACT). The NWACT is chartered by the Oregon Transportation Commission and is focused on addressing transportation issues in Columbia, Clatsop, Tillamook Counties, and portions of Washington County.

Grants

In recent years, Manzanita has received grant funding through ODOT to complete transportation improvements. It is expected that this will continue to be the primary way for Manzanita to fund the projects identified through the TSP process. Grants that may be available to Manzanita are described in more detail below, along with a brief description of the types of projects that may be eligible.

Oregon Community Paths

The Oregon Community Paths program is geared towards helping communities create and maintain connections through shared use paths. Eligible projects include:

- Continuous paths made up of one or more connected segments that are primarily physically separated from the roadway
- Paths that connect two or more communities, with each community no more than 15 miles apart, or traverses a single large community with a path that is 10 miles or longer
- Paths that will serve as a connection point between communities, or is a part of an officially designated walking and bicycling route
- Paths that are endorsed by elected bodies along path alignment

Recreational Trails Program

This federally funded program, which is administered by the Oregon Parks and Recreation Department, provides funds for local agencies to develop, improve, or expand motorized and non-motorized trails and their facilities. Eligible projects for these funds include:

- Construction of new trails
- Major rehabilitation of existing trails
- Development or improvement of trailhead or other support facilities
- Acquisition of land or easements for the purpose of trail development
- Safety and education projects

There are many different funding sources available for recreational trails. A full list of recourses is available on ODOT's [Local Government Funding Overview](#).



Typically, grant submittals for the annual awards are due in November with annual allocations of \$1.6M. The proposed trail between Nehalem and Manzanita is likely to be competitive for this grant.

Small City Allotment

The Small City Allotment program is an annual allocation of state funds to local transportation projects. Under this program, ODOT sets aside \$5M for incorporated cities with a population of 5,000 or less. Funding received through this program may only be used on streets that are inadequate for the capacity they serve or are in a condition that creates a safety hazard for users. Funding under this program is limited to \$250,000 per project and is awarded through a competitive process, with applications typically due in July.

As Manzanita has a population below 5,000 and would be eligible for funding through this program. Funds received from this program could be used on TSP projects that would repair and enhance existing roadways within the city.

Implementation

This TSP sets the vision for Manzanita's transportation system, creates a plan for enhancing the transportation system to better accommodate all modes of travel, and identifies 16 projects, that when implemented, would achieve the goals documented in the TSP.

What this TSP does not do is identify funding for the projects included in the project list. While this TSP identifies high priority projects and timelines for implementation, projects may be implemented in any order when funding is available.

To achieve the vision established identified in this TSP, community members, elected officials, and City staff should use this document as a starting point to advocate for transportation improvements in Manzanita, including applying for grants, to secure funding to advance the projects and ultimately bring Manzanita's transportation vision to fruition.





COUNCIL ORDINANCE No. 23-03

AN ORDINANCE OF THE CITY OF MANZANITA, OREGON, AMENDING GOAL 12 TRANSPORTATION POLICIES, AND GOAL 11 PUBLIC FACILITIES RELATING TO STREET POLICIES OF THE CITY OF MANZANITAS COMPREHENSIVE PLAN, RESCINDING THE DOWNTOWN TRANSPORTATION PLAN AND REPLACING IT WITH VOLUME 2 OF THE NEHALEM BAY TRANSPORTATION SYSTEM PLAN FOR MANZANITA.

WHEREAS, the Planning Commission held a special session to conduct final deliberations and take public comment on the Transportation Systems Plan on July 31, 2023; and

WHEREAS, the Planning Commission has recommended the adoption of the Transportation Systems Plan and Policies to the City Council; and

WHEREAS, the City of Manzanita provided the Department of Land Conservation and Development notice of a Post Adoption Plan Amendment on August 24, 2023 which was at least 35 days in advance of the first hearing as required by state law; and

WHEREAS, the City of Manzanita City Council held a public hearing on November 8, 2023 and received public testimony on the proposed changes; and

WHEREAS, the City Of Manzanita City Council supports the adoption of the proposed Transportation Systems Plan and policies.

Now, Therefore, the City of Manzanita does ordain as follows:

Section 1. The City of Manzanita Downtown Transportation Plan, is hereby rescinded and replaced with the Nehalem Bay Transportation System Plan Volume 2 a copy of which is attached as Exhibit A hereto and by this reference incorporated herein, is hereby adopted and incorporated into and made a part of the City of Manzanita Comprehensive Plan.

Section 2. Transportation Policies stated under Goal 12 of the City of Manzanita Comprehensive Plan are hereby amended to read as follows:

TRANSPORTATION POLICIES:

Transportation planning in Manzanita includes cars and trucks, commercial buses, the senior citizen bus, bicycles and walking. The street system is described in the public facilities section of the plan. ~~In addition, improvements along Highway 101, Classic Street and Laneda Avenue are included in the adopted Downtown Transportation Plan, Section 4. (Amended by Ord. 03-05, passed July 9, 2003)~~ Additional policies concerning the transportation system are:

1. Efforts to reduce speeding on Laneda Avenue should be carried out by the city.

This should take the form of maintaining a low speed (20 MPH), requesting that the City police and Tillamook County Sheriff's Department maintain a high level of enforcement and installing appropriate warning signs. (Amended by Ord.14-02; passed on April 9, 2014)

~~2. Sufficient pavement width should be included on all major streets or roads to accommodate bicycle traffic. Facilities such as bicycle racks should be considered in the city park and downtown area.~~

~~3. The city traffic management plan should be used as a guide for the installation of traffic signs, crosswalks, and other street improvements. The plan should be communicated to the county for their participation on county roads, and should be updated on a regular basis. . In addition, crosswalks and other improvements on Highway 101, Classic Street and Laneda Avenue are included in the adopted Downtown Transportation Plan, Section 4. (Amended by Ord. 03-05, passed July 9, 2003)~~

4.2. Crosswalks in the downtown commercial area should be a high priority for the City. Consideration should be given to the installation of planters or other landscaping devices in conjunction with the crosswalks.

5.3. The City and State shall cooperate to retain the airport at Nehalem Bay State Park. It is the position of the city that the airport should be surfaced, that "T-Hangers" should be installed, and that a caretaker should be stationed at the airport. It is the goal of the City that the facility be improved for existing traffic rather than expanded.

6.4. The City and State shall cooperate to limit the number of accesses onto U.S. Highway 101 to as few as possible. No new access shall be permitted north of Laneda, or in other locations where traffic visibility is limited.

7.5. The City will work with the Oregon Department of Transportation to coordinate plans and projects particularly through the Oregon Transportation Plan and the US Highway 101 Corridor Study. Specifically, the city wishes to have direct input into highway improvement plans on U.S. Highway 101 in the vicinity of the City, and on future uses of the unused highway right-of-way.

8.6. The City discourages property owners from improving street rights-of-way with landscaping, driveways, walkways and similar projects, especially in the vicinity of water, sewer, and storm drainage lines. All parking required by the zoning ordinance must be useable by the property owners, generally not exceeding 10% grade from the street.

7. The City will support equitable access for underserved and vulnerable populations through compliance with ADA standards for new transportation infrastructure improvements and upgrades to existing infrastructure that does not meet ADA standards.

8. The City will support the development of planned regional bicycle and pedestrian trails, including the Salmonberry Trail, Oregon Coast Trail, and Tillamook County Water Trail.

9. The City will support streetscape improvements to improve downtown areas, including, but not limited to, improved landscaping pedestrian scale lighting, benches, bicycle racks, and street trees.

10. The City will support alternative travel modes that reduce vehicle travel between cities, including, but not limited to, regional shuttle services or water taxis.

11. The City should prioritize improvements to non-motorized routes that include pedestrian and bicycle facilities between Nehalem Bay communities.

12. The City should prioritize enhancing pedestrian and bicycle crossings on US 101 that connect businesses and recreational destinations with neighborhoods.

13. The City will support improvements that increase visibility of transportation users in constrained areas, such as hills and blind curves.

14. The City shall prioritize improvements that address known safety issues at locations with fatal or severe injury crashes, crashes involving bicyclists or pedestrian, and vehicles entering and exiting US 101.

15. The City will coordinate with ODOT to implement engineering and traffic calming strategies on US 101 to reduce vehicle speeds and are consistent with ODOT's Highway Design Manual and other local and regional planning efforts.

16. The City should maintain transportation infrastructure so that facilities can withstand extreme weather events and aid in evacuation efforts.

17. The City will support improvements to traffic circulation and access for fire and emergency vehicles.

18. The City shall prioritize cost-effective transportation improvements.

19. The City should seek additional funding sources for transportation improvements, such as, but not limited to, grants, developer contributions, and transportation system charges.

20. The City should support partnerships that maximize the benefit and return on investment for associated costs when prioritizing transportation investments.

21. The City should support improvements that increase local vehicle circulation and encourage local traffic to use local roads.

22. The City should support non-motorized and transit connections from key destinations and the commercial core.

23. The City should prioritize bicycle and pedestrian facilities on arterials and collectors that enhance connections to local destinations.

24. The City should prioritize transportation and land use solutions that support all road-users in the downtown area and to/from residential areas to the downtown core and beach.

Section 3. Street Policies stated under Goal 11 Public Facilities and Services of the City of Manzanita Comprehensive Plan and hereby amended as follows:

PUBLIC FACILITIES AND SERVICES

The demographic trends of North Tillamook County, and increasing costs of mandated regulations, encourages cooperation between communities relative to Public Facilities and Services.

STREET POLICIES

1. The cost of constructing streets in new subdivisions, planned developments, or in rights-of-way where no improved street exists shall be the responsibility of the developer or the adjacent property owners. The City shall share costs in the following way:
 - A. On existing dedicated, but unimproved streets, which are arterials or feeders, the City will pay the difference in pavement width between the existing width and arterial or feeder width. On existing dedicated unimproved or underimproved residential streets, the abutting property owners shall pay all costs of the improvement.
 - B. Substantial improvement of existing street intersections shall be the responsibility of the City.
 - C. There shall be no city participation in bearing the cost of streets in subdivisions or planned developments. Owners wishing to build access to their property on unimproved rights-of-way must adhere to City Street Standards.
2. Asphaltic concrete pavement shall be required for all streets.
3. Storm drainage, as determined by the PWD, shall be required for all street improvements and construction.
4. Street right-of-way which cannot be improved due to steep topography, or other valid reason, should be used for other purposes, such as parks or open space, walking trails or greenbelts.
5. ~~Street standards for the City of Manzanita are located in the Street Improvement Standards Ordinance and future improvements to intersections along US 101 are identified in the adopted Downtown Transportation Plan, Section 4. (Added by Ord. 03-05, passed July 9, 2003)~~

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Council President on _____.

Linda Kozlowski, Council President

ATTEST:

Leila Aman, City Manager/Recorder



COUNCIL STAFF REPORT

To: City Council

Date Written:

November 28, 2023

From: Leila Aman, City Manager

Subject: Annexation and Zoning Property Following Consent Filed with the City Council by Landowners in Said Area Pursuant to ORS 222.120 and ORS 222.170; Manzanita Transfer Station

ACTION REQUESTED

Application by Tillamook County to annex approximately 2.55 acres into the City limits and establish the Medium Density Residential Zone (R-2) on the newly annexed property.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The applicant submitted a land use application on July 12, 2023, and included a letter from the Tillamook County Board of Commissioners requesting annexation. A public hearing was held before the Planning Commission on August 21, 2023, whereby the Planning Commission reviewed and approved the annexation application.

[November 8, 2023](#) – City Council held a public hearing to approve the first reading of Ordinance 23-04.

ANALYSIS

The City of Manzanita has not adopted Annexation regulations. By default, Oregon Revised Statute Chapter 222 governs the City's actions. The Commission determined the proposal complies with provisions in ORS 222.111 which establish the basis for annexations: the property is within the Urban Growth Boundary, adjacent to the City limits and is capable of being developed for urban uses. It currently operates a transfer station. The area to be annexed is zoned R-2.

Provisions in ORS 222.120 to ORS 222.177 outline the City Council's responsibilities. The Council retains options to reject the request outright; proceed with the request as a quasi-judicial land use application; or send the matter to the public for a vote.

BUDGET IMPACT

None, this is publicly owned property and will not result in additional tax benefit to the city.

WORKLOAD IMPACT

If approved, the city will need to submit the decision to the Secretary of State and amend the City zoning maps. This action must also be coordinated with Tillamook County.

COORDINATION, CONCURRENCE, OR DISSENT

The Planning Commission reviewed the request at their August 21, 2023, meeting and unanimously recommended the City Council approve the request. The City Attorney has

Reviewed the Ordinance. The Tillamook County Board of Commissioners has made this request of the city and has provided consent to annex the property.

STAFF RECOMMENDATION

Staff recommends the City Council conduct a second reading of Ordinance 23-04 to approve the annexation of this property into the city.

ALTERNATIVES

The City has the option to reject the request, conduct a hearing or hold a public vote on the application.

ATTACHMENTS

1. Consent to Annex Letter
2. Proposed City Council Annexation Ordinance with Exhibits



Tillamook County Board of Commissioners

201 Laurel Avenue, Tillamook, OR 97141

Phone: 503-842-3403

TTY Oregon Relay Service

Erin D. Skaar, Chair

Mary Faith Bell, Vice-Chair

David Yamamoto, Commissioner

July 12, 2023

To: City of Manzanita, Planning Commission & City Council

RE: Annexation of the Remainder of the Manzanita Transfer Station Into the City Limits

Tillamook County owns the real property located at 34995 Necarney City Road in Manzanita, also identified as 3N-10W-29D-2000 and has operated a solid waste disposal site there since at least 1953 when the property was transferred to the county. Following its closure as an open dump site, the site was converted into a transfer station and recycling center, which is currently operated by the Tillamook County Solid Waste Department.

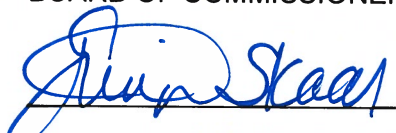

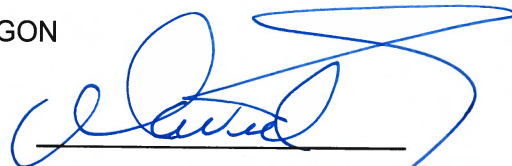
At this time, approximately $\frac{3}{4}$ of the northern portion of the site is included within the city limits of the City of Manzanita, and approximately $\frac{1}{4}$ of the southern portion of the site is within the Urban Growth Boundary of the City of Manzanita. The city limits boundary runs through the area of operations.

We believe that it would benefit all and provide jurisdictional clarity if the area of the site currently located outside the city limits were to be annexed into the city limits.

We therefore request that the City of Manzanita approve the annexation of the remainder of this lot into the city limits.

Sincerely,

BOARD OF COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON


Erin D. Skaar, Chair
Mary Faith Bell, Vice-Chair
David Yamamoto, Commissioner



COUNCIL ORDINANCE No. 23-04

AN ORDINANCE OF THE CITY OF MANZANITA, OREGON, ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170; TILLAMOOK COUNTY.

WHEREAS, the City of Manzanita received a submission by written request for annexation of real property to the City of Manzanita, herein described in Exhibit "A"; and

WHEREAS, on August 21, 2023, the Planning Commission for the City of Manzanita conducted a hearing on said application submitted by Tillamook County, making findings recommending annexation of the subject property and establishment of the Medium Density Residential (R-2) zone; and

WHEREAS, after conducting the hearing and considering all objections or remonstrance with reference to the proposed annexation, and further considering the recommendation of the Manzanita Planning Commission, the City Council finds that this annexation is in the best interest of the City and of the contiguous territory.

Now, Therefore, the City of Manzanita does ordain as follows:

Section 1. **Findings.** In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B", which is incorporated herein by this reference as if fully set forth at this point.

Section 2. **Annexation Area.** Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Manzanita, and zoned as indicated in accordance with the Manzanita Ordinance 95-4 and assigned the zoning of Medium Density Residential (R-2).

Section 3. **Record.** The City Recorder shall submit to the Oregon Secretary of State a copy of this Ordinance. The City Recorder is further ordered to send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City of Manzanita within ten (10) days of the effective date of this annexation ordinance to the Tillamook County Assessor, Tillamook County Clerk and the Oregon State Department of Revenue.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Linda Kozlowski, Council President

ATTEST:

Leila Aman, City Manager/Recorder

EXHIBIT A

MANZANITA TRANSFER STATION ANNEXATION LEGAL DESCRIPTION

A portion of that tract of land described as Parcel 11, Deed Book 138, Page 264 of Tillamook County Deed Records more particularly described as follows:

Beginning at the Northeast Corner of Section 32, Township 3 North, Range 10 West of the Willamette Meridian, said point being marked by a 3" diameter Tillamook County Brass Cap as shown on Rewitness Card #151, Tillamook County Survey Records; thence southerly along the east line of above described Section 32, bearing South 0°07'41" West a distance of 230.13 feet to a 3/4" Iron Rod; thence North

87°54'46" West a distance of 507.87 feet to a 1" Iron Rod, thence North 2°05'14" East to a point on the north line of above described Section 32; thence easterly along the north line of above described Section 32 to the Northeast Corner thereof. Said point being the True Point of Beginning. The above described bearings and distances were derived from Map A-4609, Tillamook County Survey Records.

EXHIBIT B

I. BACKGROUND

- A. APPLICANT: Tillamook County
- B. PROPERTY LOCATION: The property is located at 34995 Necarney City Road in Manzanita. The County Assessor places the property within Township 3 North; Range 10 West; Section 29D; Tax Lot #2000
- C. MAPPED AREA: 9.2 acres.
- D. EXISTING DEVELOPMENT: Transfer Station
- E. ZONING: Special Residential/Recreation Zone (SR-R) – 6.65 acres of Tax Lot 2000; Medium Density Residential (R-2) – 2.55 acres also Tax Lot 2000.
- F. ADJACENT ZONING AND LAND USE: Property to the east is located in Tillamook County and designated R-2. To the North on the same Tax Lot of the proposed area for annexation the land is zoned SR-R. To the West all of the property is zoned SR-R and contains a mix of open space and residential development.
- G. REQUEST: Application to Annex the remaining 2.55 acres of Taxlot 2000 into the City limits of Manzanita.

Findings contained in this Exhibit are limited to the proposed Annexation.

- H. DECISION CRITERIA: The Annexation request is evaluated against the Oregon Revised Statute Chapter 222.

II. ANNEXATION

- A. The applicant wishes to annex approximately 2.55 acres of R-2 designated land. (Please note that the zone for the property has been updated to reflect the correct zoning.) The subject area is located in the south portion of the property identified as part of Tax Lot #2000.
- B. The City development regulations do not include annexation provisions. By default, the City is subject to provisions in Oregon Revised Statutes Chapter 222, Sections 222.111 to 222.177.
- C. ORS 222.111 Authority and procedure for annexation; specifying tax rate in annexed territory. This Section allows the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies. Further, a proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.
- D. ORS 222.170. Annexation by consent before public hearing. This Section allows for annexation by ordinance after a public hearing, if it receives written consent from (1) a majority of electors living in the territory to be annexed and (2) the owners of more than half the land in the territory to be annexed.

FINDINGS: The property owner, Tillamook County, submitted a request to annex the property. The applicant represents a majority of the electors and owns more than half of the land in the territory proposed to be annexed and has filed a statement of consent to be annexed on or before the date of the public hearing. The subject property (a 2.55 acre portion of Tax Lot 2000) is located within the City's Urban Growth Boundary and adjacent to and contiguous to the City limits). Existing service districts (fire and sanitary sewer) will continue to serve the site. The 2.55 acre portion of the property meets the statutory requirements for annexation.

IV. CONCLUSION

Based on the above findings the Manzanita City Council finds the proposed Annexation is consistent with the relevant provisions in ORS Chapter 222.



COUNCIL STAFF REPORT

To: City Council

Date Written: November 30, 2023

From: Leila Aman, City Manager

Subject: **Off Season Tourism Grants**

ACTION REQUESTED

Make a motion to approve the recommended off season tourism grants and authorize TCVA to execute grant agreements with the selected awardees.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 5, 2023 – City Council authorized a contract with Tillamook County Visitors Association for operating the Manzanita Visitors Center and to administer off season tourism grants in an amount not to exceed \$20,000.

ANALYSIS

The city allocated \$20,000 for off season tourism grants this fiscal year. Off season grants are intended to support tourism in the city during the off season to help support our local economy and businesses. Visit Tillamook Coast administered the grant program on behalf of the city and received the following 6 applications:

1. Centerpoint Healing Arts - \$2000 request

Fund Manzanita's second annual World Labyrinth Day 2024 on May 4th. World Labyrinth Day 2024 is a leave-no-trace, interactive, contemplative art walk through a large scale, rake-drawn sand Labyrinth at low tide to celebrate the mystic and ephemeral beauty of our coastal environment that gifts visitors healing, renewal and a unique remembrance.

2. Lower Nehalem Community Trust - \$2000 request

Two off-season events: Biennial Estuary Clean-Up in March and the Migratory Bird Day Celebration in early May.

3. Oregon Beach Ceremonies - \$2000 request

Promote off-season elopements and small weddings. Will collaborate with local businesses on marketing and for a giveaway elopement. Note: 90% of couples seeking elopements in Manzanita are from out of state.

4. Hoffman Center for the Arts - request \$2000 (Total project cost is \$6000)

New branding and marketing strategy to reflect their new strategic plan. Will work with Deer Island Studios on the project (local company). Goal is to widen the audience of Hoffman and attract new participants.

5. The Winery at Manzanita - \$2000 request

The Winery needs additional funds to continue its billboard marketing effort along Hwy 101. Note: the billboards are very attractive and noticeable. Billboards have significantly jumped in price in the last two years.

6. Yolk Restaurant - \$2000 request

New owners want a redesign of logo, website and window art. Of the total request, they asked for \$500 to buy food and test new menu items (not eligible) and an online menu designer (eligible).

Staff are recommending that the city council authorize and approve the funding requests for eligible items. This would result in a total allocation of \$11,500.

BUDGET IMPACT

The city budgeted \$20,000 in the Tourism Promotion Fund for Off Season Grants. If council awards the total grants requested, \$8,500 will be unexpended and will remain in the Tourism Promotion Fund.

WORKLOAD IMPACT

There is minimal impact on staff to administer the grants as TCVA will administer the grants on behalf of the city.

COORDINATION, CONCURRENCE, OR DISSENT

TCVA reviewed and provided recommendations on the grants and concur with the recommendation of staff.

STAFF RECOMMENDATION

Make a motion to approve the recommended off-season tourism grants and authorize TCVA to execute grant agreements with the selected awardees.

ALTERNATIVES

Council may elect to not approve the grants or modify the grant awards.

ATTACHMENTS

None



COUNCIL STAFF REPORT

To: City Council

Date Written: November 30, 2023

From: Leila Aman, City Manager

Subject: **Nehalem Intertie Intergovernmental Agreement**

ACTION REQUESTED

Authorize the City Manager to execute an Inter Governmental Agreement (IGA) with the City of Nehalem for an emergency water intertie.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

August 9, 2023 – Staff provided the council with an update on a request from the City of Nehalem to re-reestablish an emergency water intertie connection between the cities. Council authorized staff to work with the City of Nehalem to relocate the Inter Tie Connection and Negotiate Terms of an Agreement.

ANALYSIS

As a result of the summer drought the city of Nehalem was facing a potential critical water shortage and requested that the cities work together to re establish the emergency intertie in the event that Nehalem reached a level of emergency that would require state activation of such an inter tie. Emergency inter tie connections are common between water systems and can only be activated by state approval during an emergency.

Nehalem and Manzanita formerly had an emergency inter tie connection located on Hwy 101 near the Covenant Church. The connection was not metered and the valve has broken making the connection inoperable. Staff determined that a more efficient option existed and worked to relocate the inter tie connection to The Promenade and Seamount Way in lieu of repairing the old on Highway 101. The City of Nehalem coordinated with Manzanita Public Works on the design and engineering of the inter tie. Manzanita Public Works and Nehalem Public Works worked together to install the intertie in August. The constructed improvements and costs were shared by both cities. The IGA addresses what defines a water emergency, procedures for use, cost, maintenance and operations, and access.

BUDGET IMPACT

The total costs of the intertie for Manzanita was \$1,149 for materials paid from the Water Utility System Maintenance and Supplies Budget and \$4,536 legal fees paid from Water Utility Professional Services Fund.

WORKLOAD IMPACT

The City Manager led the development of the IGA and worked with the Public Works Director, the City Manager of Nehalem and the City Attorney. Public Works staff constructed some of the improvements. Once executed there will be minimal workload impact.

COORDINATION, CONCURRENCE, OR DISSENT

The City Attorney reviewed and approved the final draft of the IGA.

STAFF RECOMMENDATION

Authorize the City Manager to execute the IGA with the City of Nehalem.

ALTERNATIVES

Council may elect to not approve the grants or modify the grant awards.

ATTACHMENTS

1. Inter Governmental Agreement

INTERGOVERNMENTAL
AGREEMENT FOR
WATER SYSTEM INTERTIE
BETWEEN THE
CITY OF NEHALEM
AND THE CITY OF MANZANITA

This Agreement is made and entered into by and between the City of Nehalem, an Oregon municipal corporation, hereinafter referred to as “Nehalem” and the City of Manzanita, an Oregon municipal corporation, hereinafter referred to as “Manzanita”, all hereinafter collectively referred to as the “Parties.”

RECITALS

The Parties agree upon the following recitals:

1. WHEREAS, the Parties hereto desire to enter into an intergovernmental cooperative agreement to document responsibilities for the construction, operation and maintenance of an emergency water system intertie between the water supply system of Nehalem and the water supply system of Manzanita; and

2. WHEREAS, the water system intertie is located in the vicinity of the intersection of Seamount Way and The Promenade in Bayside Gardens within the City of Manzanita’s Urban Growth Boundary; and

3. WHEREAS, the intertie consists of a 4-inch intertie main approximately 100 feet in length; and

4. WHEREAS, the intertie connects Manzanita’s 4-inch distribution main located on Seamount Way to Nehalem’s 4-inch distribution main, also located on Seamount Way; and

5. WHEREAS, the City of Nehalem and the City of Manzanita have constructed an intertie valve and metering station within an underground accessible vault to be located within the street right of way west of the above intersection on Seamount Way; and

6. WHEREAS, the vault is approximately 7 feet in length by 5 feet wide and 5 feet deep; and

7. WHEREAS, the intertie valve and metering station will allow both entities to use the intertie in the event of an emergency (as further described in this Agreement) in either direction; and

8. WHEREAS, this metering station, the intertie valve, the vault, and the 4-inch pressure reducing valve, and a 4-inch flow meter, along with the facilities and appurtenances associated with them, constitute the water system intertie that is the subject of this Agreement; and

9. WHEREAS, the Parties acknowledge that they have authority to execute this cooperative intergovernmental agreement pursuant to the terms of their respective municipal charters and pursuant to ORS 190.0110,

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed by the between the Parties hereto as follows:

1. “Water Supply Facilities” Defined. As used herein, the term “water supply facilities” means river intakes, raw and finished water pumping facilities, water treatment facilities, water storage facilities and all other infrastructure used in conjunction with the appropriation, treatment, storage, or transmission of the Parties’ water.

2. “Emergency Condition” Defined. An “emergency condition” includes any of the following occurrences, provided that the Party experiencing the emergency condition has, as a result of the occurrence (a) filed a declaration of emergency with the Tillamook County Emergency Director with notice to the Oregon Health Authority, Drinking Water Program and (b) issued a public Stage 3 water conservation declaration to the public and all jurisdictional authorities, as appropriate: occurrence created by a failure of the water supply facilities of the Manzanita or Nehalem, or the occurrence of an event which jeopardizes the Parties’ water quality, whereby insufficient supply to any of the water customers of the Parties could threaten the health and safety of those customers. Such failure includes failure or interruption in the operation of the river intakes, raw and finished water pumping facilities, water treatment facilities, raw and finished water pipelines, reservoirs, and appurtenant facilities. Emergency conditions shall not include situations involving loss of water pressure or diminution in the water volume in a water distribution system during periods of high demand if the system remains in a normal operational mode and shall not include scheduled or routine repairs or maintenance.

3. Utilization of the Water System Intertie.

Emergency Conditions. Utilization of the water intertie under emergency conditions, as defined in paragraph 2 above, may be accomplished by the mutual consent of the executive officers of each Parties, or their designees.

Non-Emergency Conditions Less Than Two Weeks. Sporadic use of the water system intertie for routine maintenance and repair may be accomplished by the mutual consent of the executive officers of each of the Parties or their designees. For purposes of this provision, the executive officer of each Party is the City Manager or the City Manager’s designee.

Non-Emergency Conditions Greater Than Two Weeks. Prolonged use of the water system intertie for routine maintenance and repair may be accomplished by the mutual consent of the parties provided that the party in need gives notice to the providing party at least one month advance notice so that the providing party may approve the action by resolution.

4. Location and Description of Water System Intertie. The location of the water system intertie is in the vicinity of the intersection of Seamont Way and The Promenade in Bayside Gardens. The intersystem connection consists of a 4-inch intertie main approximately 100 feet in length. This pipeline connects Manzanita’s 4-inch distribution main located on Seamont way to Nehalem’s 4-inch distribution main on Seamont Way. The intertie valve and metering station are within an underground accessible vault located within the street right of way west of the above intersection on Seamont Way permitted through the Tillamook County Road Department. The vault is approximately 7 feet in length by 5 feet wide and 5 feet

deep. The vault consists of a 4-inch pressure reducing valve and a 4-inch flow meter. This station will allow both entities to use the water system intertie in the event of an emergency in either direction.

5. Project Construction. Nehalem completed the project design of the water system intertie and provided construction of the water system intertie project including construction oversight and labor and materials related to the installation of the vault, pressure reducing valve, and 4-inch flow meter. Manzanita procured the 4-inch flow meter.

6. Project Cost. Nehalem and Manzanita will maintain accurate cost accounting records relating to the project. Nehalem will be responsible for all costs associated with the project design of the water intertie system, including but not limited to pre-design, design, procurement, and award. Nehalem will also be responsible for all costs related to construction oversight and construction (including labor and materials) for the installation of the vault and the pressure reducing valve. Manzanita will be responsible for all costs related to the installation and procurement of the 4-inch flow meter. Nehalem agrees to contribute the costs from the water meter to their water distribution system Manzanita agrees to contribute the costs from the water meter to their water distribution system and provide the 4-inch flow meter.

7. Title to intertie Facilities. Nehalem shall hold title to the water system intertie and will insure it under Nehalem's general liability policy.

8. Quantity of Water to be Supplied. Upon agreement between the parties to make use of the intertie pursuant to Paragraph 3 of this Agreement, the Party supplying water shall endeavor to supply the maximum feasible quantity of water to the other party and take all reasonable actions necessary to accomplish the same, so long as such actions are not detrimental to the operation of the supplying Party's own water system to serve the Party's own water customers.

9. Cost of Water Provided. Each Party agrees to pay the other for all water provided to it through the intertie. Nehalem will pay Manzanita for water that Manzanita provides to Nehalem at Manzanita's Tier 1 water rate level. Manzanita will pay Nehalem for water that Nehalem provides to Manzanita at Nehalem's Tier 1 water rate level. The volume of water delivered shall be measured by the meter installed at the water system intertie. The Parties shall have the right at any time to review rates for water supplied and make such adjustments to the cost of water provided, as they deem necessary and by mutual agreement of both Parties. In the event it is necessary for a Party supplying water through the water system intertie to obtain additional water from a water provider not party to this agreement, the water rate charged to the party receiving water under this agreement shall be the water rate charged to the supplying Party by the non-party water provider. The Parties further agree that water utilized for periodic testing and exercising of the facilities will be furnished between the Parties without cost. In addition to the rate charged for water, the parties by mutual agreement reserve the right to impose wheeling charges.

10. Operations and Maintenance Costs. The Parties agree that each party will be responsible for performing and paying for the normal day-to-day operation and maintenance of the water intertie system from the meter to its respective distribution system. Furthermore, Manzanita will be responsible for performing and paying for the operation and maintenance of the 4-inch flow meter while Nehalem will be responsible for performing and paying for the operation and maintenance of the vault and the pressure reducing valve.

11. Repairs, Renewals, Replacements, Upgrading and Modifications. The Parties agree they will be responsible for scheduling, contracting for and implementing any repairs, renewals, replacements, upgrading and modifications that may be required in the future to maintain or increase the function of the water intertie system as follows: Manzanita will be responsible for repairs, renewals, replacements, upgrades, and modifications to (a) the water intertie system from its meter to its distribution system and (b) the 4-inch flow meter. Nehalem will be responsible for repairs, renewals, replacements, upgrades, and modifications to (a) the water intertie system from its meter to its distribution system and (b) the vault and pressure reducing valve.

12. Cost of Capital Improvements. The cost of any capital improvements or improvements which are not described in the paragraph above and which increase the function of the facilities will be shared in an equitable manner, based upon the benefit to be derived from each Party for each project.

13. Access to Water System Intertie Facilities. The Parties and their employees shall have access to the water system intertie facilities.

14. Agreement Not to Resell Water without Consent. The Parties agree that they will not resell water supplied under the terms of this agreement without prior written consent of all Parties.

15. Amendment Provisions. The terms of this agreement may be amended by mutual agreement of the parties. Any amendments shall be in writing, shall refer specifically to this agreement, and shall be executed by the parties.

16. Termination of Agreement. This agreement shall continue in effect until terminated by the parties with written notice of such intent to terminate provided to the other Parties. Notice to terminate must be provided at least 24 months prior to the effective date of termination. Termination of this agreement shall not affect the ownership status of the water system intertie facilities hereinabove described.

17. Written Notice Addresses: All written notices required under this agreement shall be sent to:

City of Manzanita:	City of Manzanita PO Box 129 Manzanita, OR 97130
--------------------	--

City of Nehalem:	City of Nehalem PO Box 143 Nehalem, OR 97131
------------------	--

18. Indemnification. To the maximum extent permitted by law and subject to the limitations of the Oregon Tort Claims Act, ORS Chapter 30, and the Oregon Constitution, each Party will defend, indemnify, and hold the other Party and its officers, directors, employees, representatives, and agents harmless from, for, and against all liabilities, losses, claims, suits, demands, damages, expenses, and costs (including attorney fees and expert fees) arising out of or relating to the indemnifying party's (a) design and construction obligations described in this Agreement and (b) performance under this Agreement.

19. Dispute Resolution: If a dispute arises between the parties regarding this Agreement, the Parties shall attempt to resolve the dispute through the following steps:

Step One (Negotiation)

The Manager or other person designated by each of the disputing Parties will negotiate on behalf of the entity they represent. The nature of the dispute shall be reduced to writing and shall be presented to each Manager, who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each Manager and ratified by their respective Council, which shall then be binding upon the Parties.

Step Two (Mediation)

If the dispute cannot be resolved withing thirty (30) days at Step One, the parties shall submit the matter to non-binding mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the parties shall request a list of five (5) mediators from the Presiding Judge of Tillamook County Circuit Court. The cost of mediator shall be borne equally between the Parties, but each Party shall otherwise be responsible for its own costs and fees therefore. If the issue is resolved at this step, a written determination of such resolution shall be signed by each Manager and ratified by their respective Council.

Step Three (Arbitration)

If the Parties are unsuccessful at Step One and Two, the dispute shall be resolved by binding arbitration proceedings pursuant to ORS Chapter 36. The prevailing Party in Step Three shall be entitled to reasonable attorney fees and costs which have been incurred during the Step Three process, as may be awarded by the arbitrator.

IN WITNESS WHEREOF, the Parties have set their hands and affixed their seals as of the date and year hereinabove written.

Nehalem has acted in this matter pursuant to Resolution No. ____ adopted by its City Council on the ____ day of _____, 2023.

Manzanita has acted in this matter pursuant to Resolution No. ____ adopted by its City Council on the ____ day of _____, 2023.

City of Nehalem Mayor Phil Chick _____

City of Manzanita City Manager, Leila Aman _____



COUNCIL STAFF REPORT

To: City Council

Date Written: November 30, 2023

From: Leila Aman, City Manager

Subject: **Authorizing the City Manager to Execute a Special Public Works Fund Loan with Business Oregon**

ACTION REQUESTED

Approve Resolution authorizing a loan from the Special Public Works Fund and delegating authority the City Manager to execute a loan contract with the State of Oregon, Oregon Business Development Department (OBDD – Business Oregon) for loan proceeds up to \$5,134,631.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 12, 2023 – Staff informed City Council that the City was approved to apply for a Special Public Works Fund loan from the State of Oregon for the City Hall project.

May 10, 2023 - City Council discussed funding options for the City Hall project and received a presentation from staff on specific funding options including General Obligation Bonds, Full Faith and Credit Debt Obligation, and received a presentation from Business Oregon on the Special Public Works Fund.

June 7, 2023 – City Council approved Resolution 23-08 authorizing the city manager to apply for the Special Public Works Fund and authorizing debt in the amount of up to \$4 million dollars.

ANALYSIS

The City Manager submitted a request for \$4,000,000 in funding from the State of Oregon, Oregon Business Development Department (OBDD – Business Oregon) Special Public Works Fund to finance the construction of the City Hall project. On October 6, 2023, Business Oregon's Infrastructure Finance Authority approved a loan to the City of up to \$5,134,631. This award was based on Business Oregon's independent analysis and recommendation for funding based on committed resources available for the project at the time of application.

The award is structured as an interim financing contract with an interim rate of 2.10% which will accrue on actual funds dispersed. Interim financing is typically limited to 2.5 years. At the end of construction, the interim financing of the project is recommended for inclusion in a future Bond Bank sale. Once the bonds are sold a permanent rate will be locked in and the interim financing contract will be replaced with a permanent financing contract. The action today is to approve the interim financing contract. The council will review and approve the terms of the permanent financing contract once construction is complete and the final draw from the interim loan has been made.

The interim loan is structured on a reimbursement basis and the city will accrue interest on the loan as it is drawn. The city will remit payment to the contractor when invoiced and then

submit a reimbursement request to the state that will be reviewed and funds will be remitted back to the city in the form of a loan. The city need only borrow what is required for the project. The city is under no obligation to borrow the entire loan amount.

There are four conditions precedent to closing on the interim loan. They are:

1. Signed contract by an authorized officer of the Recipient.
2. A copy of the Resolution of the governing body authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents.
3. An opinion of Recipient's Counsel.
4. Such other certificates, documents, opinions and information as OBDD may reasonably require.

Council action to approve the Resolution would satisfy the first two conditions, the City Attorney is in process of reviewing and finalizing their opinion (item 3) and staff have provided all supporting documents required by OBDD thus far.

The attached contract is substantially in the form in which it will be signed. Staff are working with the City Attorney and OBDD to clarify the pledge of TLT funds to include only those funds that are unrestricted. An Amendment to the CMGC contract will also be required to indemnify the State of Oregon. Staff propose to make that Amendment at the same time that the Guaranteed Maximum Price Amendment is put before the Council. The City Manager will not sign the contract until the City Attorney has approved the final contract and provided the opinion. At that time the City Manager will sign the contract, provide the resolution and opinion and submit to OBDD to execute the interim loan.

BUDGET IMPACT

A supplemental budget will need to be approved to both receive loan proceeds into the General Fund and to authorize transfers to the City Hall Fund from the General Fund to make initial contractor payments. The city will be accruing interest on the loan as it is disbursed but will not be required to make payments on the interim debt. Debt service payments will begin when the loan is sold to the Bond Bank and permanent financing is in place.

WORKLOAD IMPACT

There are workload impacts on the City Manager and Finance Manager related to this interim loan including finalizing loan documents, providing information to OBDD, processing invoices from the contractor and making payments and submitting required information to OBDD for reimbursement.

COORDINATION, CONCURRENCE, OR DISSENT

The City Attorney has reviewed and finalized the Resolution, will finalize the Loan Documents, and will be providing an opinion. The City's Financial Advisor has also reviewed the terms of the interim contract. All concur to advance the project.

STAFF RECOMMENDATION

Approve Resolution authorizing a loan from the Special Public Works Fund and delegating authority the City Manager to execute a loan contract with the State of Oregon, Business Oregon, for loan proceeds up to \$5,134,631.

ALTERNATIVES

Council may elect to not approve the loan and find other sources of financing which would delay the project and increase project costs overall.

ATTACHMENTS

1. Draft Contract
2. Resolution

SPECIAL PUBLIC WORKS FUND DEVELOPMENT PROJECT
INTERIM FINANCING CONTRACT

Project Name: Manzanita City Hall

Project Number: B23004

This interim financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“OBDD”), and the City of Manzanita, Oregon (“Recipient”) for financing of the project referred to above and described in Exhibit C (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Security
Exhibit C	Project Description
Exhibit D	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$5,635,631.

“Interest Rate” means 2.01% per annum.

“Loan Amount” means \$5,134,631.

“Maturity Date” means the earlier of 3 years plus 90 days after the date of this Contract, or the receipt of Refunding Proceeds by either party.

“Project Closeout Deadline” means 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

“Project Completion Deadline” means 01 November 2026.

SECTION 2 - FINANCIAL ASSISTANCE

The OBDD shall provide Recipient, and Recipient shall accept from OBDD as financing for the Project a non-revolving loan (the “Loan”) in an aggregate principal amount not to exceed the Loan Amount.

Notwithstanding the above, the aggregate total of Financing Proceeds disbursed under this Contract cannot exceed the Costs of the Project

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).

- B. Financing Availability. The OBDD's obligation to make, and Recipient's right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. The OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.

SECTION 4 - LOAN PAYMENT; PREPAYMENT

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. Interest is computed by counting the actual days occurring in a 360-day year.
- The Recipient authorizes OBDD to calculate interest accrued under the Loan, including as necessary to determine the loan amortization schedule, a loan prepayment, or a loan payoff amount. Absent manifest error, such calculations will be conclusive.
- C. Loan Payment. The entire outstanding balance of the Loan, including all accrued unpaid interest, is due and payable in full on the Maturity Date.
- D. Loan Prepayments.
- (1) Mandatory Prepayment. The Refunding Proceeds shall be applied to repay the outstanding balance of the Contract. Further, Recipient shall prepay all or part of the outstanding balance of the Loan as may be required by this Contract.
 - (2) Optional Prepayment. The Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any expenses of OBDD, including but not limited to attorneys' fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole discretion, the method for how the Loan prepayment will be applied to the outstanding principal payments. A scheduled payment received before the scheduled repayment date will be applied to

interest and principal on the scheduled repayment date, rather than on the day such payment is received.

SECTION 5 - CONDITIONS PRECEDENT

A. Conditions Precedent to OBDD's Obligations. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:

- (1) This Contract duly signed by an authorized officer of Recipient.
- (2) A copy of the ordinance, order or resolution of the governing body of Recipient authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents.
- (3) An opinion of Recipient's Counsel.
- (4) Such other certificates, documents, opinions and information as OBDD may reasonably require.

B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:

- (1) There is no Event of Default.
- (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
- (3) The OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Special Public Works Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
- (4) The Recipient has delivered to OBDD (in form and substance satisfactory to OBDD) an estimated schedule of Disbursement Requests, including anticipated number, submission dates and amounts.
- (5) The OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
- (6) The Recipient has delivered documentation satisfactory to OBDD that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.
- (7) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 6 - USE OF FINANCIAL ASSISTANCE

A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. The Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.

- B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act and Oregon law, as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project, whether from OBDD or from another State of Oregon agency or any third party.

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT
--

The Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. The Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
- (1) The Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.
 - (2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
 - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
 - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.
- D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- E. No Events of Default.
- (1) No Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
 - (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be

bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

- F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (iii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.
- G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the other Financing Documents, for the financing or refinancing and undertaking and completion of the Project.

SECTION 8 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, and the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) State labor standards and wage rates found in ORS chapter 279C.
 - (3) OAR 123-042-0165 (5) requirements for signs and notifications.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

- C. Project Completion Obligations. The Recipient shall:
- (1) Provide OBDD with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.
 - (2) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.
 - (3) Permit OBDD to conduct inspection of the Project at any time.
 - (4) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.

- (5) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
- (6) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.
- D. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient.
- E. Operation and Maintenance of the Project. The Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Deadline, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.
- F. Insurance, Damage. The Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from asserting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.
- G. Sales, Leases and Encumbrances. Except as specifically described in Exhibit D, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.
- H. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D.(1).
- I. Financial Records. The Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- J. Inspections; Information. The Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any

reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.

- K. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- L. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.
- M. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses...” The OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>.
- N. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. The Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.
- O. Notice of Default. The Recipient shall give OBDD prompt written notice of any Default as soon as Recipient becomes aware of its existence or reasonably believes a Default is likely.
- P. Contributory Liability and Contractor Indemnification.
- (1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against a party (the “Notified Party”) with respect to which the other party may have liability, the Notified Party must promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. The foregoing provisions are conditions precedent for either party’s liability to the other in regards to the Third Party Claim.

If the parties are jointly liable (or would be if joined in the Third Party Claim), the parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable in such proportion as is appropriate to reflect their respective relative fault. The relative fault of the parties shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Each party's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that party had sole liability in the proceeding. This Section shall survive termination of this Contract.

- (2) Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims. This Section shall survive termination of this Contract.

Q. Further Assurances. The Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.

SECTION 9 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. The Recipient fails to make any Loan payment when due.
- B. The Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project.
- D. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
- (2) The Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
- (3) The Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;

- (4) The Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
- (5) The Recipient takes any action for the purpose of effecting any of the above.
- E. The Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.
- F. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
 - (1) Terminating OBDD's commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
 - (2) Declaring all payments under the Contract and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.
 - (3) Barring Recipient from applying for future awards.
 - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449.
 - (5) Foreclosing liens or security interests pursuant to this Contract or any other Financing Document.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, to pay interest due on the Loan; then, to pay principal due on the Loan; and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 11 - MISCELLANEOUS

- A. Time is of the Essence. The Recipient agrees that time is of the essence under this Contract and the other Financing Documents.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
 - (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
 - (4) The Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract or any other Financing Document without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract or other Financing Documents, nor does assignment relieve Recipient of any of its duties or obligations under this Contract or any other Financing Documents.
 - (5) The Recipient hereby approves and consents to any assignment, sale or transfer of this Contract and the Financing Documents that OBDD deems to be necessary.
- C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:
- (1) The OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
 - (2) The liability of the OBDD under this Contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the project, and in no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.
- D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.
- Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the Recipient's email system that the notice has been received by the recipient's email system or 2) the Recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OBDD: Deputy Director
Oregon Business Development Department
775 Summer Street NE Suite 200
Salem, OR 97301-1280

If to Recipient: City Manager
City of Manzanita
PO Box 129
167 S 5th Avenue
Manzanita OR 97130

- E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys. The Recipient shall, on demand, pay to OBDD reasonable expenses incurred by OBDD in the collection of Loan payments.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Oregon Business Development Department



CITY OF MANZANITA

By: _____
Chris Cummings, Deputy Director

By: _____
Leila Aman, City Manager

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson per email dated 02 November 2023
Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285B.410 through 285B.482, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 06 October 2023.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates executed pursuant to or in connection with OBDD’s financing of the Project.

“Financing Proceeds” means the proceeds of the Loan.

“Lottery Bonds” means any bonds issued by the State of Oregon that are special obligations of the State of Oregon, payable from unobligated net lottery proceeds, together with any refunding bonds, used to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Loan.

“Municipality” means any entity described in ORS 285B.410(9).

“ORS” means the Oregon Revised Statutes.

“Project Completion Date” means the date on which Recipient completes the Project.

“Refunding Proceeds” means the proceeds of any subsequent short- or long-term financing, whether resulting from the sale of tax-exempt bonds or otherwise, issued to refund the Loan or to finance the Project.

“Transient Lodging Taxes” means all revenues collected by Recipient from transient lodging taxes levied pursuant to Recipient’s City Ordinance 16-03, as amended.

EXHIBIT B - SECURITY

- A. Full Faith & Credit Pledge. The Recipient pledges its full faith and credit and taxing power within the limitations of Article XI, sections 11 and 11b, of the Oregon Constitution to pay the amounts due under this Contract. All amounts due under this Contract are payable from all legally available funds of Recipient.
- B. Refunding Proceeds. The outstanding principal of and accrued, but unpaid, interest on the Loan shall be payable from any Refunding Proceeds. The Recipient hereby grants to OBDD a security interest in and irrevocably pledges the Refunding Proceeds to pay all of the obligations owed by Recipient to OBDD under this Contract. The Refunding Proceeds pledged and hereafter received by Recipient will be immediately subject to the lien of this pledge without physical delivery or further act, and the lien of this pledge will be superior to all other claims and liens to the fullest extent permitted by ORS 287A.310. The Recipient represents and warrants that this pledge of Refunding Proceeds complies with, and is valid and binding from the effective date of this Contract as described in, ORS 287A.310.
- C. Pledge of Dedicated Revenues.

1. All payment obligations under this Contract and the other Financing Documents are payable from Recipient's Transient Lodging Taxes ("Dedicated Revenues") collected by Recipient pursuant to Recipient's City Ordinance 16-03, as amended (2019).

The Recipient irrevocably pledges and grants to OBDD a security interest in the Dedicated Revenues to pay all of Recipient's obligations under this Contract and the other Financing Documents. The Dedicated Revenues pledged pursuant to the preceding sentence and received by Recipient will immediately be subject to the lien of this pledge without physical delivery, filing or further act, and the lien of this pledge is superior to all other claims and liens, except as provided in subsections 2 and 3 of this section C, to the fullest extent permitted by ORS 287A.310. The Recipient represents and warrants that this pledge of Dedicated Revenues complies with, and is valid and binding from the date of this Contract as described in, ORS 287A.310.

2. The Recipient shall not incur, without the prior written consent of OBDD, any obligation payable from or secured by a lien on and pledge of the Dedicated Revenues that is superior to, or on parity with the Loan. Recipient shall not revise the city's ordinances to reduce Transient Lodging Taxes without the prior consent of OBDD.

3. Notwithstanding the requirements of subsection 2 of this section C, loans previously made and loans made in the future by OBDD to Recipient that are secured by the Dedicated Revenues may have a lien on such Dedicated Revenues on parity with the Loan; provided that nothing in this paragraph will adversely affect the priority of any of OBDD's liens on such Dedicated Revenues in relation to the lien(s) of any third party(ies).

EXHIBIT C - PROJECT DESCRIPTION

Recipient will hire a contractor licensed in the state of Oregon to demolish two existing structures on property purchased by Recipient in 2017 and then construct a new building on the property that will house Recipient's city hall, central police station, and serve as a hub for emergency operations as needed.

EXHIBIT D - PROJECT BUDGET

Line Item Activity	OBDD Funds	Estimated Other Funds
Design/Engineering	\$0	\$330,000
Construction	\$4,030,502	\$171,000
Construction Contingency	\$917,378	\$0
Construction Management	\$94,484	\$0
Legal	\$50,000	\$0
Bond Issuance Fee	\$42,267	\$0
Total	\$5,134,631	\$501,000



City of Manzanita

COUNCIL RESOLUTION No. 23-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANZANITA, OREGON, AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND AND DELEGATING AUTHORITY TO THE CITY MANAGER TO ENTER INTO A FINANCING CONTRACT WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY

WHEREAS, the City Council of the City of Manzanita ("Recipient") is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(9); and

WHEREAS, Oregon Revised Statutes 285B.410 through 285B.482 (the "Act") authorize any municipality to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department ("OBDD") to obtain financial assistance from the Special Public Works Fund; and

WHEREAS, The Recipient has filed an application with the OBDD to obtain financial assistance for a "development project" within the meaning of the Act; and

WHEREAS, the Recipient's proposed development project specifically includes the demolition of two existing structures and construction of a new facility consisting of a city hall, central police station and emergency operations hub (the "Project"); and

WHEREAS, The OBDD has approved the Recipient's application for financial assistance from the Special Public Works Fund pursuant to the Act; and

WHEREAS, The Recipient is required, as a prerequisite to the receipt of financial assistance from the OBDD, to enter into a Special Public Works Fund Development Project Interim Financing Contract with the OBDD, number B23004, substantially in the form attached hereto as Exhibit 1 (the "Financing Contract"); and

WHEREAS, Notice relating to the Recipient's consideration of the adoption of this Resolution was published in full accordance with the Recipient's charter and laws for public notification.

Now, Therefore, be it Resolved by the City Council of the City of Manzanita that:

Section 1. Financing Loan Authorized.

The Governing Body authorizes the City Manager (the "Authorized Officer") to execute on behalf of Recipient the Financing Contract and such other documents as may be required to obtain financial assistance (the "Financing Documents"), including a loan from the OBDD, on such terms as may be agreed upon between the Authorized Officer and OBDD and subject to approval as to form and content by the Manzanita City Attorney, on the condition that the principal amount of the loan from the OBDD to the Recipient is not in excess of \$5,134,631 and an interest rate of 2.01% per annum. The

proceeds of the loan from the OBDD will be applied solely to the "Costs of the Project" as such term is defined in the Financing Contract.

Section 2. Sources of Repayment and Security.

Amounts payable by the Recipient are payable from the sources described in section 4 of the Financing Contract and the Oregon Revised Statutes Section 285B.437(3) which include:

- (a) The revenues of the project, including special assessment revenues;
- (b) Amounts withheld under ORS 285B.449 (1);
- (c) The general fund of the Recipient; and
- (d) Any other source.

Exhibit B to the Financing Contract lists the items that Recipient must pledge as security for the loan, which includes:

- (a) A pledge of the Recipient's full faith and credit and taxing power to pay amounts due in the connection with the loan; and
- (b) A pledge of Recipients transient lodging tax revenues to the extent permitted under ORS 320.350.

Section 3. Tax-Exempt Status. The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The Recipient may enter into covenants to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as may be required by the OBDD or its bond counsel to protect the tax-exempt status of such interest.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Linda Kozlowski, Council President

ATTEST:

Leila Aman, City Manager/ City
Recorder



COUNCIL STAFF REPORT

To: City Council

Date Written: December 1, 2023

From: Leila Aman, City Manager

Subject: **Allocation of Coronavirus State and Local Fiscal Recovery Funds to the City Hall/Emergency Operations Center.**

ACTION REQUESTED

Council is asked to approve a Resolution allocating the Coronavirus State and Local Fiscal Recovery Funds to the City Hall Fund for the purpose of funding the Emergency Operations Center.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

February 8, 2023 – Staff provided council with an overview of the Coronavirus State and Local Fiscal Recovery Funds and their potential uses.

ANALYSIS

In 2021 the City of Manzanita received \$147,000 from the Coronavirus State and Local Fiscal Recovery (SLFRF) as part of the American Rescue Plan which delivered \$350 billion to state, local, and Tribal governments across the county to support recovery from the COVID-19 public health emergency. The program was designed to ensure that governments had the resources to:

- Fight the pandemic and support families and businesses struggling with its public health and economic impacts;
- Maintain vital public services, even amid decline in revenue;
- Build strong, resilient and equitable recovery by making investments that support long-term growth and opportunity. ¹

There are two sets of rules that govern the use of these funds and include the Final Rule, dated January 2022 and the Interim Final Rule dated August 2023. The 2022 Final Rule allows the funds to be used for:

- Replacing Lost Public Sector Revenue – this allows for revenue loss of up to \$10 million
- Public Health and Economic Impacts – Programs, services and capital expenditures that are consistent with the final rule requirements.
- Premium Pay – for workers performing essential functions.
- Water, Sewer, Broadband Infrastructure – allows for a broad range of capital investments into infrastructure projects.

The 2023 Interim Final Rule allows the funds to be used for:

¹ SLFRF 2022 Overview of Final Rule

- Emergency Relief from Natural Disasters –emergency relief from natural disasters of their negative economic impacts.
- Surface Transportation Projects –projects that are eligible under the surface transportation programs specified in the 2023 CAA.
- Title 1 Projects – activities that are eligible under section 105(a) of the housing and Community Development Act of 1974 which are eligible activities under the Community Development Block Grant Program.

Recipients must allocate funds no later than December 31, 2024, and funds must be expended by December 31, 2026.

There are several ways the city could elect to use these funds. Under the 2022 rules the city could apply the funds directly to operations as the rules allow for replacement of lost revenue without any written justification if the amount is under \$10 million dollars. The city did indeed lose revenue when it shut down in 2020 in response to the pandemic. The city could apply the funds to the development of an Emergency Operations Center (EOC), as it is an enumerated use of the funds. The city could use the funds for a water infrastructure project. Under the 2023 rules the city could purchase emergency response equipment for a future natural disaster or threat. The city does not have sewer, broadband, or any eligible transportation projects, or Title 1 projects that the funds could be applied to at this time. There is also limited city funding to complete any potential projects within the infrastructure or Title 1 categories that are currently contemplated within the timeframe the funds must be allocated.

Staff are recommending that the council approve the use of the funds for the construction of the Police Station and EOC and to allocate those funds and approve a transfer from the general fund to the city hall fund for the purpose of the constructing an EOC through a supplemental budget. This use is enumerated in the Final Rule which allows for “Improvements to or construction of emergency operations centers and acquisition of emergency response equipment.”² Due to the small dollar amount, and that the proposed use is enumerated in the rules’, written justification is not required to be submitted to the Department of Treasury to use these finds. The funds will help close the gap created by the additional foundation work necessary to achieve a Risk Category 4 structure for the Police Station/EOC.

The pandemic certainly impacted, and worsened the timeline associated with the development of the city hall project, which contributed to increased costs. This expenditure is appropriate because if there is another public health emergency the city will have a fully operational EOC to respond and provide relief to the community. By combining the Police Station and EOC together we are also making the most efficient use of public resources. The city cannot afford to develop a separate facility for an EOC.

The City can also elect to accept these funds as lost revenue and transfer them into the city hall fund to fill the gap for the increased foundation costs.

BUDGET IMPACT

The SLFRF funds are already included in the General Fund as an expenditure. If approved, these funds would be transferred to the City Hall Fund through the supplemental budget.

² Federal Register Vol/87 No. 18 January 2022, Rules and Regulations

WORKLOAD IMPACT

The City Manager will develop a supplemental budget and will include this transfer in the Resolution. The Accounting Manager will provide the required reporting to the Department of Treasury.

STAFF RECOMMENDATION

Staff recommends that the city council approve a Resolution to authorize the use of \$147,000 in SLFRF funds for the Police Station/EOC.

ALTERNATIVES

Council can elect to not make this transfer and direct staff to use the funds for another purpose.

ATTACHMENTS

1. Coronavirus State and Local Fiscal Recovery Funds: 2022 Overview of the Final Rule (January 2022)
2. Coronavirus State and Local Fiscal Recovery Funds: Overview of the Interim Final Rule (August 2023)
3. Resolution



Coronavirus State & Local Fiscal Recovery Funds: 2022 Overview of the Final Rule

U.S. DEPARTMENT OF THE TREASURY

January 2022



Note: In August 2023, Treasury released an interim final rule that implements the new eligible uses added to the SLFRF program by the Consolidated Appropriations Act, 2023. Treasury anticipates issuing FAQs for the 2023 interim final rule at a later date. Recipients may find helpful the Overview of the 2023 Interim Final Rule, which provides a summary of major provisions of the 2023 interim final rule for informational purposes. As noted below, this overview document pertains to the 2022 final rule. The Consolidated Appropriations Act, 2023 did not alter how recipients may use SLFRF funds for the existing eligible uses described in the 2022 final rule and summarized in this document. Recipients may continue to use SLFRF funds in accordance with the 2022 final rule.

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.



Contents

Introduction	4
Overview of the Program	6
Replacing Lost Public Sector Revenue	9
Responding to Public Health and Economic Impacts of COVID-19.....	12
Responding to the Public Health Emergency.....	14
Responding to Negative Economic Impacts.....	16
Assistance to Households	17
Assistance to Small Businesses	21
Assistance to Nonprofits	23
Aid to Impacted Industries.....	24
Public Sector Capacity.....	26
Public Safety, Public Health, and Human Services Staff	26
Government Employment and Rehiring Public Sector Staff.....	27
Effective Service Delivery.....	28
Capital Expenditures	30
Framework for Eligible Uses Beyond those Enumerated	32
Premium Pay	35
Water & Sewer Infrastructure	37
Broadband Infrastructure	39
Restrictions on Use	41
Program Administration	43



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.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



- **For all recipients except for Tribal governments:** No extraordinary contributions to a pension fund for the purpose of reducing an accrued, unfunded liability.
- **For all recipients:** No payments for debt service and replenishments of rainy day funds; no satisfaction of settlements and judgments; no uses that contravene or violate the American Rescue Plan Act, Uniform Guidance conflicts of interest requirements, and other federal, state, and local laws and regulations.

Under the SLFRF program, funds must be used for costs incurred on or after March 3, 2021. Further, funds must be obligated by December 31, 2024, and expended by December 31, 2026. This time period, during which recipients can expend SLFRF funds, is the “period of performance.”

In addition to SLFRF, the American Rescue Plan includes other sources of funding for state and local governments, including the [Coronavirus Capital Projects Fund](#) to fund critical capital investments including broadband infrastructure; the [Homeowner Assistance Fund](#) to provide relief for our country’s most vulnerable homeowners; the [Emergency Rental Assistance Program](#) to assist households that are unable to pay rent or utilities; and the [State Small Business Credit Initiative](#) to fund small business credit expansion initiatives. Eligible recipients are encouraged to visit the Treasury website for more information.



Replacing Lost Public Sector Revenue

The Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency. Specifically, SLFRF funding may be used to pay for “government services” in an amount equal to the revenue loss experienced by the recipient due to the COVID-19 public health emergency.

Government services generally include any service traditionally provided by a government, including construction of roads and other infrastructure, provision of public safety and other services, and health and educational services. Funds spent under government services are subject to streamlined reporting and compliance requirements.

In order to use funds under government services, recipients should first determine revenue loss. They may, then, spend up to that amount on general government services.

DETERMINING REVENUE LOSS

Recipients have two options for how to determine their amount of revenue loss. Recipients must choose one of the two options and cannot switch between these approaches after an election is made.

- 1. Recipients may elect a “standard allowance” of \$10 million to spend on government services through the period of performance.**

Under this option, which is newly offered in the final rule Treasury presumes that up to \$10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund “government services.” The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss, particularly for SLFRF’s smallest recipients.

All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula below, including those with total allocations of \$10 million or less. Electing the standard allowance does not increase or decrease a recipient’s total allocation.

- 2. Recipients may calculate their actual revenue loss according to the formula articulated in the final rule.**

Under this option, recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. Treasury has also provided several adjustments to the definition of general revenue in the final rule.

To calculate revenue loss at each of these dates, recipients must follow a four-step process:



- a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue*.
- b. Estimate *counterfactual revenue*, which is equal to the following formula, where n is the number of months elapsed since the end of the base year to the calculation date:

$$\text{base year revenue} \times (1 + \text{growth adjustment})^{\frac{n}{12}}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

- c. Identify *actual revenue*, which equals revenues collected over the twelve months immediately preceding the calculation date.

Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added or subtracted to the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022.

Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

- d. Revenue loss for the calculation date is equal to *counterfactual revenue* minus *actual revenue* (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss on for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section.



SPENDING ON GOVERNMENT SERVICES

Recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the above approach. **Government services generally include *any service traditionally provided by a government***, unless Treasury has stated otherwise. Here are some common examples, although this list is not exhaustive:

- ✓ Construction of schools and hospitals
- ✓ Road building and maintenance, and other infrastructure
- ✓ Health services
- ✓ General government administration, staff, and administrative facilities
- ✓ Environmental remediation
- ✓ Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section and apply to all uses of funds, apply to government services as well.



Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.¹

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or “classes” of beneficiaries that experienced pandemic impacts and provide services to those classes.

¹ However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.



Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• Final Rule presumes certain populations and classes are impacted and disproportionately impacted	<ul style="list-style-type: none">• Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.² Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on “Framework for Eligible Uses Beyond Those Enumerated.”

² For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between “beneficiaries” and “sub-recipients.” Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.



RESPONDING TO THE PUBLIC HEALTH EMERGENCY

While the country has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign, the disease still poses a grave threat to Americans' health and the economy. Providing state, local, and Tribal governments the resources needed to fight the COVID-19 pandemic is a core goal of the Coronavirus State and Local Fiscal Recovery Funds, as well as addressing the other ways that the pandemic has impacted public health. Treasury has identified several public health impacts of the pandemic and enumerated uses of funds to respond to impacted populations.

- **COVID-19 mitigation and prevention.** The pandemic has broadly impacted Americans and recipients can provide services to prevent and mitigate COVID-19 to the general public or to small businesses, nonprofits, and impacted industries in general. Enumerated eligible uses include:
 - ✓ Vaccination programs, including vaccine incentives and vaccine sites
 - ✓ Testing programs, equipment and sites
 - ✓ Monitoring, contact tracing & public health surveillance (e.g., monitoring for variants)
 - ✓ Public communication efforts
 - ✓ Public health data systems
 - ✓ COVID-19 prevention and treatment equipment, such as ventilators and ambulances
 - ✓ Medical and PPE/protective supplies
 - ✓ Support for isolation or quarantine
 - ✓ Ventilation system installation and improvement
 - ✓ Technical assistance on mitigation of COVID-19 threats to public health and safety
 - ✓ Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities, public facilities, and schools
 - ✓ Support for prevention and mitigation strategies in small businesses, nonprofits, and impacted industries
 - ✓ Medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., ICUs, emergency rooms)
 - ✓ Temporary medical facilities and other measures to increase COVID-19 treatment capacity
 - ✓ Emergency operations centers & emergency response equipment (e.g., emergency response radio systems)
 - ✓ Public telemedicine capabilities for COVID-19 related treatment



- **Medical expenses.** Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:
 - ✓ Unreimbursed expenses for medical care for COVID-19 testing or treatment, such as uncompensated care costs for medical providers or out-of-pocket costs for individuals
 - ✓ Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
 - ✓ Emergency medical response expenses
 - ✓ Treatment of long-term symptoms or effects of COVID-19
- **Behavioral health care, such as mental health treatment, substance use treatment, and other behavioral health services.** Treasury recognizes that the pandemic has broadly impacted Americans' behavioral health and recipients can provide these services to the general public to respond. Enumerated eligible uses include:
 - ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
 - ✓ Enhanced behavioral health services in schools
 - ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
 - ✓ Support for equitable access to reduce disparities in access to high-quality treatment
 - ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
 - ✓ Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction, and recovery
 - ✓ Behavioral health facilities & equipment
- **Preventing and responding to violence.** Recognizing that violence – and especially gun violence – has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:
 - ✓ Referrals to trauma recovery services for victims of crime
 - ✓ Community violence intervention programs, including:
 - Evidence-based practices like focused deterrence, with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance
 - ✓ In communities experiencing increased gun violence due to the pandemic:
 - Law enforcement officers focused on advancing community policing
 - Enforcement efforts to reduce gun violence, including prosecution
 - Technology & equipment to support law enforcement response



RESPONDING TO NEGATIVE ECONOMIC IMPACTS

The pandemic caused severe economic damage and, while the economy is on track to a strong recovery, much work remains to continue building a robust, resilient, and equitable economy in the wake of the crisis and to ensure that the benefits of this recovery reach all Americans. While the pandemic impacted millions of American households and businesses, some of its most severe impacts fell on low-income and underserved communities, where pre-existing disparities amplified the impact of the pandemic and where the most work remains to reach a full recovery.

The final rule recognizes that the pandemic caused broad-based impacts that affected many communities, households, and small businesses across the country; for example, many workers faced unemployment and many small businesses saw declines in revenue. The final rule describes these as “impacted” households, communities, small businesses, and nonprofits.

At the same time, the pandemic caused disproportionate impacts, or more severe impacts, in certain communities. For example, low-income and underserved communities have faced more severe health and economic outcomes like higher rates of COVID-19 mortality and unemployment, often because pre-existing disparities exacerbated the impact of the pandemic. The final rule describes these as “disproportionately impacted” households, communities, small businesses, and nonprofits.

To simplify administration of the program, the final rule presumes that certain populations were “impacted” and “disproportionately impacted” by the pandemic; these populations are presumed to be eligible for services that respond to the impact they experienced. The final rule also enumerates a non-exhaustive list of eligible uses that are recognized as responsive to the impacts or disproportionate impacts of COVID-19. Recipients providing enumerated uses to populations presumed eligible are clearly operating consistently with the final rule.

As discussed further in the section Framework for Eligible Uses Beyond Those Enumerated, recipients can also identify other pandemic impacts, impacted or disproportionately impacted populations or classes, and responses.



Assistance to Households

Impacted Households and Communities

Treasury presumes the following households and communities are impacted by the pandemic:

- ✓ Low- or moderate income households or communities
- ✓ Households that experienced unemployment
- ✓ Households that experienced increased food or housing insecurity
- ✓ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
- ✓ *When providing affordable housing programs:* households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ✓ *When providing services to address lost instructional time in K-12 schools:* any student that lost access to in-person instruction for a significant period of time

Low- or moderate-income households and communities are those with (i) income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65 percent of the area median income for the county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines are higher than the area's median income and using the Federal Poverty Guidelines would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the response they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$65,880 per year.³ In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is impacted by the pandemic and eligible for services to respond. Additionally, by following the steps detailed in the section Framework for Eligible Uses Beyond Those Enumerated, recipients may designate additional households as impacted or disproportionately impacted beyond these presumptions, and may also pursue projects not listed below in response to these impacts consistent with Treasury's standards.

³ For recipients in Alaska, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$82,350 per year. For recipients in Hawaii, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$75,780 per year.



Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to impacts of the pandemic on households and communities:

- ✓ Food assistance (e.g., child nutrition programs, including school meals) & food banks
- ✓ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ✓ Health insurance coverage expansion
- ✓ Benefits for surviving family members of individuals who have died from COVID-19
- ✓ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly-employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ✓ Financial services for the unbanked and underbanked
- ✓ Burials, home repair & home weatherization
- ✓ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ✓ Cash assistance
- ✓ Paid sick, medical, and family leave programs
- ✓ Assistance in accessing and applying for public benefits or services
- ✓ Childcare and early learning services, home visiting programs, services for child welfare-involved families and foster youth & childcare facilities
- ✓ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ✓ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing
- ✓ Certain contributions to an Unemployment Insurance Trust Fund⁴

⁴ Recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. Additionally, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance. Recipients that deposit SLFRF funds into an unemployment insurance trust fund, or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).



Disproportionately Impacted Households and Communities

Treasury presumes the following households and communities are disproportionately impacted by the pandemic:

- ✓ Low -income households and communities
- ✓ Households residing in Qualified Census Tracts
- ✓ Households that qualify for certain federal benefits⁵
- ✓ Households receiving services provided by Tribal governments
- ✓ Households residing in the U.S. territories or receiving services from these governments

Low-income households and communities are those with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the most recently published poverty guidelines or (ii) income at or below 40 percent of area median income for its county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines level is higher than the area median income level and using this level would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the service they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$40,626 per year.⁶ In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is disproportionately impacted by the pandemic and eligible for services to respond.

⁵ These programs are Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.

⁶ For recipients in Alaska, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$50,783 per year. For recipients in Hawaii, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$46,731 per year



Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to disproportionate impacts of the pandemic on households and communities:

- ✓ Pay for community health workers to help households access health & social services
- ✓ Remediation of lead paint or other lead hazards
- ✓ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ✓ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ✓ Investments in neighborhoods to promote improved health outcomes
- ✓ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing⁷
- ✓ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ✓ Schools and other educational equipment & facilities

⁷ Please see the final rule for further details and conditions applicable to this eligible use. This includes Treasury's presumption that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing is ineligible for support with SLFRF funds.



Assistance to Small Businesses

Small businesses have faced widespread challenges due to the pandemic, including periods of shutdown, declines in revenue, or increased costs. The final rule provides many tools for recipients to respond to the impacts of the pandemic on small businesses, or disproportionate impacts on businesses where pre-existing disparities like lack of access to capital compounded the pandemic's effects.

Small businesses eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "small business," specifically:

1. Have no more than 500 employees, or if applicable, the size standard in number of employees [established](#) by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and
2. Are a small business concern as defined in section 3 of the Small Business Act⁸ (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).

Impacted Small Businesses

Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- | | |
|---------------------------------------|--|
| ✓ Decreased revenue or gross receipts | ✓ Capacity to weather financial hardship |
| ✓ Financial insecurity | ✓ Challenges covering payroll, rent or mortgage, and other operating costs |
| ✓ Increased costs | |

Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- | | |
|---|--|
| ✓ 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.



U.S. DEPARTMENT OF THE TREASURY

- ✓ Small businesses operating in Qualified Census Tracts
- ✓ Small businesses operated by Tribal governments or on Tribal lands
- ✓ Small businesses operating in the U.S. territories

Assistance to disproportionately impacted small businesses includes the following enumerated uses, which have been expanded under the final rule:

- ✓ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ✓ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ✓ Support for microbusinesses, including financial, childcare, and transportation costs



Assistance to Nonprofits

Nonprofits have faced significant challenges due to the pandemic's increased demand for services and changing operational needs, as well as declines in revenue sources such as donations and fees.

Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit"—specifically those that are 501(c)(3) or 501(c)(19) tax-exempt organizations.

Impacted Nonprofits

Recipients can identify nonprofits impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue (e.g., from donations and fees)
- ✓ Financial insecurity
- ✓ Increased costs (e.g., uncompensated increases in service need)
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to nonprofits that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship
- ✓ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Disproportionately Impacted Nonprofits

Treasury presumes that the following nonprofits are disproportionately impacted by the pandemic:

- ✓ Nonprofits operating in Qualified Census Tracts
- ✓ Nonprofits operated by Tribal governments or on Tribal lands
- ✓ Nonprofits operating in the U.S. territories

Recipients may identify appropriate responses that are related and reasonably proportional to addressing these disproportionate impacts.



Aid to Impacted Industries

Recipients may use SLFRF funding to provide aid to industries impacted by the COVID-19 pandemic. Recipients should first designate an impacted industry and then provide aid to address the impacted industry's negative economic impact.

This sub-category of eligible uses does not separately identify disproportionate impacts and corresponding responsive services.

1. Designating an impacted industry. There are two main ways an industry can be designated as "impacted."

1. If the industry is in the travel, tourism, or hospitality sectors (including Tribal development districts), the industry is impacted.
2. If the industry is outside the travel, tourism, or hospitality sectors, the industry is impacted if:
 - a. The industry experienced at least 8 percent employment loss from pre-pandemic levels,⁹ or
 - b. The industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries as of the date of the final rule, based on the totality of economic indicators or qualitative data (if quantitative data is unavailable), and if the impacts were generally due to the COVID-19 public health emergency.

Recipients have flexibility to define industries broadly or narrowly, but Treasury encourages recipients to define narrow and discrete industries eligible for aid. State and territory recipients also have flexibility to define the industries with greater geographic precision; for example, a state may identify a particular industry in a certain region of a state as impacted.

2. Providing eligible aid to the impacted industry. Aid may only be provided to support businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, aid should be generally broadly available to all businesses within the impacted industry to avoid potential conflicts of interest, and Treasury encourages aid to be first used for operational expenses, such as payroll, before being used on other types of costs.

⁹ Specifically, a recipient should compare the percent change in the number of employees of the recipient's identified industry and the national Leisure & Hospitality sector in the three months before the pandemic's most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021). For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (e.g., a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.



Treasury recognizes the enumerated projects below as eligible responses to impacted industries.

- ✓ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ✓ Technical assistance, counseling, or other services to support business planning
- ✓ COVID-19 mitigation and infection prevention measures (see section Public Health)

As with all eligible uses, recipients may pursue a project not listed above by undergoing the steps outlined in the section Framework for Eligible Uses Beyond Those Enumerated.



PUBLIC SECTOR CAPACITY

Recipients may use SLFRF funding to restore and bolster public sector capacity, which supports government's ability to deliver critical COVID-19 services. There are three main categories of eligible uses to bolster public sector capacity and workforce: Public Safety, Public Health, and Human Services Staff; Government Employment and Rehiring Public Sector Staff; and Effective Service Delivery.

Public Safety, Public Health, and Human Services Staff

SLFRF funding may be used for payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee's time spent responding to COVID-19. Recipients should follow the steps below.

1. **Identify eligible public safety, public health, and human services staff.** Public safety staff include:

- ✓ Police officers (including state police officers)
- ✓ Sheriffs and deputy sheriffs
- ✓ Firefighters
- ✓ Emergency medical responders
- ✓ Correctional and detention officers
- ✓ Dispatchers and supervisor personnel that directly support public safety staff

Public health staff include:

- ✓ Employees involved in providing medical and other physical or mental health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions
- ✓ Laboratory technicians, medical examiners, morgue staff, and other support services essential for patient care
- ✓ Employees of public health departments directly engaged in public health matters and related supervisory personnel

Human services staff include:

- ✓ Employees providing or administering social services and public benefits
- ✓ Child welfare services employees
- ✓ Child, elder, or family care employees

2. **Assess portion of time spent on COVID-19 response for eligible staff.**

Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.

For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the



employee, or his or her operating unit or division, is “primarily dedicated” to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division’s time is dedicated to responding to COVID-19.

Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours.

3. **Use SLFRF funding for payroll and covered benefits for the portion of eligible staff time spent on COVID-19 response.** SLFRF funding may be used for payroll and covered benefits for the portion of the employees’ time spent on COVID-19 response, as calculated above, through the period of performance.

Government Employment and Rehiring Public Sector Staff

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

- **Restoring pre-pandemic employment.** Recipients have two options to restore pre-pandemic employment, depending on the recipient’s needs.
 - *If the recipient simply wants to hire back employees for pre-pandemic positions:* Recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.
 - *If the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions:* Recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Specifically, recipients should undergo the following steps:
 - a. Identify the recipient’s budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.
 - b. Multiply the pre-pandemic baseline by 1.075. This is called the *adjusted pre-pandemic baseline*.
 - c. Identify the recipient’s budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude the number of FTEs dedicated to responding to the COVID-19 public health emergency. This is called the *actual number of FTEs*.
 - d. Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be covered by SLFRF funds. Recipients do not have to hire for the same roles that existed pre-pandemic.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



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.



U.S. DEPARTMENT OF THE TREASURY

- ✓ Program evaluation and evidence resources
 - ✓ Data analysis resources to gather, assess, share, and use data
 - ✓ Technology infrastructure to improve access to and the user experience of government IT systems, as well as technology improvements to increase public access and delivery of government programs and services
 - ✓ Community outreach and engagement activities
 - ✓ Capacity building resources to support using data and evidence, including hiring staff, consultants, or technical assistance support
- **Addressing administrative needs, including:**
 - ✓ Administrative costs for programs responding to the public health emergency and its economic impacts, including non-SLFRF and non-federally funded programs
 - ✓ Address administrative needs caused or exacerbated by the pandemic, including addressing backlogs caused by shutdowns, increased repair or maintenance needs, and technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, data and case management systems)

**CAPITAL EXPENDITURES**

As described above, the final rule clarifies that recipients may use funds for programs, services, and capital expenditures that respond to the public health and negative economic impacts of the pandemic. Any use of funds in this category for a capital expenditure must comply with the capital expenditure requirements, in addition to other standards for uses of funds.

Capital expenditures are subject to the same eligibility standard as other eligible uses to respond to the pandemic's public health and economic impacts; specifically, they must be related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class.

For ease of administration, the final rule identifies enumerated types of capital expenditures that Treasury has identified as responding to the pandemic's impacts; these are listed in the applicable sub-category of eligible uses (e.g., public health, assistance to households, etc.). Recipients may also identify other responsive capital expenditures. Similar to other eligible uses in the SLFRF program, no pre-approval is required for capital expenditures.

To guide recipients' analysis of whether a capital expenditure meets the eligibility standard, recipients (with the exception of Tribal governments) must complete and meet the requirements of a written justification for capital expenditures equal to or greater than \$1 million. For large-scale capital expenditures, which have high costs and may require an extended length of time to complete, as well as most capital expenditures for non-enumerated uses of funds, Treasury requires recipients to submit their written justification as part of regular reporting. Specifically:

If a project has total capital expenditures of	and the use is enumerated by Treasury as eligible, then	and the use is beyond those enumerated by Treasury as eligible, then
Less than \$1 million	No Written Justification required	No Written Justification required
Greater than or equal to \$1 million, but less than \$10 million	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury	Written Justification required and recipients must submit as part of regular reporting to Treasury
\$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury	

A Written Justification includes:

- *Description of the harm or need to be addressed.* Recipients should provide a description of the specific harm or need to be addressed and why the harm was exacerbated or caused by the public health emergency. Recipients may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.



- *Explanation of why a capital expenditure is appropriate.* For example, recipients should include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.
- *Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior.* Recipients should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two alternative capital expenditures.

Where relevant, recipients should consider the alternatives of improving existing capital assets already owned or leasing other capital assets.

Treasury presumes that the following capital projects are generally ineligible:

- | | |
|---|---|
| ✖ Construction of new correctional facilities as a response to an increase in rate of crime | ✖ Construction of convention centers, stadiums, or other large capital projects intended for general economic development or to aid impacted industries |
| ✖ Construction of new congregate facilities to decrease spread of COVID-19 in the facility | |

In undertaking capital expenditures, Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

**FRAMEWORK FOR ELIGIBLE USES BEYOND THOSE ENUMERATED**

As described above, recipients have broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients should undergo the following steps to decide whether their project is eligible:

Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> 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 | ✓ State, local, or Tribal government workforce |
| ✓ Emergency response | ✓ Workers providing vital services to Tribes |
| ✓ Sanitation, disinfection & cleaning | ✓ Educational, school nutrition, and other work required to operate a school facility |
| ✓ Maintenance | ✓ Laundry |
| ✓ Grocery stores, restaurants, food production, and food delivery | ✓ Elections |
| ✓ Pharmacy | ✓ Solid waste or hazardous materials management, response, and cleanup |
| ✓ Biomedical research | ✓ Work requiring physical interaction with patients |
| ✓ Behavioral health | ✓ Dental care |
| ✓ Medical testing and diagnostics | ✓ Transportation and warehousing |
| ✓ Home and community-based health care or assistance with activities of daily living | ✓ Hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment |
| ✓ Family or child care | |
| ✓ Social services | |
| ✓ Public health | |
| ✓ Mortuary | |
| ✓ Critical clinical research, development, and testing necessary for COVID-19 response | |

Beyond this list, the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical so long as doing so is necessary to protecting the health and wellbeing of the residents of such jurisdictions.

- 2. Verify that the eligible worker performs “essential work,”** meaning work that:

- Is not performed while teleworking from a residence; and
- Involves either:
 - a. regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
 - b. regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work.



3. Confirm that the premium pay “responds to” workers performing essential work during the COVID-19 public health emergency. Under the final rule, which broadened the share of eligible workers who can receive premium pay without a written justification, recipients may meet this requirement in one of three ways:

- Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ [Occupational Employment and Wage Statistics](#), whichever is higher, on an annual basis; or
- Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; or
- If a worker does not meet either of the above requirements, the recipient must submit written justification to Treasury detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency. This may include a description of the essential worker’s duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.

Premium pay may be awarded in installments or lump sums (e.g., monthly, quarterly, etc.) and may be awarded to hourly, part-time, or salaried or non-hourly workers. Premium pay must be paid in addition to wages already received and may be paid retrospectively. A recipient may not use SLFRF to merely reimburse itself for premium pay or hazard pay already received by the worker, and premium pay may not be paid to volunteers.



Water & Sewer Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in water and sewer infrastructure. State, local, and Tribal governments have a tremendous need to address the consequences of deferred maintenance in drinking water systems and removal, management, and treatment of sewage and stormwater, along with additional resiliency measures needed to adapt to climate change.

Recipients may undertake the eligible projects below:

PROJECTS ELIGIBLE UNDER EPA'S CLEAN WATER STATE REVOLVING FUND (CWSRF)

Eligible projects under the CWSRF, and the final rule, include:

- ✓ Construction of publicly owned treatment works
- ✓ Projects pursuant to implementation of a nonpoint source pollution management program established under the Clean Water Act (CWA)
- ✓ Decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage
- ✓ Management and treatment of stormwater or subsurface drainage water
- ✓ Water conservation, efficiency, or reuse measures
- ✓ Development and implementation of a conservation and management plan under the CWA
- ✓ Watershed projects meeting the criteria set forth in the CWA
- ✓ Energy consumption reduction for publicly owned treatment works
- ✓ Reuse or recycling of wastewater, stormwater, or subsurface drainage water
- ✓ Security of publicly owned treatment works

Treasury encourages recipients to review the EPA handbook for the [CWSRF](#) for a full list of eligibilities.

PROJECTS ELIGIBLE UNDER EPA'S DRINKING WATER STATE REVOLVING FUND (DWSRF)

Eligible drinking water projects under the DWSRF, and the final rule, include:

- ✓ Facilities to improve drinking water quality
- ✓ Transmission and distribution, including improvements of water pressure or prevention of contamination in infrastructure and lead service line replacements
- ✓ New sources to replace contaminated drinking water or increase drought resilience, including aquifer storage and recovery system for water storage
- ✓ Green infrastructure, including green roofs, rainwater harvesting collection, permeable pavement
- ✓ Storage of drinking water, such as to prevent contaminants or equalize water demands
- ✓ Purchase of water systems and interconnection of systems
- ✓ New community water systems

Treasury encourages recipients to review the EPA handbook for the [DWSRF](#) for a full list of eligibilities.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



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

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



U.S. DEPARTMENT OF THE TREASURY

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.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



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.
- March 17, 2022 (p. 18): Specified that provision of child nutrition programs is available to respond to impacts of the pandemic on households and communities.



Coronavirus State & Local Fiscal Recovery Funds: Overview of the Interim Final Rule

U.S. DEPARTMENT OF THE TREASURY

CONTENTS

Introduction	2
Emergency Relief from Natural Disasters.....	4
Surface Transportation and Title I Projects	9
Surface Transportation Projects.....	10
Title I Projects	16
Program Administration.....	19



This Overview of the 2023 Interim Final Rule provides a summary of major provisions of the State and Local Fiscal Recovery Funds (SLFRF) 2023 interim final rule for informational purposes and is intended as a brief, simplified user guide to the interim final rule provisions.

The descriptions provided in this document summarize key provisions of the 2023 interim final rule but are non-exhaustive, do not describe all terms and conditions associated with the use of SLFRF funds, and do not describe all requirements that may apply to this funding. Recipients should refer to the [2023 interim final rule](#) for a complete description of the new eligible uses and associated requirements. 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 2023 interim final rule, the 2022 final rule, and the guidance that implements this program. Recipients seeking information about the eligible uses discussed in the 2022 final rule should reference the [Overview of the 2022 Final Rule](#) and the [2022 final rule](#).

Introduction

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF), established by the American Rescue Plan, delivers \$350 billion to state, local, territorial, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency.

On May 10, 2021, Treasury issued an interim final rule implementing the SLFRF program. On January 6, 2022, Treasury subsequently issued a final rule that responded to public comments. On April 1, 2022, the final rule became effective. On December 29, 2022, the Consolidated Appropriations Act, 2023 was enacted, amending the SLFRF program to provide additional flexibility for recipients to use SLFRF funds to respond to natural disasters, build critical infrastructure, and support community development.

Treasury has issued an interim final rule (IFR) implementing the amendments to the SLFRF program and is seeking feedback from the public on all aspects of the IFR. Comments on the IFR may be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> or by mailing comments to the address provided in the IFR. Refer to the IFR for additional information about the comment process.

The existing eligible uses, as discussed in the 2022 final rule, remain unchanged. Recipients may continue to use SLFRF funds in alignment with the 2022 final rule.

EMERGENCY RELIEF FROM NATURAL DISASTERS

The IFR provides a framework for using SLFRF funds to provide emergency relief from natural disasters or their negative economic impacts. Specifically, the IFR discusses the standard for providing emergency relief from natural disasters, using a two-step process. Recipients must first identify a natural disaster that has occurred or is expected to occur imminently, or a natural disaster that is threatened to occur in the future, and then identify emergency relief that responds to the physical or negative economic impacts, or potential physical or negative economic impacts of the identified natural disaster. The emergency relief must be related and reasonably proportional to the impact identified.

SURFACE TRANSPORTATION PROJECTS

The IFR provides a framework for using SLFRF funds for projects eligible under the 26 surface transportation programs specified in the 2023 CAA (Surface Transportation projects). This eligible use category is broken out into three pathways. Pathway One outlines how recipients may use SLFRF funds for projects receiving funding from DOT. Pathway Two outlines how recipients may use SLFRF funds for projects that are not receiving funding from DOT. Pathway Three outlines how recipients may use SLFRF funds to satisfy non-federal share requirements for certain Surface Transportation projects or to repay a loan provided under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. The requirements of titles 23, 40, and 49 of the U.S. code generally apply to this eligible use category.

TITLE I PROJECTS

The IFR outlines how recipients may use SLFRF funds for activities that are eligible under section 105(a) of the Housing and Community Development Act of 1974 (Title I projects), which are the eligible activities under the Community Development Block Grant (CDBG) and Indian Community Development Block Grant (ICDBG) programs. The eligible activities under the Title I projects eligible use category are broad and enable recipients to undertake a wide range of projects. The requirements of title I of the Housing and Community Development Act of 1974 generally apply to this eligible use category.

INTERIM FINAL RULE EFFECTIVE DATE AND TIMELINE FOR USE OF FUNDS

The IFR was submitted for publication in August 2023 and will become effective when published. Recipients may use SLFRF funds for the new eligible uses for costs incurred beginning December 29, 2022. Consistent with the existing eligible uses, recipients must obligate SLFRF funds for the new eligible uses by December 31, 2024. Recipients must expend SLFRF funds obligated to provide emergency relief from natural disasters by December 31, 2026. Recipients must expend SLFRF funds obligated for Surface Transportation projects and Title I projects by September 30, 2026.

Emergency Relief from Natural Disasters

Recipients may use SLFRF funds to provide emergency relief from natural disasters or the negative economic effects of natural disasters. Recipients seeking to use SLFRF funds for this eligible use category should undertake the following two-step process:

1. Identify a natural disaster that has occurred or is expected to occur imminently, or a natural disaster that is threatened to occur in the future.
2. Identify emergency relief that responds to the physical or negative economic impacts, or potential physical or negative economic impacts, of the natural disaster. The emergency relief must be related and reasonably proportional to the impact identified.

IDENTIFYING NATURAL DISASTERS

The IFR defines a natural disaster as a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, or fire, in each case attributable to natural causes, that causes or may cause substantial damage, injury, or imminent threat to civilian property or persons. A natural disaster may also include another type of natural catastrophe, attributable to natural causes, that causes or may cause substantial damage, injury, or imminent threat to civilian property or persons.

IDENTIFYING EMERGENCY RELIEF

The IFR defines emergency relief as assistance that is needed to save lives and to protect property and public health and safety, or to lessen or avert the threat of catastrophe. The assistance must be related and reasonably proportional to the physical or negative economic impacts of the natural disaster that has occurred or is expected to occur imminently, or to the potential physical or negative economic impacts of a natural disaster that is threatened to occur in the future.

If responding to a natural disaster that has occurred or is expected to occur imminently, recipients must identify a natural disaster that meets Treasury's definition above and an emergency declaration or designation for the recipient's geography and jurisdiction in the form of:

- An emergency declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- An emergency declaration by the Governor of a state pursuant to respective state law;
- An emergency declaration by a Tribal government; or
- A designation of an event of a natural disaster by the chief executive (or equivalent) of a recipient government as long as the chief executive documents the event satisfies the definition of natural disaster provided above.

If providing assistance to lessen or avert the threat of a future natural disaster, recipients should document evidence of historical patterns or predictions of natural disasters that would reasonably demonstrate the likelihood of future occurrence of a natural disaster in its community.¹ Recipients should use this evidence to support its determination that mitigation measures would be related and reasonably proportional to the threat of a natural disaster.

¹ For example, a recipient could utilize [FEMA's National Risk Index](#) to establish the likelihood of a future hurricane, or a Tribal government could cite [Indigenous Traditional Ecological Knowledge](#) to determine future risks

NON-EXHAUSTIVE LIST OF ELIGIBLE USES

Below, Treasury identifies a non-exhaustive list of eligible emergency relief, which means that the listed eligible uses include some, but not all, of the uses of funds that could be eligible. The list distinguishes between emergency relief provided from a declared or designated natural disaster that has occurred or is expected to occur imminently, and emergency relief provided from the threat of a future natural disaster. To assess whether additional types of emergency relief would be eligible under this category beyond the non-exhaustive list provided below, recipients should first identify a natural disaster and then identify emergency relief that responds to the natural disaster's physical or negative economic impacts according to the standards discussed above.

Declared or Designated Natural Disasters

- **Temporary housing:**

- Rental assistance, reimbursement for hotel costs
- Temporary housing units when individuals are facing challenges finding permanent housing due to shortages caused by a natural disaster
- Temporary emergency housing including congregate and non-congregate shelter
- Shelter following an evacuation

- **Food assistance**

• **Financial assistance for lost wages:**

Supplemental benefits for individuals participating in state unemployment insurance programs or the Department of Labor's DUA program at the time of the disaster or following the disaster. The supplemental benefit may not exceed \$400 a week for the duration of the need for emergency relief.

- **Other immediate needs.** Additional eligible uses to address other immediate needs:

Emergency protective measures, including:

- | | |
|---|---|
| <ul style="list-style-type: none">✓ Transportation and pre-positioning equipment and resources✓ Flood fighting✓ Firefighting✓ Supplies and commodities✓ Medical care and transport✓ Evacuation and sheltering✓ Childcare✓ Demolition of structures✓ Search and rescue to locate survivors, household pets and service animals✓ Use or lease of temporary generators for facilities that provide essential community services✓ Dissemination of information to the public to provide warnings and guidance about health and safety hazards✓ Searching to locate and recover human remains | <ul style="list-style-type: none">✓ Storage and interment of unidentified human remains✓ Mass mortuary services✓ Construction of emergency berms or temporary levees to provide protection from floodwaters or landslides✓ Emergency repairs necessary to prevent further damages✓ Buttrressing, shoring or bracing facilities to stabilize them or prevent collapse✓ Emergency slope stabilization✓ Mold remediation✓ Extracting water and clearing mud, silt, or other accumulated debris✓ Taking actions to save the lives of animals✓ Snow removal |
|---|---|

In addition to eligible uses summarized above, recipients may also use SLFRF funds to address other immediate needs such as those listed below.

- **Debris removal**, including the clearance, removal, and disposal of vegetable debris (such as tree limbs, branches, stumps, or tress), construction and demolition debris, sand, mud, silt, gravel, rocks, boulders, white goods, and vehicle and vessel wreckage.
- **Public infrastructure repair**, including roads, bridges, and utilities damaged by a natural disaster, restoring the infrastructure to its pre-disaster size, capacity, and function. Recipients may incorporate mitigation measures into the repair project by following the requirements described in the mitigation section below.
- **Increased operational costs** including payroll costs and costs for government facilities and government services used before, during or after a natural disaster.
- **Cash assistance for uninsured or underinsured disaster-caused expenses** such as repair or replacement of personal property and vehicles, or funds for moving and storage, medical, dental, childcare, funeral expenses, behavioral health services, and other miscellaneous items.
- **Cash assistance for low-income households** that have been impacted by a natural disaster.
 - Low-income households are ones with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines by the Department of Health and Human Services or (ii) income at or below 40 percent of area median income for the county and size of household based on the most recently published data by the Department of Housing and Urban Development.
- **Home repairs for primary residences not covered by insurance that have become uninhabitable** because of natural disaster to make the residence habitable again. Recipients may incorporate mitigation measures into the repair project by following the requirements described in the mitigation section below.

Threat of Future Natural Disasters

Mitigation Activities to lessen or avert the threat of a natural disaster and its potential physical or negative economic impacts, including structure elevation, mitigation reconstruction, dry flood proofing, structural retrofitting, non-structure retrofitting, wind retrofit, and infrastructure retrofit. Mitigation activities may be stand-alone projects that reduce or eliminate the potential impacts of the threat of natural disaster and may also be incorporated into repair or reconstruction projects that address the impacts of a natural disaster.

MITIGATION ACTIVITIES WITH CAPITAL EXPENDITURES EXCEEDING \$1 MILLION

For mitigation activities with total expected capital expenditures of \$1 million or greater, recipients (except for Tribal governments) must complete and meet the substantive requirements of a Written Justification for the capital expenditures in their project.

A Written Justification includes:

- *Description of emergency relief to be provided and potential impact to be addressed:* Recipients must provide a description of the specific mitigation activities to be provided, and why the emergency relief is needed to lessen or avert the potential impacts of the natural disaster that is threatened to occur in the future. When appropriate, recipients may provide quantitative information on the extent and type of assistance needed, such as the number of individuals or entities that may be affected. Recipients must use the documented evidence of historical patterns or predictions of natural disasters that would reasonably demonstrate the likelihood of future occurrence of a natural disaster in their communities, along with considerations of efficacy, cost, cost effectiveness, and time to delivery, to support their determinations that mitigation activities would be related and reasonably proportional.
- *Explanation of why a capital expenditure is appropriate:* Recipients must provide an assessment demonstrating why a mitigation activity capital expenditure is appropriate to address the specified potential impact identified. The assessment must include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate to addressing the potential impact of the threat of a natural disaster and why policy changes or additional funding to pertinent programs or services would be insufficient without the corresponding capital expenditures.
- *Comparison of the proposed capital expenditure against alternative capital expenditures:* Recipients must provide an objective comparison of the proposed mitigation 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 must assess the proposed capital expenditure against at least two alternative types or sizes of capital expenditures that are potentially effective and reasonably feasible. Where relevant, recipients must compare the proposal against the alternative of improving existing capital assets already owned or leasing other capital assets. Recipients must 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 must provide an explanation for doing so.

DUPLICATION OF BENEFITS

As a general matter, recipients may not claim use of federal financial assistance to cover a cost that the recipient is covering with another federal award, by insurance, or from another source, and subrecipients are bound by the same requirements as recipients. Specific requirements apply when recipients use federal funds to provide assistance with respect to losses suffered as a result of a major disaster or emergency declared under the Stafford Act (disaster losses). If a recipient uses SLFRF funds to cover disaster losses, the Stafford Act's prohibition on duplication of benefits applies. Recipients may not provide financial assistance to a person, business concern, or other entity with respect to disaster losses for which the beneficiary will receive financial assistance under any other program or from insurance or any other source. Recipients may provide assistance with respect to disaster losses to a person, business concern, or other entity that is or may be entitled to receive assistance for those losses from another source, if such person, business concern, or other entity has not received the other benefits by the time of application for SLFRF funds and the person, business concern, or other entity agrees to repay any duplicative assistance to the SLFRF recipient. Recipients also may use SLFRF funds to provide assistance for any portion of disaster losses not covered by other benefits. Recipients are

advised to review FEMA's guidance, which describes a "delivery sequence" for assistance for disaster losses. Recipients must treat SLFRF funds as last in the delivery sequence, unless the recipient, in consultation with the appropriate FEMA Regional Administrator or state disaster-assistance administrator, determines that another sequence is appropriate. Recipients also must notify subrecipients and contractors that, when providing assistance in response to a Stafford Act declaration, they are responsible for ensuring that beneficiaries disclose any other assistance received for the same disaster losses prior to receiving assistance with SLFRF funds.

LABOR STANDARDS

Treasury encourages recipients to adhere to strong labor standards when undertaking capital expenditures to provide emergency relief from natural disasters, 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.

Surface Transportation and Title I Projects

Recipients may use SLFRF funds for Surface Transportation projects and Title I projects. For projects undertaken under these eligible use categories, there are several statutory requirements that apply to these eligible use categories, including:

Limitation on SLFRF Contribution Towards Surface Transportation and Title I Projects: The total amount of SLFRF funds that a recipient may use for Surface Transportation projects and Title I projects, taken together, cannot exceed the greater of \$10 million and 30% of a recipient's SLFRF allocation. For example:

- Consider a recipient that received \$60 million in SLFRF funds. This recipient would have \$18 million available to use for Surface Transportation projects and Title I projects.
- This recipient could choose to spend \$10 million under the Surface Transportation projects eligible use category and \$8 million in the Title I projects eligible use category, or \$3 million for Surface Transportation projects and \$15 million for Title I projects, or some other combination.
- This recipient cannot spend more than \$18 million in SLFRF funds across the Surface Transportation projects and Title I projects eligible use categories, taken together.

Restriction on Supplanting of Funds: Recipients using SLFRF funds for Surface Transportation projects and Title I projects must supplement, and not supplant, other federal, state, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses. Funds are considered "otherwise available for such uses":

- For non-federal funds, if they have been obligated for activities or projects that are eligible as part of any Surface Transportation project or Title I project, or
- For federal funds, if a federal agency has committed to a particular project pursuant to an award agreement or otherwise.

For the Surface Transportation projects and Title I projects eligible use categories, this means that SLFRF recipients may not:

- De-obligate funds that were obligated for specific uses that are eligible Surface Transportation project or Title I project activities (e.g., cancel, amend, renegotiate, or otherwise revise or abrogate a contract, subaward, or similar transaction that requires payment) and replace those previously obligated funds with SLFRF funds.
- Use SLFRF funds to replace federal or non-federal funds identified in a federal commitment, such as an award agreement.

The supplement, not supplant restriction does not apply to the other eligible use categories in the SLFRF program, including the emergency relief from natural disasters eligible use category.

Applicability of Certain Existing Laws: Except as otherwise determined by the Secretary, the use of SLFRF funds for Surface Transportation and Title I projects is subject to certain other laws, including the requirements of titles 23, 40, and 49 of the U.S. Code, title I of the Housing and Community Development Act of 1974, and the National Environmental Policy Act of 1969. The sections that follow discuss how these laws apply.

Obligation and Expenditure Deadline: Recipients using SLFRF funds for Surface Transportation and Title I projects must obligate funds by December 31, 2024 and expend funds by September 30, 2026.

Surface Transportation Projects

Recipients may use SLFRF funds for Surface Transportation projects in the following ways:

1. Supplementing surface transportation projects receiving funding from DOT (Pathway One)
2. Funding surface transportation projects not receiving funding from DOT (Pathway Two)
3. Satisfying non-federal share requirements for certain surface transportation projects or repaying a loan provided under the TIFIA program (Pathway Three)

In addition to the limitations and requirements described above, the eligible projects and additional requirements and limitations associated with each pathway are outlined below.

PATHWAY ONE: SURFACE TRANSPORTATION PROJECTS RECEIVING FUNDING FROM DOT

Recipients may use SLFRF funds for Surface Transportation projects that are or will be receiving funding from DOT prior to the obligation deadline of December 31, 2024. A Surface Transportation project must be subject to DOT's oversight during the period that SLFRF funds are used for the project. Recipients must consult with DOT before using SLFRF funds under Pathway One. Under Pathway One, recipients may:

- Expand an existing project that is receiving funding from DOT
- Cover unexpected costs of an existing project receiving funding from DOT
- Expand the scope of a project, cover additional costs, or in other ways supplement DOT funding for projects that have not yet, but will receive funding from DOT by the December 31, 2024 obligation deadline

PATHWAY ONE - ELIGIBLE DOT PROGRAMS

Under Pathway One, recipients may use SLFRF funds for projects eligible only under the programs listed below. Recipients should refer to the relevant program guidance for DOT programs of interest for further information and detail about the types of projects eligible under those programs.

- | | |
|---|--|
| <ul style="list-style-type: none">✓ INFRA Grants✓ National Highway Performance Program✓ Bridge Investment Program✓ Surface Transportation Block Grant Program✓ Highway Safety Improvement Program✓ Congestion Mitigation and Air Quality Improvement Program✓ Charging and Fueling Infrastructure Discretionary Grant Program✓ Territorial and Puerto Rico Highway Program✓ National Highway Freight Program✓ Rural Surface Transportation Grant Program✓ Carbon Reduction Program✓ Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation Program✓ Tribal Transportation Program✓ Federal Lands Transportation Program✓ Federal Lands Access Program | <ul style="list-style-type: none">✓ Rebuilding American Infrastructure with Sustainability and Equity Grant Program✓ Transportation Infrastructure Finance and Innovation Act Program✓ Urbanized Formula Grants✓ Fixed Guideway Capital Investment Grant✓ Formula Grants for Rural Areas✓ State of Good Repair Grants✓ Grants for Buses and Bus Facilities✓ National Culvert Removal, Replacement, and Restoration Grant Program✓ Bridge Replacement, Rehabilitation, Preservation, Protection, and Construction Program✓ Activities to carry out metropolitan transportation planning✓ Projects that further the completion of a designated route of the Appalachian Development Highway System |
|---|--|

PATHWAY ONE – APPLICABLE REQUIREMENTS

Recipients using SLFRF funds for Surface Transportation projects under Pathway One must comply with the applicable requirements and limitations that apply to the project as administered by DOT, including the applicable requirements of titles 23, 40, and 49. Recipients are responsible for ensuring all requirements are met, as would typically be the case for a DOT-funded project in the absence of SLFRF funds.

Recipients using SLFRF funds for Surface Transportation projects under Pathway One are not required to contribute cost-sharing or matching funds alongside SLFRF funds. However, because SLFRF funds are federal funds, using SLFRF funds under Pathway One will still impact the cost-share requirements that apply to certain Surface Transportation projects due to differences in applicable non-federal cost share requirements across DOT projects and programs. In some cases, DOT programs are capped in the amount of federal funds that may be used in a project, regardless of whether those funds are provided by DOT or another federal source. This is true, for example, of the State of Good Repair Grant Formula Program, the Railcar Vehicle Replacement Program, and Grants for Buses and Bus Facilities Program. Recipients must consult with DOT to determine the applicable non-federal cost share requirements.

In addition, recipients must also comply with the following requirements:

- **Limitation on Operating Expenses:** Recipients using SLFRF funds for projects eligible for Urbanized Formula Grants, Fixed Guideway Capital Investment Grants, Formula Grants for Rural Areas, State of Good Repair Grants, or Grants for Buses and Bus Facilities may not use SLFRF funds for operating expenses of these projects. Operating expenses are those costs necessary to operate and manage a public transportation system, including costs such as driver salaries, the cost of fuel, and the cost of equipment and supplies having a useful life of less than one year. Operating expenses do not include preventive maintenance activities. The limitation on operating expenses does not apply to other Surface Transportation projects or to other uses of SLFRF funds, including under the revenue loss eligible use category.
- **State of Good Repair and Performance Targets:** States that use SLFRF funds for Surface Transportation projects under Pathway One for programs eligible under title 23, or that otherwise are subject to the requirements of title 23, must either demonstrate progress in achieving a state of good repair under 23 U.S.C. 119(e) or support the achievement of one or more performance targets under 23 U.S.C. 150.

Treasury is delegating authority to DOT to oversee and administer compliance with certain requirements applicable to Surface Transportation projects within Pathway One. Recipients that direct SLFRF funds toward Surface Transportation projects under Pathway One are required to complete the existing DOT reporting requirements that already apply to projects funded by DOT and will be required to report certain information to Treasury. In all instances, recipients must consult with DOT prior to using SLFRF funds under Pathway One.

PATHWAY TWO - SURFACE TRANSPORTATION PROJECTS NOT RECEIVING FUNDING FROM DOT

If recipients wish to pursue Surface Transportation projects that are not or will not be funded by DOT, they may pursue them under Pathway Two. Pathway Two projects will be administered by Treasury. Within this pathway, Treasury is articulating a streamlined framework for recipients to use up to \$10 million in SLFRF funds per project on Surface Transportation projects that do not include DOT funding but meet certain parameters. Recipients may begin using SLFRF funds now for projects that meet the parameters of the streamlined framework, outlined below.

For recipients seeking to use SLFRF funds under Pathway Two for projects outside the parameters of the streamlined framework, recipients must submit a Notice of Intent to Treasury through the process described in the next section. Treasury will use the notices of intent, along with comments to the IFR, to design and implement the framework for approving these projects.

PATHWAY TWO - STREAMLINED FRAMEWORK

In the streamlined framework, recipients may use SLFRF funds for a Surface Transportation project not receiving funding from DOT to conduct a project that would be eligible under the RAISE grant program and that meets the criteria discussed below.² For these projects, recipients are not required to submit an application to, or receive approval from, Treasury to conduct the project. For a RAISE-eligible project to qualify for the streamlined framework, it must satisfy the following criteria:

- **Contributes no more than \$10 million SLFRF:** The recipient's contribution of SLFRF funding to the project under Pathway Two must not exceed \$10 million. If a recipient has more than \$10 million available for Surface Transportation and Title I projects, as discussed in the earlier example, then it could choose to fund multiple \$10 million projects under Pathway Two. (It could also choose to fund one \$10 million project under Pathway Two and use remaining funds available under the cap on funds for Title I projects. It could also choose to spend the remaining funds in another eligible use category where there is no cap on funds.)
- **Limited to actions that typically do not have a significant environmental impact:** The entire project scope must be limited to the set of actions or activities deemed by DOT as meeting the criteria for categorical exclusion as listed under 23 C.F.R. [771.116\(c\)\(1\)-\(22\)](#), [771.117\(c\)\(1\)-\(30\)](#), and [771.118\(c\)\(1\)-\(16\)](#). The recipient also must determine that those actions do not involve unusual circumstances, as described in 23 CFR 771.116(b), 771.117(b), and 771.118(b).

PATHWAY TWO- APPLICABLE REQUIREMENTS

Generally, the requirements of titles 23, 40, and 49 apply to recipients' use of SLFRF funds under Pathway Two (both to projects under the streamlined framework and projects outside the streamlined framework). Furthermore, restrictions that apply to projects regardless of the source of funds of the project apply as they would to any other project carried out by a recipient. For all of the applicable requirements under titles 23, 40, and 49 described below, the associated DOT regulations also apply, unless Treasury states otherwise.

Applicable portions of Titles 23, 40, and 49 generally include:

- Title 23: All parts of title 23
- Title 40: Chapters 141 and 145
- Title 49: Chapters 53, 55, 67, 471, and subtitle V

² The eligibility of projects under the RAISE grant program is described in the "Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments (i.e., the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program) under the Infrastructure Investment and Jobs Act ("Bipartisan Infrastructure Law"), Amendment No. 2" (2023 RAISE Grant NOFO) under "3. Other" in "C. Eligibility Information, available at <https://www.transportation.gov/sites/dot.gov/files/2023-02/RAISE%202023%20NOFO%20Amendment2.pdf>.

More specifically, applicable provisions include those relating to the following requirements:

- Underlying project requirements.
 - For example, if a recipient intends to use SLFRF funds under Pathway Two for an INFRA project that would be eligible under title 23 (as included by the RAISE program), then in addition to complying with the requirements established in the RAISE NOFO, the recipient must also comply with the project eligibility and execution requirements of the INFRA program in 23 U.S.C. 117.
- Design, planning, construction, operation, maintenance, vehicle weight limit, and toll requirements with respect to particular projects.
- Location requirements for particular projects.
- Project approval requirements.
 - The approval requirements of titles 23, 40, and 49 of the U.S. Code apply to Pathway Two projects other than those that qualify for the streamlined framework described above. Treasury has determined not to require recipients to submit an application to, or receive approval from, Treasury to conduct a project that would be eligible under the RAISE grant program and meets the criteria of the streamlined framework of Pathway Two. Depending on the nature of the project, a recipient may still be required to obtain approval pursuant to a specific requirement under titles 23, 40 or 49 or the regulations adopted by DOT thereunder.
- Procurement requirements.
 - Recipients generally must satisfy the Buy America requirements of titles 23, 40, and 49 of the U.S. Code when funds are used on Surface Transportation projects under Pathway Two. However, recipients are not required to satisfy with the Buy America requirements in the case of Surface Transportation projects meeting the criteria for streamlined projects under Pathway Two.
- Wage and labor requirements.
 - For example, the requirements of 23 U.S.C. 113, applying Davis-Bacon prevailing wage protections for highway projects, apply.
- Compliance requirements.
 - Compliance provisions apply to the extent that they require recipients to establish and maintain measures to oversee the eligible projects that they are undertaking.
- Definitions of terms used in the provisions above.

Recipients should note that the RAISE program includes eligibility for projects with applicable requirements that are found outside of titles 23, 40, and 49. If a recipient would like to use SLFRF funds for a project eligible under the RAISE program but governed by laws outside titles 23, 40, and 49, the general principles described above for titles 23, 40, and 49 will apply, and recipients may ask Treasury for more detail about the specific requirements that apply to the particular project.

In addition to the applicable requirements of titles 23, 40, and 49 described above, recipients pursuing Surface Transportation projects under Pathway Two must also comply with the following requirements:

- **Limitation on Operating Expenses:** Recipients using SLFRF funds for projects eligible for Urbanized Formula Grants, Fixed Guideway Capital Investment Grants, Formula Grants for Rural Areas, State of Good Repair Grants, or Grants for Buses and Bus Facilities may not use SLFRF funds for operating expenses of these projects. Operating expenses are those costs necessary to operate and manage a public transportation system,

including costs such as driver salaries, the cost of fuel, and the cost of equipment and supplies having a useful life of less than one year. Operating expenses do not include preventive maintenance activities. The limitation on operating expenses does not apply to other Surface Transportation projects or to other uses of SLFRF funds, including under the revenue loss eligible use category.

- **State of Good Repair and Performance Targets:** States that use SLFRF funds for Surface Transportation projects under Pathway Two for programs eligible under title 23, or that otherwise are subject to the requirements of title 23, must either demonstrate progress in achieving a state of good repair under 23 U.S.C. 119(e) or support the achievement of one or more performance targets under 23 U.S.C. 150.
- **National Environmental Policy Act (NEPA):** Recipients using funds for Surface Transportation projects that qualify for the streamlined framework under Pathway Two are not required to conduct NEPA environmental reviews. However, projects supported with SLFRF funds may still be subject to NEPA review and other environmental statutes if they are also funded by other federal financial assistance programs or have certain federal licensing or registration requirements. In addition, a project that qualifies for the streamlined framework may still be subject to limitations or prohibitions as a result of the application of other environmental statutes. For projects under Pathway Two outside of the streamlined framework, recipients must submit a notice of intent as outlined above, and the requirements of NEPA and other environmental laws apply to these Surface Transportation projects

PATHWAY TWO - INAPPLICABLE REQUIREMENTS OF TITLES 23, 40, AND 49

Certain sections of the relevant chapters of titles 23, 40, and 49 of the U.S. Code do not apply to recipients' use of SLFRF funds for Surface Transportation projects under Pathway Two. The following types of provisions generally do not apply:

- Grant size requirements
- Allocation requirements that require states to distribute funds received under certain programs to their local governments or to spend funds received under certain programs for the benefit of particular areas
- Non-federal cost-share requirements
- Reporting requirements that would normally apply when DOT provides funding for a project
- STIP/TIP Requirements
 - Generally, the STIP and TIP requirements do not apply to SLFRF funds used for Surface Transportation projects under Pathway Two. However, if a project receiving SLFRF funds under this framework is regionally significant and requires an action by the FHWA or the FTA, it will still be required to be included in the STIP or TIP. If a project receiving SLFRF funds under this framework is included in a TIP, for informational and conformity purposes, it also may be required to be included in the STIP.

PATHWAY TWO – PROJECTS OUTSIDE OF THE STREAMLINED APPROACH – NOTICE OF INTENT

Recipients interested in financing Surface Transportation projects outside of the parameters of the streamlined approach in Pathway Two must submit a notice of intent to Treasury. The notice of intent must be submitted to NOI-SLFRF@Treasury.gov and is due 30 calendar days after the end of the IFR comment period. For an example of what an ideal notice of intent would include, please see the IFR section titled “Pathway Two: Notice of Intent for Projects Outside Streamlined Framework.”

Treasury will evaluate the projects included in these notices of intent, along with comments to this IFR, to design and implement the framework for approving these types of projects.

PATHWAY THREE: USING SLFRF TO SATISFY NON-FEDERAL SHARE REQUIREMENTS FOR CERTAIN SURFACE TRANSPORTATION PROJECTS

Under Pathway Three, recipients may use SLFRF funding to repay a TIFIA loan or to satisfy non-federal share requirements for projects eligible under the following programs:

- | | |
|--|---|
| ✓ INFRA Grants | ✓ Mega Grants |
| ✓ Fixed Guideway Capital Investment Grants | ✓ Projects eligible for credit assistance under the TIFIA program |

If a recipient uses SLFRF funds to satisfy the non-federal share requirements for projects eligible under the programs noted above, DOT will not treat the SLFRF funds as federal funds for this limited purpose and will credit SLFRF toward applicable cost-share or non-federal match requirements accordingly.

Recipients using SLFRF funds to satisfy non-federal cost share requirements under Pathway Three must consult with DOT to understand the applicable non-federal cost share requirements and how SLFRF funds may be used for these purposes. As with any use of funds to meet non-federal cost share requirements, the requirements associated with the project, as administered by DOT, continue to apply unless otherwise provided by DOT. Recipients are required to comply with the existing DOT reporting requirements associated with the project for which they are using SLFRF funds for non-federal share requirements. Recipients will also be required to report certain information to Treasury.

Title I projects

Recipients may use SLFRF funds for Title I projects, which are the activities eligible under the CDBG and ICDBG programs, subject to certain requirements and limitations.

ELIGIBLE ACTIVITIES

Below is an illustrative list of eligible Title I projects:

- | | |
|---|--|
| <ul style="list-style-type: none">✓ Acquisition of certain real property for a public purpose, subject to certain limitations✓ Disposition of certain property, subject to certain limitations and rules✓ Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, clearance and remediation activities✓ Public services, subject to the limitation discussed below✓ Interim assistance where immediate action is required for certain activities such as street repair, and costs to complete an urban renewal project under Title I✓ Relocation payments for relocated families, businesses, nonprofit organizations, and farm operations, under certain conditions✓ Payments to housing owners for loss of certain rental income✓ Certain housing services✓ Acquisition, construction, reconstruction, rehabilitation, or installation of privately owned utilities | <ul style="list-style-type: none">✓ Rehabilitation and reconstruction of housing, conversion of structures to housing, or construction of certain housing✓ Homeownership assistance✓ Technical assistance to entities to increase capacity to carry out CDBG-eligible projects✓ Assistance to certain institutions of higher education to carry out eligible activities✓ Administration activities including general management, oversight, and coordination costs, fair housing activities, indirect costs, and submission of applications for federal programs✓ Planning activities including the development of plans and studies, policy planning, and management and capacity building activities; and✓ Satisfying the non-federal share requirements of a federal financial assistance program in support of activities that would be eligible under the CDBG and ICDBG programs³ |
|---|--|

³ Recipients using SLFRF funds to satisfy non-federal match or cost-share requirements under the Title I eligible use category must analyze the projects and activities for which they intend to use SLFRF funds to meet non-federal share requirements to confirm that the project or activity is an eligible activity under section 105 of the Housing and Community Development Act and would comply with HUD's statutory, regulatory, and other requirements apply to CDBG and ICDBG activities.

INELIGIBLE ACTIVITIES UNDER TITLE I

Specific activities are generally not eligible projects under CDBG or ICDBG and accordingly, are not available as eligible projects under the Title I eligible use category. While the following projects are not eligible uses of SLFRF funds as a Title I project, they still may be eligible uses of SLFRF funds under other SLFRF eligible use categories. Non-Tribal government recipients should reference HUD's regulations at 24 CFR 570.207 and the "Activities Specified as Ineligible" section of HUD's Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities for more information. Tribal governments should reference HUD's regulations at 24 CFR 1003.207. The activities that are generally ineligible under CDBG and ICDBG are the following:

- | | |
|---|--------------------------------------|
| ✖ Buildings or portions thereof, used for the general conduct of government | ✖ Purchase of equipment |
| ✖ General government expenses | ✖ Operating and maintenance expenses |
| ✖ Political activities | ✖ New housing construction |
| | ✖ Income payments |

TITLE I PROJECTS PROGRAM REQUIREMENTS

Recipients using SLFRF funds for Title I projects generally must comply with Title I requirements and the associated regulations. For example, project-level approval and certification requirements generally must be satisfied prior to recipients obligating and expending funds on Title I projects, which in the CDBG program, exist for projects subject to certain environmental reviews. On the other hand, recipients are not required to provide the Title I certification requirements that apply at the consolidated and annual planning level. In addition, recipients must comply with NEPA requirements, as implemented by Title I and the associated HUD regulations, and as adapted to the SLFRF program by Treasury.

Eligible activities must also satisfy other program requirements such as adherence to the Primary Objective and CDBG National Objectives, as described below, to be eligible under this eligible use category. Recipients should refer to and must comply with the following HUD regulations when determining eligible projects under this eligible use category: 24 C.F.R. 570.201 - 570.209 with respect to non-Tribal governments and 24 C.F.R. 1003.201 – 1003.209 with respect to Tribal governments. Recipients may refer to additional HUD guidance for information about the full list of projects eligible under CDBG, including guidance about complying with the National Objectives and other program requirements.

Where applicable, program requirements of the CDBG Entitlement Grants program will apply to non-Tribal government SLFRF recipients, and program requirements of the ICDBG Single Purpose Grants will apply to Tribal Government SLFRF recipients.

Project-level Approval and Certification Requirements

As noted above, when using SLFRF funds for Title I projects, recipients must satisfy project-level approval and certification requirements related to NEPA environmental review requirements.

Recipients are not required to submit certifications or obtain Treasury approval for Title I projects that satisfy either of the criteria below. Additionally, they may begin using SLFRF funds for the project right away:

- | | |
|--|--|
| ✓ Exempt Activities: as contemplated by 24 FR 58.34(a). | ✓ Categorically Excluded Activities Not Subject to 24 CFR 58.5: as contemplated by 24 CFR 58.35(b), provided that the circumstances described in 24 CFR 58.35(c) are not present. |
|--|--|

For exempt projects, recipients must document in writing that the project meets the conditions of a specified exemption. For categorically excluded projects, recipients are required to maintain an Environmental Review Record, which is a well-organized written record of the process and determinations made with respect to the categorical exclusion. Treasury will provide additional information on the Environmental Review Record and certification requirements following issuance of the IFR.

For recipients using SLFRF funds for Title I projects that do not meet the criteria above, recipients must comply with the environmental review requirements set forth in the HUD statute and regulations, submit a certification to Treasury, and receive approval.

Other Program Requirements

When using SLFRF funds for Title I projects, recipients must comply with the following requirements that apply to the total amount of SLFRF used towards Title I projects, including:

For all SLFRF recipients:

- ✓ **The Primary Objective:** SLFRF recipients must direct at least 70% of SLFRF funds used for Title I projects to projects that principally benefit low- and moderate-income persons.
- ✓ **Public Services Cap:** Not more than 15% of SLFRF funds used for Title I projects may be spent under the “public services” category of eligible activities.
- ✓ **Planning and Administrative Costs Cap:** Not more than 20% of SLFRF funds used for Title I projects may be spent on planning and administrative costs.
- ✓ **BEAD Program Requirements:** Requirements of the Broadband Equity, Access, and Deployment (BEAD) program apply as outlined in section 60102 of the Infrastructure Investment and Jobs Act.⁴

For non-Tribal SLFRF recipients only:

- ✓ **CDBG National Objectives:** Any project undertaken by a non-Tribal SLFRF recipient must satisfy at least one CDBG National Objective.
- ✓ **Labor Standards Requirements:** Prevailing wage rate requirements in accordance with the Davis-Bacon Act and other labor standards applied by HUD to construction work under Title I apply.⁵

SLFRF recipients that are also CDBG grantees (but not ICDBG grantees) should note that HUD program requirements related to timely expenditures of CDBG funds continue to apply to their CDBG funds. Treasury encourages SLFRF recipients that are also CDBG grantees to continue to spend their CDBG funds in compliance with such requirements.

Treasury is not delegating authority to HUD to oversee or administer Title I projects. Accordingly, recipients will report projects only to Treasury.

⁴ For more guidance, see Section 1.2 of NTIA’s BEAD Program “Letter of Intent and Initial Planning Funding Grant Application Guidance,” available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20Planning%20Application%20Guidance.pdf>.

⁵ Non-Tribal government recipients must comply with these requirements in accordance with HUD regulations for Title I labor standards requirements at 24 CFR 570.603 and may reference Chapter 16.1.1 of HUD’s “Basically CDBG for Entitlements” Guide, HUD’s “Davis-Bacon and Labor Standards: Agency/Contractor Guide,” and HUD’s “Davis-Bacon and Labor Standards: Contractor Guide Addendum.” Such requirements do not apply to Tribal government recipients of SLFRF.

Finally, many of the uses in the Title I projects eligible use category are also eligible in the public health and negative economic impacts eligible use category where there is no cap on the amount of SLFRF funds that may be directed toward an eligible use. Recipients seeking to use SLFRF funds for Title I projects may consider the relevant eligible uses and available funding levels to determine which eligible use category best supports their community's needs. As noted above, this IFR did not alter the public health and negative economic impact eligible use category. Please see the [2022 final rule](#) for more information.

Program Administration

Generally, recipients using SLFRF funds for the new eligible uses added by the 2023 CAA must comply with the general rules and restrictions that apply to the SLFRF program. For example, the restrictions on use set forth in the final rule generally apply to the new eligible uses described in the IFR.

The IFR describes program administration requirements, including timeline for use of funds, use of funds to meet non-federal match or cost-share requirements, and reporting on use of funds.

TIMELINE FOR USE OF FUNDS

The IFR was submitted for publication in August 2023 and will become effective when published. Recipients may use SLFRF funds for these new eligible uses for costs incurred beginning December 29, 2022. Consistent with the existing eligible uses discussed in the 2022 final rule, recipients must obligate SLFRF funds for these new eligible uses by December 31, 2024. Recipients must expend SLFRF funds obligated to provide emergency relief from natural disasters by December 31, 2026. Recipients must expend SLFRF funds obligated for Surface Transportation projects and Title I projects by September 30, 2026.

NON-FEDERAL MATCH OR COST-SHARE REQUIREMENTS

Under the Surface Transportation projects eligible use category, recipients may use SLFRF funds to satisfy non-federal cost share requirements for certain programs under Pathway Three. Under the Title I projects eligible use category, recipients may use SLFRF funds to satisfy the non-federal share requirements of a federal financial assistance program in support of activities that would be eligible under the CDBG and ICDBG programs.

The 2023 CAA did not alter the existing eligible uses of SLFRF funds. Recipients may still use SLFRF funds in accordance with the 2022 final rule. As described in the 2022 final rule, SLFRF funds available under the "revenue loss" eligible use category generally still may be used to meet the non-federal cost-share or matching requirements of other federal programs. However, note that SLFRF funds under the revenue loss eligible use category may not be used as the nonfederal 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 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.

REPORTING, COMPLIANCE & RECOUPMENT

Recipients are required to comply with Treasury's [Compliance and Reporting Guidance](#), which includes submitting mandatory periodic reports to Treasury. Recipients must maintain records supporting their determination that projects meet relevant requirements, and recipients should be prepared to attest to having completed these determinations as part of their ongoing reporting to Treasury. Treasury will update the Compliance and Reporting Guidance with additional information regarding the IFR.



City of Manzanita

COUNCIL RESOLUTION No. 23-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANZANITA, OREGON, APPROVING THE USE OF THE STATE AND LOCAL FISCAL RECOVERY FUNDS FOR THE PURPOSE OF PROVIDING FUNDING FOR THE MANZANITA POLICE STATION AND EMERGENCY OPERATIONS CENTER.

WHEREAS, the City of Manzanita received approximately \$147,000 in Coronavirus State and Local Fiscal Recovery Funds (SLFRF) as part of the American Rescue Plan; and

WHEREAS, the SLFRF funds must be allocated by December 31, 2024, and spent by December 31, 2026; and

WHEREAS, the use of the SLFRF funds for an Emergency Operations Center is an enumerated use as defined by the Department of the Treasury; and

WHEREAS, the City has reviewed all possible options for use of those funds and has determined that the application of these funds toward the construction of the Manzanita Police Station and Emergency Operations Center will allow the city to respond to another future public health crisis effectively and efficiently.

Now, Therefore, be it Resolved by the City Council of the City of Manzanita approves the use of the SLFRF funds for the construction of the Manzanita Police Station and Emergency Operations Center and that funds may be proposed for a transfer from the General Fund into the City Hall Fund as part of a Supplemental Budget.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Linda Kozlowski, Council President

ATTEST:

Leila Aman, City Manager/ City
Recorder

City of Manzanita, Oregon

Position Description

Job Title: City Manager

FLSA: Exempt

Reports to: City Council

Type: Full-Time

Department: Administration

Date: January 2018, Revised January 2022, adopted December 2022

GENERAL STATEMENT OF RESPONSIBILITIES

The City Manager acts as the Chief Executive Officer of the City of Manzanita. As Chief Executive Officer, the City Manager plans and directs the activities of all City departments, through subordinate department managers and others in accordance with policies as determined by the City Council. The City Manager performs the various duties outlined in the City of Manzanita's Charter and also acts as the City Budget Officer. The position is appointed by, serves at the pleasure of, and is accountable to the Mayor and City Council.

ESSENTIAL JOB FUNCTIONS

Includes, but is not limited to, the following duties and responsibilities listed in no particular order.

CITY COUNCIL SUPPORT

- Provides professional advice to the City Council by recommending programs and services according to the changing needs of the City;
- Attends all meetings of the City Council unless excused by the Mayor or Council President;
- Develops and operationalizes organizational goals as approved by the City Council;
- Analyzes the need for, and prepares draft ordinances and policies that may be deemed necessary or desirable for the health, welfare, and safety of the City or for the improvement of services and makes appropriate recommendations to the City Council for adoption;
- Keeps the Mayor and the City Council informed of any critical needs and or issues by collecting, analyzing, summarizing and reporting information on the needs or issues;
- Prepares monthly status reports and annual reports regarding key accomplishments for each department of the City;
- Prepares and submits to the City Council recommendations relative to all matters requiring Council action, placing before Council such facts, information and reports as are available to ensure informed decision making;
- Responds to requests and answers questions from the Mayor and City Councilors in a timely manner;
- Enforces all ordinances and sees that all terms or franchises, leases, contracts, permits, and privileges granted by the City are observed.

PERSONNEL MANAGEMENT

- Reviews and provides final approval on hiring, discipline and terminations.
- Promotes and encourages a healthy staff environment by motivating, empowering, supporting, and considering staff input;
- Evaluates those employees for whom the City Manager has responsibility, performs this duty in a timely manner and oversees completion of annual performance evaluations;
- Provides management and supervision over employees and their work and organizes employee location and duties as appropriate in consultation with department heads;
- Organizes and supervises the departments to ensure appropriate staff levels to the end of obtaining the utmost efficiency of the City's resources;
- Oversees and encourages the professional development of employees.

FISCAL MANAGEMENT

- Develops and recommends fiscal policies for City operations to the City Council and prepares and submits the annual budget and budget message to the Budget Committee in a timely manner;
- Oversees and manages the financial affairs of the City in a sound manner, ensuring potential sources of revenue are identified and that the City's expenses are consistent with the City Council's objectives and direction, has direct responsibility for administration, maintenance, repair, and operation of the Water department;
- Reviews and approves departmental needs and estimates and monitors overall expenditures to ensure compliance with approved budget;
- Provides oversight on budget implementation by the Accounting Manager and Department Heads (scheduling expenditures, analyzing variances, anticipating short and long-term issues and initiating corrective actions to control budget management)

COMMUNITY RELATIONS

- Ensures efficiency and effectiveness in delivery of services to all customers;
- Identifies and anticipates community service needs and confers with department heads and other staff to suggest new innovations or methods to improve the standard of service provided by the City;
- Promotes the flow of communication inside and outside the organization;
- Represents the City before the public and maintains, through cooperative leadership, both within and outside the City, a program of publicity and public relations to keep the public informed of the activities, needs and accomplishments of the City;
- Meets with private citizens and interest groups seeking information or bringing complaints and attempts to resolve problems tactfully and fairly;
- Attends meetings of community groups to explain City issues and projects and encourage citizen participation and support;
- Represents the City at the regional, state and federal levels; serves on boards and committees as approved by the Council;
- Attends all meetings of other governmental agencies at which matters pertaining to the City appear to be on the agenda or are expected to be raised, and stays informed of the meeting proceedings;
- Is accessible to the public by maintaining public office hours, or scheduling appointments with the public in a timely manner;
- Acts as liaison between the City Council and various service users, regulatory agencies, the public, media and others

THE ABOVE DESCRIPTION COVERS THE MOST SIGNIFICANT DUTIES PERFORMED BUT DOES NOT INCLUDE OTHER OCCASIONAL WORK.

Employee is expected to follow all safety rules and procedures established for work areas. Employee is subject to the recruitment, hiring, and transfers provisions of the City of Manzanita Personnel Handbook.

JOB QUALIFICATIONS

Includes, but is not limited to, the following skills, which are listed in no particular order of importance.

- Considerable knowledge of modern public administration theory, principles, and practices; working knowledge of municipal finance, land use planning, human resources, public safety, public works, and community development;
- Skill in preparing and administering municipal budgets; skill in planning, directing, and administering municipal programs;
- Ability to prepare and analyze comprehensive reports; ability to maintain effective and efficient municipal systems and procedures; ability to effectively hire, train, evaluate, and supervise staff; ability to establish and maintain effective working relationships with employees and City officials;
- Proven demonstration of a high level of integrity and loyalty;
- Ability to communicate effectively both orally and in writing.

SCREENING CRITERIA

Education and Experience:

- A Bachelor's Degree in public administration, business administration, planning, or related area;
- AND Five years' administrative/management experience, including at least three years of supervisory experience;
- OR any satisfactory equivalent combination of education and experience which ensures the ability to perform the essential functions of the position.
- A Master's Degree in public administration is preferred.

Special Requirements/Licenses: A valid Oregon driver's license and proof of an acceptable driving record may be required.

Knowledge of: Broad knowledge of municipal government organization, powers, and functions. Knowledge of the principles and practices of public administration including finance, budgeting, management, and grant writing. Knowledge of inter- and intragovernmental relationships. General knowledge of public contracting laws and best practices. Knowledge of general office procedures and practices; business English, spelling, and punctuation; and personal computer applications in a Windows environment including spreadsheets, database management, and word processing.

Skills: Computer skills, preferably in Microsoft Office Suite® products. Verbal and written communication skills. Interpersonal skills. Supervisory skills. Excellent customer service skills. Strong organizational Skills. Skill in performing basic mathematical calculations and preparing reports.

Ability to: Ability to establish and maintain effective working relationships with elected officials, consultants, staff, other agencies, and the general public. Ability to understand and carry out oral and written instructions. Ability to prioritize, delegate, and complete objectives with little functional oversight. Ability to maintain a high degree of discretion when dealing with confidential information. Ability to communicate effectively, both orally and in writing, using proper grammar and spelling in the English language. Ability to pass a criminal background check. Ability to meet the physical demands of the position.

This description covers the most significant essential and auxiliary duties performed by the position for illustration purposes, but does not include other occasional work, which may be similar, related to, or a logical assignment for the position. This job description does NOT constitute an employment agreement between the employer and employee, and is subject to change by the employer as the organizational needs and requirements of the job change.

Physical Demands of Position: *The physical demands listed below represent those that must be met by an incumbent to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with qualified disabilities to perform the essential functions.*

While performing the duties of this position, the employee is frequently required to stand, walk, reach, bend, kneel, stoop, twist, crouch, climb, balance, see, talk, hear, and manipulate objects. The position requires mobility including the ability to frequently lift or move materials up to 10 pounds and rarely move material over 25 pounds. Manual dexterity and coordination are required for over half of the daily work period which is spent while operating office equipment such as computers, keyboards, 10-key, telephones and other standard office equipment. This position requires both verbal and written communication abilities.

Working Conditions: *The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.*

While performing the duties of this position, the employee is primarily working indoors in an office environment. The employee is not exposed to hazardous conditions. The noise level in the work environment is usually moderate and lighting is adequate.

SIGNATURES:

This document has been reviewed by the Mayor and the Incumbent. I understand that this document is intended to describe the most significant essential and auxiliary duties performed by the job/position for illustration purposes, but does not include other occasional work, which may be similar, related to, or a logical assignment for the position. This job/position description does NOT constitute an employment agreement between the employer and employee, and is subject to change by the employer as the organizational needs and requirements of the job change.

Incumbent Name

Incumbent Signature

Date

Mayor Name

Mayor Signature

Date

Revised January 2022

This description covers the most significant essential and auxiliary duties performed by the position for illustration purposes, but does not include other occasional work, which may be similar, related to, or a logical assignment for the position. This job description does NOT constitute an employment agreement between the employer and employee, and is subject to change by the employer as the organizational needs and requirements of the job change.

City of Manzanita

City Manager Self-Evaluation

PERFORMANCE AND DEVELOPMENT APPRAISAL

Please address the areas of job performance listed below by addressing each one with the following questions:

PRIOR YEAR: 20__ to 20__

1. What were your goals for the previous year?
2. What were the successes?
3. What obstacles or setbacks did you encounter during the year?
4. What is still needed and why?
5. What other job-related accomplishments have you had that were in addition to the preset goals?

CURRENT YEAR: 20__ to 20__

6. What do you see as your major goals for the current fiscal year?
7. Describe action plan for completion of the stated goals.

Areas to be addressed with the above template, where applicable:

- City Operations
- Personnel Management and Administration
- Special Projects
- Fiscal Management and Planning
- Community relations and outreach
- Mayor and City Council

Are there any other issues or comments you wish to share?

Do you have suggestions for the City Council?

STAFF EVALUATION OF CITY MANAGER, Leila Aman
YEAR 2022-2023

Please help the Council in our annual City Manager evaluation. Your answers are confidential and may be anonymous if you wish. Answer the questions as they relate to your job only.

1. Does the City Manager (CM) communicate responsibilities and tasks to you clearly?
2. Does the CM respond adequately and timely to your concerns and suggestions?
3. Describe your working relationship with the CM? (Do you feel listened to? Do you feel supported? Can you make independent decisions if needed?) Please explain.
4. Are there any issues the Council should be aware of regarding personnel management, either positive or challenging? Please be specific.

City Manager
PERFORMANCE EVALUATION NAME:
EVALUATION PERIOD:

Open Ended Questions

- 1) What impressed you the most favorably about Manager's performance this past year?
- 2) How well did Manager do in implementing council adopted goals and priorities?
- 3) In what areas has Manager shown exceptional performance?
- 4) What's your major area(s) of concern regarding Manager's performance this past year?
- 5) What should be Manager's top three goals/targets for the next year?

Rating Scale Questions

Rate each Category as follows:

5 = Exceptional

4 = Exceeds Expectations

3 = Meets Expectations

2 = Below Expectations

1 = Needs Improvement

A. Elected Body Relationships _____

- Mayor and Councilors are informed of organization activities, progress, and problems on a regular basis.
- Receptive to councilor ideas and suggestions
- Makes sound recommendations for Council action
- Effectively implements policy decisions of the board
- Follows up on all problems and issues brought to his attention
- Accepts responsibility

B. Organizational _____

- Leads a smooth-running and continuously improving organization
- Is progressive in attitude and action
- Follows through on set plans and deadlines
- Emphasizes development and enhancement of the skills of all employees
- Hires and retains competent staff members who know what is expected of them
- Delegates effectively
- Encourages high staff productivity

C. Community Relations _____

- Is appropriately visible and active within the community
- Understands and is knowledgeable about the needs of the community
- Encourages and honestly considers community input
- Provides programs and services that are up to community standards and expectations

D. Fiscal Performance _____

- Presents balanced annual budgets with programs and service levels clearly identified
- Recognizes and manages the budget within fiscal constraints
- Displays common sense and good judgment in business transactions
- Seeks all available funding sources
- Provides accurate and complete financial reports in a timely manner

E. Intergovernmental/Agency/Association Relationships _____

- Participates in professional management and leadership organizations
- Effectively collaborates, coordinates, and communicates with other communities, regional associations, and similar organizations

F. Communication _____

- Responds to all requests for information in a timely and thorough manner
- Speaks and writes clearly
- Responds to correspondence, phone calls, and requests for information in a timely and thorough manner
- Provides all necessary and required reports and records
- Ensures that information of general interest is current and timely, that website is up-to-date, and that available technology is used effectively
- Provides details about specific projects to those affected in a timely manner

G. Personal _____

- Is ethical, honest, and of high integrity
- Projects professional demeanor and respect in all interactions
- Is cordial and approachable

OVERALL EVALUATION: _____

Name _____

Date _____
