

At this time the Courthouse is open to the public. Anyone wishing to attend will need to call ahead at 913-684-0417 to reserve a seat as the meeting room has limited capacity. We are encouraging everyone to continue to view the meeting live via YouTube.

Leavenworth County
Board of County Commissioners

Regular Meeting Agenda
300 Walnut Street, Suite 225
Leavenworth, KS 66048
May 26, 2021
9:00 a.m.

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE
- III. ROLL CALL
- IV. PUBLIC COMMENT: Public Comment shall be limited to 15 minutes at the beginning of each meeting for agenda items **only** and limited to three minutes per person. Comments at the end of the meeting shall be open to any topic of general interest to the Board of County Commissioners and limited to five minutes per person. There should be no expectation of interaction by the Commission during this time.

Anyone wishing to make comments either on items on the agenda or not are encouraged to provide their comments in writing no later than 8:00 AM the Monday immediately preceding the meeting. These comments will be included in the agenda packet for everyone to access and review. This allows the Commission to have time to fully consider input and request follow up if needed prior to the meeting.
- V. ADMINISTRATIVE BUSINESS:
- VI. CONSENT AGENDA: The items on the Consent Agenda are considered by staff to be routine business items. Approval of the items may be made by a single motion, seconded, and a majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, it will be removed from the Consent Agenda and considered separately.

a) Approval of the minutes of May 26, 2021

- b) Approval of the minutes of the work session of May 26, 2021
- c) Approval of the schedule for the week May 31, 2021
- d) Approval of the check register
- e) Approve and sign the OCB's
- f) Approve Case Number DEV-21-004 & 005, a preliminary and final plat for Boyd Estates
- g) Approve Case Number DEV-21-41 & 42, a preliminary and final plat for Putthoff Acres
- h) Approve Case Number DEV-43 & 44, a preliminary and final plat for Lori Acres

VII. FORMAL BOARD ACTION:

VIII. PRESENTATIONS AND DISCUSSION ITEMS: presentations are materials of general concern where no action or vote is requested or anticipated.

- a) Discuss appointments to the Juvenile and Adult Community Corrections Advisory Boards

IX. ADDITIONAL PUBLIC COMMENT IF NEEDED

X. ADJOURNMENT

9:45 a.m. WORK SESSION TO DISCUSS THE AMERICAN RECOVERY PLAN

LEAVENWORTH COUNTY COMMISSIONERS MEETING SCHEDULE

Monday, May 24, 2021

Tuesday, May 25, 2021

8:00 a.m. Workforce Partnership meeting via Zoom

12:00 p.m. MARC meeting via Zoom

Wednesday, May 26, 2021

9:00 a.m. Leavenworth County Commission meeting
• Commission Meeting Room, 300 Walnut, Leavenworth KS

Thursday, May 27, 2021

Friday, May 28, 2021

12:00 p.m. Leavenworth/Lansing Chamber of Commerce meeting

ALL SUCH OTHER BUSINESS THAT MAY COME BEFORE THE COMMISSION

ALL MEETINGS ARE OPEN TO THE PUBLIC

COMMENTS SHOULD BE OF GENERAL INTEREST OF THE PUBLIC AND SUBJECT TO THE RULES OF DECORUM

*****May 19, 2021*****

The Board of County Commissioners met in a regular session on Wednesday, May 19, 2021. Commissioner Mike Smith, Commissioner Doug Smith, Commissioner Kaaz, Commissioner Stieben and Commissioner Culbertson are present; Also present: Mark Loughry, County Administrator; David Van Parys, Senior County Counselor; Bob Weber, Leavenworth County Appraiser; Whitney Tempel, District Representative for Jake LaTurner; John Richmeier, Leavenworth Times

Residents: Dennis Taylor, John Matthews

PUBLIC COMMENT:

There were no public comments.

ADMINISTRATIVE BUSINESS:

Mark Loughry requested to hold budget hearings June 22 -June 23 or June 23-24.

Mr. Loughry reported due to travel schedules there may not be a quorum for the June 9th meeting.

Commissioner Kaaz indicated she will not go to the KCCA conference which then would make a quorum.

Commissioner Doug Smith asked about the boat and RV regulations brought forth by Planning and Zoning.

David Van Parys indicated the boat and RV regulations will not be going forward.

A motion was made by Commissioner Culbertson and seconded by Commissioner Kaaz to accept the consent agenda for Wednesday, May 19, 2021 as presented.

Motion passed, 5-0.

Bob Weber requested approval of Resolution 2021-14, re-appointing him as the Leavenworth County Appraiser.

A motion was made by Commissioner Doug Smith and seconded by Commissioner Stieben to approve Resolution 2021-14, appointing Bob Weber as the Leavenworth County Appraiser for a four-year term.

Motion passed, 5-0.

Whitney Tempel, district representative for Congressman Jake LaTurner, reminded everyone of mobile office hours at the Courthouse the first Monday of the month from 4:00 p.m. to 5:00 p.m.

A motion was made by Commissioner Culbertson and seconded by Commissioner Kaaz that this Board recess from open session and go into a closed executive session to discuss personnel matters of non-elected personnel as justified by K.S.A. 75-4319 (b)(1) and to protect the privacy interests of the persons involved and that this Board resume open session in this meeting room at 10:20 a.m. Present in the executive session will be Commissioner Jeff Culbertson, Vicky Kaaz, Doug Smith, Mike Smith, Mike Stieben and others as invited by the Board.

Motion passed, 5-0.

The Board returned to regular session at 10:21 a.m. No action was taken and no decisions were made. The subject was limited to non-elected personnel.

Commissioner Doug Smith read the County Commissioner's prayer.

Commissioners Doug Smith and Mike Smith will attend the State of the City Address, Mayor's Luncheon in Basehor tomorrow.

Commissioner Culbertson indicated Easton and Kickapoo Townships expressed thanks to Mr. Loughry in helping them with the COVID funding reporting.

Commissioner Kaaz participated in the Port Authority meeting yesterday as well as a tour with the city of Lansing. She will attend the Workforce Partnership meeting next week.

***A motion was made by Commissioner Culbertson and seconded by Commissioner Stieben to adjourn.
Motion passed, 5-0.***

The Board adjourned at 10:23 a.m.

*****May 19, 2021*****

The Board of County Commissioners met in a work session on Wednesday, May 19, 2021. Commissioner Mike Smith, Commissioner Doug Smith, Commissioner Kaaz, Commissioner Stieben and Commissioner Culbertson are present; Also present: Mark Loughry, County Administrator; David Van Parys, Senior County Counselor; Kansas House of Representatives Jeff Pittman, Pat Proctor, Tim Johnson and David French; Janet Klasinski, County Clerk; Linda Scheer, County Clerk's Office; John Richmeier, Leavenworth Times

Residents: Dennis Taylor, John Matthews

A work session was held with local representatives to discuss Senate Bill 13.

The Board ended the work session at 11:53 a.m.

LEAVENWORTH COUNTY COMMISSIONERS MEETING SCHEDULE

Monday, May 31, 2021 THE COURTHOUSE WILL BE CLOSED IN OBSERVANCE OF MEMORIAL DAY

Tuesday, June 1, 2021

Wednesday, June 2, 2021

9:00 a.m. Leavenworth County Commission meeting
 • Commission Meeting Room, 300 Walnut, Leavenworth KS

Thursday, June 3, 2021

Friday, June 4, 2021

ALL SUCH OTHER BUSINESS THAT MAY COME BEFORE THE COMMISSION

ALL MEETINGS ARE OPEN TO THE PUBLIC

COMMENTS SHOULD BE OF GENERAL INTEREST OF THE PUBLIC AND SUBJECT TO THE RULES OF DECORUM

TYPES OF CHECKS SELECTED: * ALL TYPES

			P.O.NUMBER	CHECK#					
249	ADVANCED HEALTH	ATCHISON HOSPITAL	319687	92193 AP	05/18/2021	1-001-5-28-212	LEAV CO DRUG/PHYS CAP TESTING	420.00	
1537	AMERICAN RESPONSE VE	AMERICAN RESPONSE VEHICLE INC	319723	92208 AP	05/21/2021	1-001-5-05-306	EMS MOTOROLA VEHICULAR CHARGER	477.80	
1523	BOB BARKER	BOB BARKER CO INC	319688	92194 AP	05/18/2021	1-001-5-07-359	LEAKS 4 JAIL SUPPLIES	811.20	
1523	BOB BARKER	BOB BARKER CO INC	319688	92194 AP	05/18/2021	1-001-5-07-359	LEAKS 4 JAIL SUPPLIES	134.55	
							*** VENDOR		1523 TOTAL
									945.75
1065	BTX	BTX KS, INC	319690	92196 AP	05/18/2021	1-001-5-07-219	INMATE X-RAYS	156.00	
283	BUSETTI ROBERT	ROBERT BUSETTI	319691	92197 AP	05/18/2021	1-001-5-07-219	DENTIST FOR INMATES (MAY)	350.00	
36	CAHILL PAT	PATRICK J CAHILL	319725	92210 AP	05/21/2021	1-001-5-09-231	COURT APPOINTED ATTORNEY	3,000.00	
362	CASAD BENJAMIN	BENJAMIN CASAD	319726	92211 AP	05/21/2021	1-001-5-09-231	COURT APPOINTED ATTORNEY	3,000.00	
5637	CLEARWATER ENTERPRIS	CLEARWATER ENTERPRISES,LLC	319693	92199 AP	05/18/2021	1-001-5-05-215	342-0317B24244 2104 GAS SERVIE	74.00	
5637	CLEARWATER ENTERPRIS	CLEARWATER ENTERPRISES,LLC	319693	92199 AP	05/18/2021	1-001-5-14-220	342-12094264312104 GAS SVC	1,088.82	
5637	CLEARWATER ENTERPRIS	CLEARWATER ENTERPRISES,LLC	319693	92199 AP	05/18/2021	1-001-5-32-392	342-12019296502104 GAS SVC	1,681.02	
							*** VENDOR		5637 TOTAL
									2,843.84
30147	COMMERCE BANK	COMMERCE BANK	319727	92212 AP	05/21/2021	1-001-5-03-233	300 DEPOSIT SLIPS (COUNTY TREA	114.90	
11721	DEAF EXPRESSION,INC	DEAF EXPRESSION,INC	319730	92215 AP	05/21/2021	1-001-5-19-221	INTERPRETER 5/14/21 DANNER	184.20	
5362	DIAMOND DRUGS	DIAMOND DRUGS,INC	319694	92200 AP	05/18/2021	1-001-5-07-219	KSLV APRIL INMATE PRESCRIPTION	1,462.17	
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-001-5-41-271	2266047810 MAY LEASE PMTS FBN4	394.21	
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-001-5-41-271	2266047810 MAY LEASE PMTS FBN4	359.77	
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-001-5-41-271	2266047810 MAY LEASE PMTS FBN4	394.21	
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-001-5-41-271	2266047810 MAY LEASE PMTS FBN4	354.63	
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-001-5-41-271	2266047810 MAY LEASE PMTS FBN4	394.21	
							*** VENDOR		516725 TOTAL
									1,897.03
86	EVERGY	EVERGY KANSAS CENTRAL INC	319731	92216 AP	05/21/2021	1-001-5-05-215	ELEC SVC EMS 9101	606.30	
81	FULLER G	GARY L FULLER ATTY	319732	92217 AP	05/21/2021	1-001-5-09-231	COURT APPOINTED ATTORNEY	3,000.00	
1941	HALLEY	LAW OFFICE OF E ELAINE HALLEY	319733	92218 AP	05/21/2021	1-001-5-09-231	COURT APPOINTED ATTORNEY	3,000.00	
26400	KANSAS GAS	KANSAS GAS SERVICE	319735	92220 AP	05/21/2021	1-001-5-14-220	510614745 1628631 73 GAS TRANS	746.61	
26400	KANSAS GAS	KANSAS GAS SERVICE	319735	92220 AP	05/21/2021	1-001-5-32-392	510614745 1628631 73 GAS TRANS	1,076.29	
26400	KANSAS GAS	KANSAS GAS SERVICE	319735	92220 AP	05/21/2021	1-001-5-33-392	510614745 1562996 18 GAS TRANS	613.64	
26400	KANSAS GAS	KANSAS GAS SERVICE	319735	92220 AP	05/21/2021	1-001-5-33-392	510614745 1562996 18 GAS TRANS	69.02	
							*** VENDOR		26400 TOTAL
									2,505.56
251	KC PATHOLOGY PA	KC PATHOLOGY PA	319736	92221 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILL	54.91	
30	KOHL FRANK	FRANK E KOHL	319737	92222 AP	05/21/2021	1-001-5-09-231	COURT APPOINTED ATTORNEY	3,000.00	
168	LCHS	LEAVENWORTH CO HUMANE SOCIETY	319739	92224 AP	05/21/2021	1-001-5-07-266	APRIL CONTRACT (SHF)	1,250.00	
28529	LEADSONLINE LLC	LEADSONLINE LLC	319740	92225 AP	05/21/2021	1-001-5-07-208	LEAVEN DATABASE PKG W/CHARTER	1,368.00	
1409	LEAV CO CO	LEAV CO CONSERVATION DISTRICT	319741	92226 AP	05/21/2021	1-001-5-25-230	PER 2021 LVCO BUDGET	11,250.00	
1409	LEAV CO CO	LEAV CO CONSERVATION DISTRICT	319741	92226 AP	05/21/2021	1-001-5-25-230	PER 2021 LVCO BUDGET	11,250.00	
							*** VENDOR		1409 TOTAL
									22,500.00
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267:RESOLUTIONS	47.45	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267:RESOLUTIONS	49.25	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267 PUBLIC NOTICES	27.65	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267 PUBLIC NOTICES	24.50	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267 PUBLIC NOTICES	21.35	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267 PUBLIC NOTICES	20.00	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-06-218	ACCT 267 PUBLIC NOTICES	16.85	
537	LEAV TIMES	LEAVENWORTH TIMES	319742	92227 AP	05/21/2021	1-001-5-11-209	1 YEAR SUB - COUNTY ATTORNEY	165.83	
							*** VENDOR		537 TOTAL
									372.88
61	MIAMI CO DIST CT	CENTRAL COURT PAYMENT PROCESSI	319744	92229 AP	05/21/2021	1-001-5-19-222	DOCKET FEE MI-2021-CT-083	56.50	
1827	MURRAY TILLOTSON & B	MURRAY TILLOTSON & BURTON	319746	92231 AP	05/21/2021	1-001-5-09-231	ATTORNEY VOUCHERS: VARIOUS CIN	4,068.95	
29720	SCHWINN EL	SCHWINN ELECTRIC	319750	92235 AP	05/21/2021	1-001-5-31-298	JC & HEALTH DEPT SERVICES	101.00	
29720	SCHWINN EL	SCHWINN ELECTRIC	319750	92235 AP	05/21/2021	1-001-5-32-209	JC & HEALTH DEPT SERVICES	270.00	
							*** VENDOR		29720 TOTAL
									371.00
1793	ST JOHN 956430	ST JOHN HOSPITAL	319751	92236 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILLS	515.87	

START DATE: 05/15/2021 END DATE: 05/21/2021

TYPES OF CHECKS SELECTED: * ALL TYPES

		P.O.NUMBER	CHECK#							
1793	ST JOHN 956430	ST JOHN HOSPITAL	319751	92236 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILLS	320.82		
								*** VENDOR	1793 TOTAL	836.69
49	ST LUKES	ST LUKES HOSPITAL	319752	92237 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILLS	34.66		
49	ST LUKES	ST LUKES HOSPITAL	319752	92237 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILLS	37.29		
49	ST LUKES	ST LUKES HOSPITAL	319752	92237 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILLS	37.29		
49	ST LUKES	ST LUKES HOSPITAL	319752	92237 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILL	72.13		
								*** VENDOR	49 TOTAL	181.37
8350	STANLEY CONVERGENT	STANLEY CONVERGENT SECURITY SO	319698	92204 AP	05/18/2021	1-001-5-07-262	2234634591 TECH SUPPORT (SHF)	324.00		
302	STATE CHMEICAL	STATE INDUSTRIAL PRODUCTS	319699	92205 AP	05/18/2021	1-001-5-07-359	828363 DRAIN CHEMICALS FOR JAI	407.51		
248	SUMMIT FOOD	ELIOR, INC	319753	92238 AP	05/21/2021	1-001-5-07-261	INMATE MEALS	5,286.63		
248	SUMMIT FOOD	ELIOR, INC	319753	92238 AP	05/21/2021	1-001-5-07-261	INMATE MEALS	5,275.24		
248	SUMMIT FOOD	ELIOR, INC	319753	92238 AP	05/21/2021	1-001-5-07-261	INMATE MEALS	5,491.77		
248	SUMMIT FOOD	ELIOR, INC	319753	92238 AP	05/21/2021	1-001-5-07-261	INMATE MEALS	5,525.66		
								*** VENDOR	248 TOTAL	21,579.30
2390	UNITED IMAGING	UNITED IMAGING	319756	92241 AP	05/21/2021	1-001-5-07-219	INMATE MEDICAL BILLS	32.59		
2144	VAN TUYL JOELLEN	JOELLEN M VAN TUYL	319757	92242 AP	05/21/2021	1-001-5-11-255	CO ATTY TRANSCRIPTS	524.00		
2144	VAN TUYL JOELLEN	JOELLEN M VAN TUYL	319757	92242 AP	05/21/2021	1-001-5-19-251	DIST CT TRANSCRIPT FEES	240.00		
								*** VENDOR	2144 TOTAL	764.00
2	WATER DEPT	WATER DEPT	319700	92206 AP	05/18/2021	1-001-5-05-215	WATER SVC EMS 9103	46.66		
2007	WIRENUTS	WIRENUTS	319701	92207 AP	05/18/2021	1-001-5-07-207	SVC CALL - ANNEX CAMERA REPLAC	872.47		
100	WITNESS LIST									
								*** VENDOR	100 TOTAL	641.00
								TOTAL FUND 001		82,691.38

2387	ORTEGA JENNIFER	JENNIFER ORTEGA	319747	92232 AP	05/21/2021	1-108-5-00-280	CHIEF OF PHARMACY SVCS 7/1/20-	275.00		
								TOTAL FUND 108		275.00

516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-415	2266047810 MAY LEASE PMTS FBN4	266.28		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-418	2266047810 MAY LEASE PMTS FBN4	975.83		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-418	2266047810 MAY LEASE PMTS FBN4	499.16		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-423	2266047810 MAY LEASE PMTS FBN4	602.61		

warrants by vendor

TYPES OF CHECKS SELECTED: * ALL TYPES

		P.O.NUMBER	CHECK#						
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	544.47
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	571.62
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	547.86
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	394.46
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	394.21
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	379.50
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	381.25
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	381.49
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	492.64
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	278.56
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	394.21
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	719.20
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-115-5-00-434	2266047810	MAY LEASE PMTS FBN4	395.28
								*** VENDOR 516725 TOTAL	8,218.63
								TOTAL FUND 115	8,218.63

2007	WIRENUTS	WIRENUTS	319701	92207 AP	05/18/2021	1-118-5-00-405	ANNEX-LOW LIGHT CAMERA	579.98	
								TOTAL FUND 118	579.98

1220	CULLIGAN OF GREATER	CULLIGAN OF GREATER KANSAS CIT	319729	92214 AP	05/21/2021	1-126-5-00-225	1220762 WATER/COOLER RENTAL	42.00	
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-126-5-00-221	2266047810 MAY LEASE PMTS FBN4	14.77	
2505	INTRINSIC INTERVENTI	INTRINSIC INTERVENTIONS	319734	92219 AP	05/21/2021	1-126-5-00-226	SMART SCREEN UA TEST CUPS	316.00	
221	MIRROR	THE MIRROR INC	319745	92230 AP	05/21/2021	1-126-5-00-705	SUBSTANCE ABUSE ASSESSMENT	40.00	
207	SUNFLOWER HEALING	KATHRYN KAY LUNA	319754	92239 AP	05/21/2021	1-126-5-00-705	BIP SESSIONS	100.00	
								TOTAL FUND 126	512.77

5637	CLEARWATER ENTERPRIS	CLEARWATER ENTERPRISES,LLC	319693	92199 AP	05/18/2021	1-133-5-00-304	342-5600012104 GAS SERVICE	209.42	
407	LIGHTLE ENTERPRISE	LIGHTLE ENTERPRISE OF OHIO LLC	319695	92201 AP	05/18/2021	1-133-5-00-363	5-22 PAVEMENT MARKING TAPE	956.00	
1962	MOTOROLA	MOTOROLA SOLUTIONS, INC	319696	92202 AP	05/18/2021	1-133-5-00-440	5-1 1036540426 RADIO EQUIPMENT	16,056.21	
								TOTAL FUND 133	17,221.63

1220	CULLIGAN OF GREATER	CULLIGAN OF GREATER KANSAS CIT	319729	92214 AP	05/21/2021	1-136-5-00-203	1274542 WATER/COOLER RENTAL, I	21.00	
1220	CULLIGAN OF GREATER	CULLIGAN OF GREATER KANSAS CIT	319729	92214 AP	05/21/2021	1-136-5-00-203	1274542 WATER/COOLER RENTAL, I	25.00	
1220	CULLIGAN OF GREATER	CULLIGAN OF GREATER KANSAS CIT	319729	92214 AP	05/21/2021	1-136-5-00-223	1274542 WATER/COOLER RENTAL, I	21.00	
1220	CULLIGAN OF GREATER	CULLIGAN OF GREATER KANSAS CIT	319729	92214 AP	05/21/2021	1-136-5-00-223	1274542 WATER/COOLER RENTAL, I	25.00	
								*** VENDOR 1220 TOTAL	92.00
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-136-5-00-221	2266047810 MAY LEASE PMTS FBN4	14.77	
2505	INTRINSIC INTERVENTI	INTRINSIC INTERVENTIONS	319734	92219 AP	05/21/2021	1-136-5-00-203	SMART SCREEN UA TEST CUPS	158.00	
2505	INTRINSIC INTERVENTI	INTRINSIC INTERVENTIONS	319734	92219 AP	05/21/2021	1-136-5-00-223	SMART SCREEN UA TEST CUPS	158.00	
								*** VENDOR 2505 TOTAL	316.00
221	MIRROR	THE MIRROR INC	319745	92230 AP	05/21/2021	1-136-5-00-203	SUBASTANCE ABUSE ASSESSMENT	175.00	
7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-136-5-00-238	5645204 COMM CORR OFFICE SUPPL	32.99	
7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-136-5-00-238	5645204 COMM CORR OFFICE SUPPL	103.98	
7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-136-5-00-238	5645204 COMM CORR OFFICE SUPPL	219.98	
7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-136-5-00-238	5645204 COMM CORR OFFICE SUPPL	219.98	
7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-136-5-00-301	5645204 COMM CORR OFFICE SUPPL	32.99	
7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-136-5-00-301	5645204 COMM CORR OFFICE SUPPL	309.99	
								*** VENDOR 7098 TOTAL	919.91
								TOTAL FUND 136	1,517.68

7098	QUILL CORP	QUILL CORP	319749	92234 AP	05/21/2021	1-138-5-00-301	5645204 COMM CORR OFFICE SUPPL	219.98	
								TOTAL FUND 138	219.98

TYPES OF CHECKS SELECTED: * ALL TYPES

		P.O.NUMBER	CHECK#							
2621	BOOKER TERRY	TERRY BOOKER	319689	92195 AP	05/18/2021	1-145-5-00-256	MEALS RESERVED	9,445.20		
2621	BOOKER TERRY	TERRY BOOKER	319689	92195 AP	05/18/2021	1-145-5-00-256	MEALS RESERVED	9,496.20		
								*** VENDOR	2621 TOTAL	18,941.40
2	WATER DEPT	WATER DEPT	319758	92243 AP	05/21/2021	1-145-5-00-246	WATER SVC COUNCIL ON AGING	139.64		
								TOTAL FUND 145	19,081.04	
4605	C & H OUTDOOR	C & H OUTDOOR LLC	319692	92198 AP	05/18/2021	1-153-5-00-3	5-4 PUBLIC WORKS - BRINE MAKER	65,291.00		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-153-5-00-401	2266047810 MAY LEASE PMTS FBN4	852.81		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-153-5-00-401	2266047810 MAY LEASE PMTS FBN4	470.19		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-153-5-00-401	2266047810 MAY LEASE PMTS FBN4	558.87		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-153-5-00-401	2266047810 MAY LEASE PMTS FBN4	499.59		
516725	ENTERPRISE (ACH)	ENTERPRISE FM TRUST	319713	8	05/20/2021	1-153-5-00-401	2266047810 MAY LEASE PMTS FBN4	394.21		
								*** VENDOR	516725 TOTAL	2,775.67
								TOTAL FUND 153	68,066.67	
7158	A-1 RENTAL	A-1 RENTAL	319685	92191 AP	05/18/2021	1-160-5-00-263	JOHNNY ON THE JOB - TRANSFER S	100.00		
26195	ADVANCE AUTO PARTS	GENERAL PARTS DISTRIBUTION	319686	92192 AP	05/18/2021	1-160-5-00-213	5-6 670030 DEF, AIR BREAK COIL	36.76		
26195	ADVANCE AUTO PARTS	GENERAL PARTS DISTRIBUTION	319686	92192 AP	05/18/2021	1-160-5-00-213	5-6 670030 DEF, AIR BREAK COIL	128.32		
26195	ADVANCE AUTO PARTS	GENERAL PARTS DISTRIBUTION	319686	92192 AP	05/18/2021	1-160-5-00-213	5-6 670030 DEF, AIR BREAK COIL	60.66		
								*** VENDOR	26195 TOTAL	225.74
7258	L & R REFR	L & R REFRIGERATION SERVICE CO	319738	92223 AP	05/21/2021	1-160-5-00-208	FREON REMOVAL 41 UNITS	320.00		
17209	REDDI SERV	REDDI SERVICES	319697	92203 AP	05/18/2021	1-160-5-00-263	MAY SEPTIC	295.00		
10703	TIRE TOWN	TIRE TOWN	319755	92240 AP	05/21/2021	1-160-5-00-207	SCRAP TIRES	400.00		
								TOTAL FUND 160	1,340.74	
29034	MHS	MCAFEE HENDERSON SOLUTIONS	319702	1563 AP	05/19/2021	1-171-5-03-201	5-5 EISENHOWER PROJ 2020.045.0	38,153.40		
490	POOR RICH	POOR RICHARDS	319703	1564 AP	05/19/2021	1-171-5-03-303	5-4 COPIES FOR CHG ORDR-EISENH	758.56		
								TOTAL FUND 171	38,911.96	
1613	POWERPHONE	POWERPHONE	319748	92233 AP	05/21/2021	1-174-5-00-210	TRAINING - NEW 911 DISPATCHERS	658.00		
								TOTAL FUND 174	658.00	
5637	CLEARWATER ENTERPRIS	CLEARWATER ENTERPRISES,LLC	319693	92199 AP	05/18/2021	1-195-5-00-290	342-0305A864302104 GAS SERVICE	28.55		
26400	KANSAS GAS	KANSAS GAS SERVICE	319735	92220 AP	05/21/2021	1-195-5-00-290	510614745 1628631 73 GAS TRANS	87.25		
2	WATER DEPT	WATER DEPT	319758	92243 AP	05/21/2021	1-195-5-00-290	WATER SVC JDC	84.62		
								TOTAL FUND 195	200.42	
4160	CROCKETT E	CROCKETT ELECTRIC	319728	92213 AP	05/21/2021	1-212-5-00-2	RESET/REPROGRAM VFD, FOREST VI	450.00		
								TOTAL FUND 212	450.00	
1901	LUSE,CHARLES	CHARLES D LUSE	319743	92228 AP	05/21/2021	1-220-5-04-400	5-2 HP-19 TEMP CONSTRUCTION EA	11.77		
								TOTAL FUND 220	11.77	
2570	BOND ESCROW REFUND	AUSTIN/FAUSTINA LUNSFORD	319724	92209 AP	05/21/2021	1-503-5-00-2	REFUND ENTRANCE PERMIT 214TH S	100.00		
								TOTAL FUND 503	100.00	
								TOTAL ALL CHECKS	240,057.65	

TYPES OF CHECKS SELECTED: * ALL TYPES

FUND SUMMARY

001	GENERAL	82,691.38
108	COUNTY HEALTH	275.00
115	EQUIPMENT RESERVE	8,218.63
118	TREASURER TECH FUND	579.98
126	COMM CORR ADULT	512.77
133	ROAD & BRIDGE	17,221.63
136	COMM CORR JUVENILE	1,517.68
138	JUV INTAKE & ASSESSMENT	219.98
145	COUNCIL ON AGING	19,081.04
153	PUBLIC WORKS,EQUIP.RESERVE FUND	68,066.67
160	SOLID WASTE MANAGEMENT	1,340.74
171	S TAX CAP RD PROJ: 2015 SERIES	38,911.96
174	911	658.00
195	JUVENILE DETENTION	200.42
212	SEWER DISTRICT 2: TIMBERLAKES	450.00
220	CAP IMPR: RD & BRIDGE	11.77
503	ROAD & BRIDGE BOND ESCROW	100.00
	TOTAL ALL FUNDS	240,057.65

Consent Agenda 05/26/2021

Checks dated 05/15-05/21

*****Consent Agenda*****
Leavenworth County
Request for Board Action
Case No. DEV-21-004/005
Preliminary & Final Plat Boyd Estates

Date: May 26, 2021
To: Board of County Commissioners
From: Planning & Zoning Staff

Department Head Review: Krystal Voth, Reviewed

Additional Reviews as needed:

Budget Review Administrator Review x Legal Review x

Action Requested: The applicants are requesting a Preliminary and Final Plat for a two-lot subdivision. Proposed Lot 1 is approximately 5 acres and Lot 2 is approximately 17 acres, in size.

Analysis: The plat, as submitted, is a two-lot subdivision located on Hollingsworth Road which is a County Collector Roadway. Lot 1 has an existing home and is proposed at just over five acres. The remaining lot is approximately 17 acres in size. The lots are in conformance with the Comprehensive Plan. Should Lot 2 be further divided in the future, the development will be subject to the Access Management policy, the Zoning and Subdivision Regulations, Sanitary Code and all other codes in effect at the time of development. Further, Rural Water District 8 has requested additional easements along 187th Street to facilitate the expansion of their water lines for future development. The applicant shall work with the water district if there is future development of Lot 2. The existing lots are greater than five acres and are therefore allowed to be serviced by a well. The applicant has addressed all comments and concerns raised by Planning and Zoning and Public Works. Staff recommends approval of the development.

Recommendation: The Planning Commission voted 7-0 (2 absences) to recommend approval of Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates subject to conditions.

Alternatives:

1. Approve Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, with or without conditions; or
2. Deny Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, for the following reasons; or
3. Revise or Modify the Planning Commission Recommendation to Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, with Findings of Fact; or
4. Remand the Case back to the Planning Commission.

Budgetary Impact:

- X Not Applicable
- Budgeted item with available funds
- Non-Budgeted item with available funds through prioritization
- Non-Budgeted item with additional funds requested

Total Amount Requested: \$0.00

Additional Attachments: Staff Report, Plat, Planning Commission Minutes

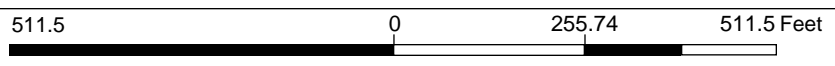
DEV-21-004 & 005 Boyd Estates



Legend

- Address Point
- Parcel
- City Limit Line
- Major Road
- <all other values>
- 70
- Road
- + Railroad
- Section
- Section Boundaries
- County Boundary

1 in. = 256ft.



This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

*****Consent Agenda*****
Case No. DEV-21-004-005
Boyd Estates
Preliminary and Final Plat

Staff Report – Board of County Commissioners

May 26, 2021

GENERAL INFORMATION:

**Applicant/
Property Owner:** Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, KS 66086

Agent: Joe Herring
Herring Surveying
315 N. 5th Street
Leavenworth, KS 66048

Legal Description: A tract of land in the northwest quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M, in Leavenworth County, Kansas.

Parcel Size: ± 22 acres

Zoning/Land Use: RR-5, Rural Residential 5-acre minimum size parcels

Comprehensive Plan: This parcel is within the Residential land use category.

Parcel ID No.: 154-19-0-00-00-013.01

Planner: Krystal A. Voth

REPORT:

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted 7-0 (2 absences) to recommend approval of Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, with the following conditions:

1. Building permits shall be required for any new construction.
2. Erosion control shall be used when designing and constructing driveways. A form of sediment control shall be installed before work begins and maintained throughout the time that the land disturbing activities are taking place. Re-vegetation of all disturbed sites shall be completed within 45 days after completion of final grading weather permitting.
3. A waiver for the use of private septic systems within this subdivision is granted with this approval.
4. At time of development, fire hydrants shall be required if necessary infrastructure is available.
5. After approval of this subdivision by the Board of County Commission, all conditions listed shall be adhered to and copies shall be provided to the Planning and Zoning Department within 30 days.

Request

The applicant is requesting a Preliminary and Final Plat for a two-lot subdivision.

Adjacent Land Use

The surrounding properties are residences and farms on varying sized parcels ranging from 1 acre to over 140 acres in size.

Flood Plain

There are no Special Flood Hazard Areas on this parcel per FEMA Firm Map 20103C0225G July 16, 2015.

Utilities/Services

Sewer: Private septic system

Fire: Stranger

Water: RWD # 8

Electric: Evergy

Access/Streets

The property is accessed by Hollingsworth Road. This road is a County Collector with a hard surface ± 60' of ROW.

Agency Comments

See attached comments – Email – Krystal Voth – Planning and Zoning, April 23, 2021

See attached comments – Email – Olsson – Public Works, May 3, 2021

See attached comments – Email – Becky Fousek – Rural Water District 8, February 9, 2021

Findings

1. The proposed development is consistent with the Zoning District for RR-5. The lots are five acres in size and have the
2. The property is not within a sewer district boundary or is within 660 feet of the incorporated limits of a municipality; therefore, a waiver to the requirement of allowing private septic systems is supported by staff. A private sewage disposal permit may be issued per Leavenworth County Sanitary Code requirements.
3. The water district had indicated that further development of this property will require additional easements for the waterline. The existing lots are five acres or more in size and are therefore allowed to be serviced by well water. Currently there are no plans to upgrade the water lines to be able to support fire hydrants.
4. The subdivision, as proposed, is in conformance with the comprehensive plan.

Subdivision Classification

This is classified as a Class C Subdivision. According to the Leavenworth County Zoning & Subdivision regulations, a Class C Subdivision is any subdivision in which all the lots lie within the Rural Growth Area of Leavenworth County. Staff is supportive of a waiver of the requirement to connect to a sanitary sewer system as sanitary sewers are not located within 660' of the subdivision. (See condition 3.)

Staff Comments

The plat, as submitted, is a two-lot subdivision located on Hollingsworth Road which is a County Collector Roadway. Lot 1 has an existing home and is proposed at just over five acres. The remaining lot is approximately 17 acres in size. The lots are in conformance with the Comprehensive Plan. Should Lot 2 be further divided in the future, the development will be subject to the Access Management policy, the Zoning and Subdivision Regulations, Sanitary Code and all other codes in effect at the time of development. Further, Rural Water District 8 has requested additional easements along 187th Street to facilitate the expansion of their water lines for future development. The applicant shall work with the water district if there is future development of Lot 2. The existing lots are greater than five acres and are therefore allowed to be serviced by a well. The applicant has addressed all comments and concerns raised by Planning and Zoning and Public Works. Staff recommends approval of the development.

ACTION OPTIONS:

1. Approve Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, with or without conditions; or
2. Deny Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, for the following reasons; or
3. Revise or Modify the Planning Commission Recommendation to Case No. DEV-21-004/005, Preliminary and Final Plat for Boyd Estates, with Findings of Fact; or
4. Remand the Case back to the Planning Commission.

ATTACHMENTS:

Aerial Map
Memorandums
Preliminary and Final Plat

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

PRELIMINARY PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-013.01

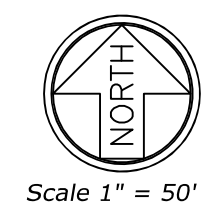
RECORD DESCRIPTION:
Tract of land in the North Half of the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Beginning at the Northeast corner of said Northwest Quarter; thence South 01 degrees 41'50" East for a distance of 1322.48 feet along the East line of said Northwest Quarter; thence South 87 degrees 55'14" West for a distance of 745.94 feet; thence North 01 degrees 33'48" West for a distance of 1322.63 feet to the North line of said Northwest Quarter; thence North 87 degrees 55'30" East for a distance of 742.85 feet to the true point of beginning.
Together with and subject to covenants, easements, and restrictions of record.
Said property contains 22.60 acres, more or less, including road right of way.
Error of Closure: 1 - 982411

P&Z Review 4/23/2021

20 ft

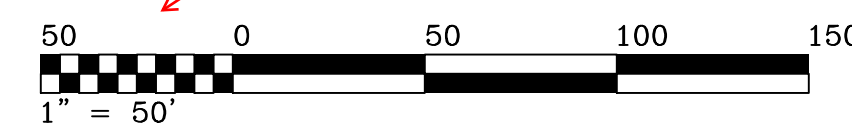
Clean up

Add note from Final Plat regarding buildings



Scale 1" = 50'

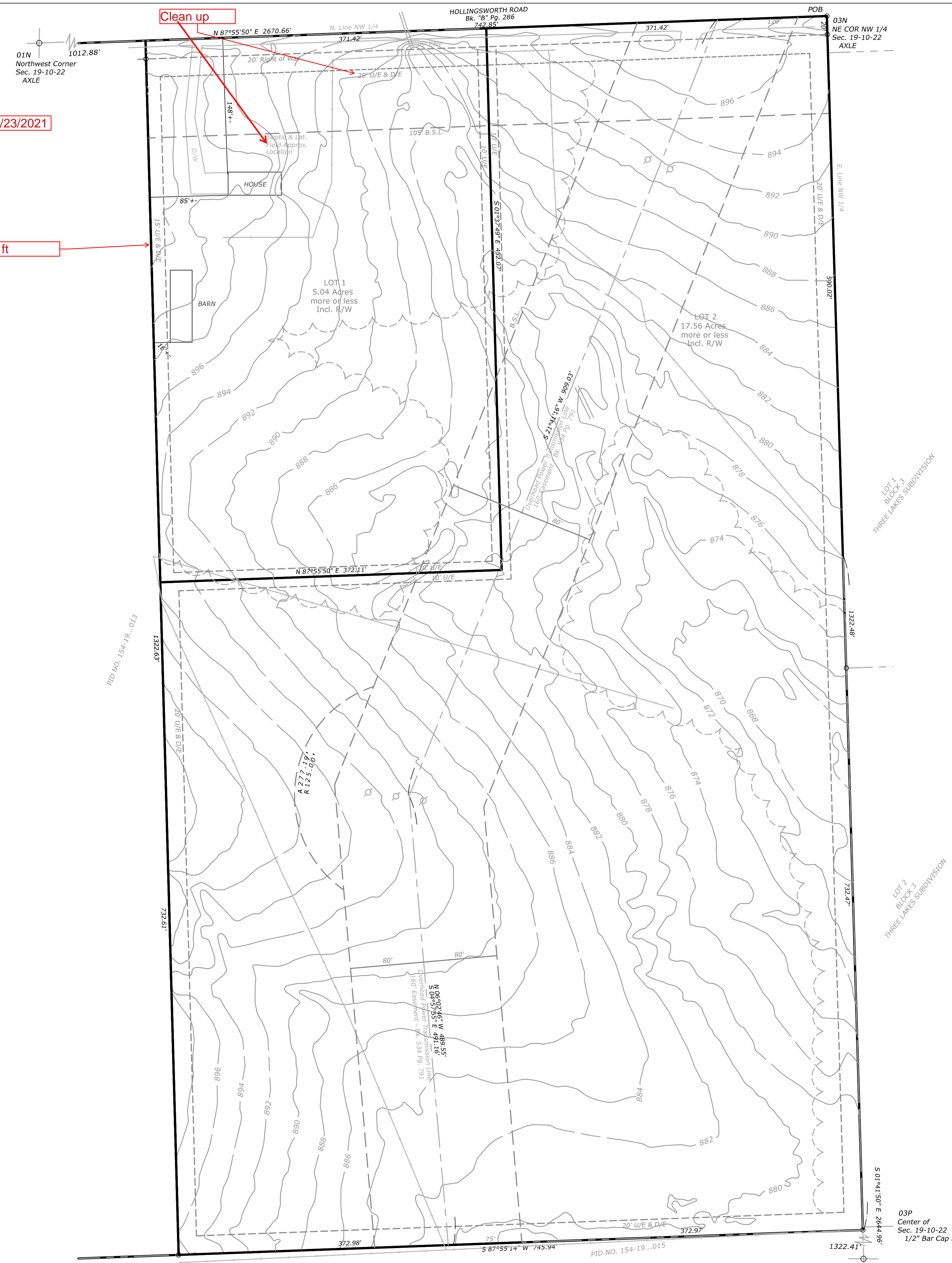
Double check scale



Job # K-20-1260
December 22, 2020 Rev. 4/16/21

J. Herring, Inc. (dba)
SURVEYING & COMPANY

315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5361
Email - survey@eamcash.com



- RESTRICTIONS:**
- 1) All proposed structures within this plat shall comply with the Leavenworth County Zoning and Subdivision Regulations or zoning regulation jurisdiction.
 - 2) An Engineered Waste Disposal System may be required due to poor soil conditions.
 - 3) Erosion and sediment control measures shall be used when designing and constructing driveways and other structures. Re-vegetation of all disturbed areas shall be completed within 45 days after final grading.
 - 4) Lots are subject to the current Access Management Policy
 - 5) No off-plat restrictions.

ZONING:
RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

- NOTES:**
- 1) This survey does not show ownership, unless otherwise noted.
 - 2) All distances are calculated from measurements or measured this survey, unless otherwise noted.
 - 3) All recorded and measured distances are the same, unless otherwise noted.
 - 4) Error of Closure - See Error of Closure Calculations
 - 5) Basis of Bearing - KS State Plane NAD 83, North Zone 1501
 - 6) Point Origin Unknown, unless otherwise noted.
 - 7) Proposed Lots for Residential Use.
 - 8) Road Record - See Survey
 - 9) Benchmark - NAVD88 Project Benchmark (BM) - 1/2" Bar Cap 1296 NE Cor Lot 2 - Elev. 890.6'
 - 10) Easements, if any, are created hereon or listed in referenced title commitment.
 - 11) Reference Recorded Deed Document No. 2020R12775
 - 12) Utility Companies -
- Water - RWD 8
- Electric - Evergy
- Sewer - Septic / Lagoon
- Gas - Propane / Natural Gas
 - 13) Reference McCaffrey Short Title Owners & Encumbrances updated December 14, 2020
 - 14) Property is not in a Special Flood Hazard Area per FEMA FIRMS Map 2010C0225 dated July 16, 2015
 - 15) Building Setback Lines as shown hereon or noted below
- All side yard setbacks - 15' (Accessory - 15')
- All rear yard setbacks - 40' (Accessory - 15')
 - 16) Distances to and of structures, if any, are +- 1'.
 - 17) Easements as per referenced Title Commitment are shown hereon
- Easement to Kansas Power & Light Book 539 Page 1366 - Overhead Transmission Line
- Oil & Gas Lease Book 533 Page 644, blanket description in nature - not shown.
 - 18) Fence Lines do not necessarily denote the boundary line for the property.
 - 19) Reference Surveys:
Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
J.A.Herring Survey recorded Document 2020S082

- LEGEND:**
- - 1/2" Bar Set with Cap No.1296
 - - 1/2" Bar Found, unless otherwise noted.
 - - Concrete Base to be Set around Point
 - △ - PK Nail Found in Place
 - () - Record / Deeded Distance
 - U/E - Utility Easement
 - D/E - Drainage Easement
 - B.S.L. - Building Setback Line
 - R/W - Permanent Dedicated Roadway Easement dedicated this plat
 - ⊙ - Centerline
 - ⊞ - Section Line
 - BM - Benchmark
 - C.A.E. - Cross Access Easement
 - POB - Point of Beginning
 - ⊙ - Power Pole
 - X - Fence Line
 - OHP - Overhead Power Lines
 - T - Underground Telephone/Fiber Optic Line
 - ⊕ - Gas Valve
 - ⊞ - Water Meter/Valve
 - ⊞ - Telephone Pedestal
 - W - 6" Water Line - location as per district
 - ~ - Tree/Brush Line



I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the month of January 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296

03P
Center of
Sec. 19-10-22
1/2" Bar Cap RBD

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

FINAL PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-00-013.01

Add note stating existing barn encroaches upon the easement. Barn may remain as it exists today. Any modifications/repairs to the barn shall be subject to current zoning regulations.

RECORD DESCRIPTION:
Tract of land in the North Half of the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Beginning at the Northeast corner of said Northwest Quarter; thence South 01 degrees 41'50" East for a distance of 1322.48 feet along the East line of said Northwest Quarter; thence South 87 degrees 55'14" West for a distance of 745.94 feet; thence North 01 degrees 33'48" West for a distance of 1322.63 feet to the North line of said Northwest Quarter; thence North 87 degrees 55'50" East for a distance of 742.85 feet to the true point of beginning. Together with and subject to covenants, easements, and restrictions of record. Said property contains 22.60 acres, more or less, including road right of way. Error of Closure: 1 - 982411

CERTIFICATION AND DEDICATION
The undersigned proprietors state that all taxes of the above described tract of land have been paid and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as: BOYD ESTATES.

Easements shown on this plat are hereby dedicated for public use, the rights of way which are shown with dashed lines on the accompanying plat, and said easements may be employed to locate and maintain sewers, water lines, gas lines, poles and wires and any other form of public utility now and hereafter used by the public over, under and along the strips marked "Utility Easement" (U/E).

"Drainage Easements" or "D/E" shown on this plat are hereby dedicated for the purpose of constructing, using, replacing and maintaining a culvert, storm sewer, drainage ditch, or other drainage facility or tributary connections, including similar facilities, and appurtenances thereto, including the right to maintain, repair and replace the drainage facility and for any reconstruction and future expansion of such facility, together with the right of access for the same, is hereby dedicated for public use. Drainage Easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities. The maintenance and upkeep of said Easements shall be the responsibility of the individual owners of the lots whereupon said Easements are dedicated. Leavenworth County shall bear no responsibility for any maintenance and upkeep of said Easements.

Streets shown on the accompanying plat and not heretofore dedicated for public use are hereby so dedicated.

Building Lines or Setback Lines (B.S.L.) are hereby established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

IN TESTIMONY WHEREOF,
We, the undersigned owners of BOYD ESTATES, have set our hands this _____ day of _____, 2021.

Janice I. Boyd

NOTARY CERTIFICATE:
Be it remembered that on this _____ day of _____, 2021, before me, a notary public in and for said County and State came Janice I. Boyd, a single person, to me personally known to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

NOTARY PUBLIC _____
My Commission Expires: _____ (seal)

APPROVALS
We, the Leavenworth County Planning Commission, do hereby approve the foregoing plat of BOYD ESTATES this _____ day of _____, 2021.

Secretary Krystal A. Voth
Chairman Steven Rosenthal

COUNTY ENGINEER'S APPROVAL:
The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.

County Engineer - _____

COUNTY COMMISSION APPROVAL:
We, the Board of County Commissioners of Leavenworth County, Kansas, do hereby approve the foregoing plat of BOYD ESTATES, this _____ day of _____, 2021.

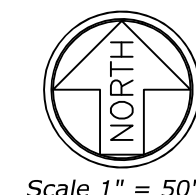
Chairman Mike Smith
County Clerk Attest: Janet Klasinski

REGISTER OF DEED CERTIFICATE:
Filed for Record as Document No. _____ on this _____ day of _____, 2021 at _____ o'clock _____ M in the Office of the Register of Deeds of Leavenworth County, Kansas.

Register of Deeds - TerriLois G. Mashburn

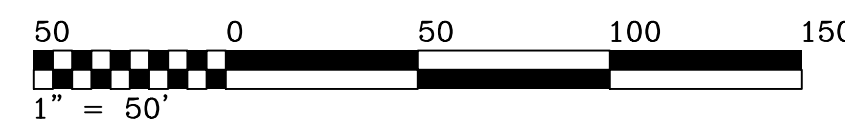
COUNTY SURVEYOR
I hereby certify this plat meets the requirements of KSA-58-2001 through 58-2005. The face of this plat was reviewed based on Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for surveying information only.

COUNTY SURVEYOR -
Stephan C. Tufte, KS PS No. 1252
Leavenworth County Reviewer



Scale 1" = 50'

Job # K-20-1260
December 22, 2020 Rev. 4/16/21



Planning & Zoning Review
4/23/2021

LOT 1
5.04 Acres
more or less
Incl. R/W

LOT 2
17.56 Acres
more or less
Incl. R/W



I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the dates of January thru February 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296

03P
Center of
Sec. 19-10-22 (Level)(Hahn)
1/2" Bar Cap RBD
1) East-West Fence Line N 1.5'+-
2) North-South Fence Line E 1.5'+-

- RESTRICTIONS:
- 1) All proposed structures within this plat shall comply with the Leavenworth County Zoning and Subdivision Regulations or zoning regulation jurisdiction.
 - 2) An Engineered Waste Disposal System may be required due to poor soil conditions.
 - 3) Erosion and sediment control measures shall be used when designing and constructing driveways and other structures. Re-vegetation of all disturbed areas shall be completed within 45 days after final grading.
 - 4) Lots are subject to the current Access Management Policy
 - 5) No off-plat restrictions.

ZONING:
RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

- NOTES:
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 - 5) Basis of Bearing - KS State Plane NAD 83, North Zone 1501
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 - 7) Proposed Lots for Residential Use.
 - 8) Road Record - See Survey
 - 9) Benchmark - NAVD88
 - 10) Project Benchmark (BM) - 1/2" Bar Cap 1296 NE Cor Lot 2 - Elev. 890.6'
 - 11) Easements, if any, are created hereon or listed in referenced title commitment.
 - 12) Reference Recorded Deed Document No. 2020R12775
 - 13) Utility Companies -
 - Water - RWD 8
 - Electric - Every
 - Sewer - Septic / Lagoon
 - Gas - Propane / Natural Gas
 - 14) Reference Thompson-Affinity Title LLC File No. 227967 updated January 13, 2021
 - 15) Property is not in a Special Flood Hazard Area per FEMA FIR Map 20103C0225 dated July 16, 2015
 - 16) Building Setback Lines as shown hereon or noted below
 - All side yard setbacks - 15' (Accessory - 15')
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 - 17) Distances to and of structures, if any, are + 1'.
 - 18) Easements as per referenced Title Commitment are shown hereon
 - Easement to Kansas Power & Light Book 534 Page 791 - Overhead Transmission Line
 - Water Line Easement
 - 19) Fence Lines do not necessarily denote the boundary line for the property.
 - 20) Reference Surveys:
 - Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
 - J.A.Herring Survey recorded Document 2020S082

- LEGEND:
- - 1/2" Bar Set with Cap No.1296
 - - 1/2" Bar Found, unless otherwise noted.
 - - Concrete Base to be Set around Point
 - △ - PK Nail Found in Place
 - () - Record / Deeded Distance
 - U/E - Utility Easement
 - D/E - Drainage Easement
 - B.S.L. - Building Setback Line
 - R/W - Permanent Dedicated Roadway Easement dedicated this plat
 - ⊕ - Centerline
 - ⊞ - Section Line
 - BM - Benchmark
 - C.A.E. - Cross Access Easement
 - POB - Point of Beginning

01N
Adjacent Corner
Sec. 19-10-22 (Level)(Hahn)
Axe Found @ Deep
1) Nail with Bottle Cap in Top Corner Post NE 35.8'
2) PK Nail w/ 655 Washer in Power Pole SE 74.4'
3) PK Nail w/ 655 Washer in West RM of Sand Post SE 56.43'

HOLLINGSWORTH ROAD
Bk. "B" Pg. 286
742.85'

03N
NE COR NW 1/4
Sec. 19-10-22 (Level)(Hahn)
1/2" Bar Found
1) PK Nail with Washer Corner Post N 32.44'
2) Mag Nail in Fence Post SSW 32.33'
3) 1/2" Bar Cap LS-1296 S 20.0'

PID NO. 154-19-0-013

N 01°33'38" W 1322.63'

20' U/E & D/E

20' U/E & D/E

20' U/E & D/E

20' U/E & D/E

A 277.18'
R 112.5-00'

S 04°57'55" E 484.16'
Original Power Pole
160' Easement - Bk. 534 Pg. 791

S 87°55'14" W 745.94'

PID NO. 154-19-0-015

5 01°41'50" E 2644.96'

1322.41'

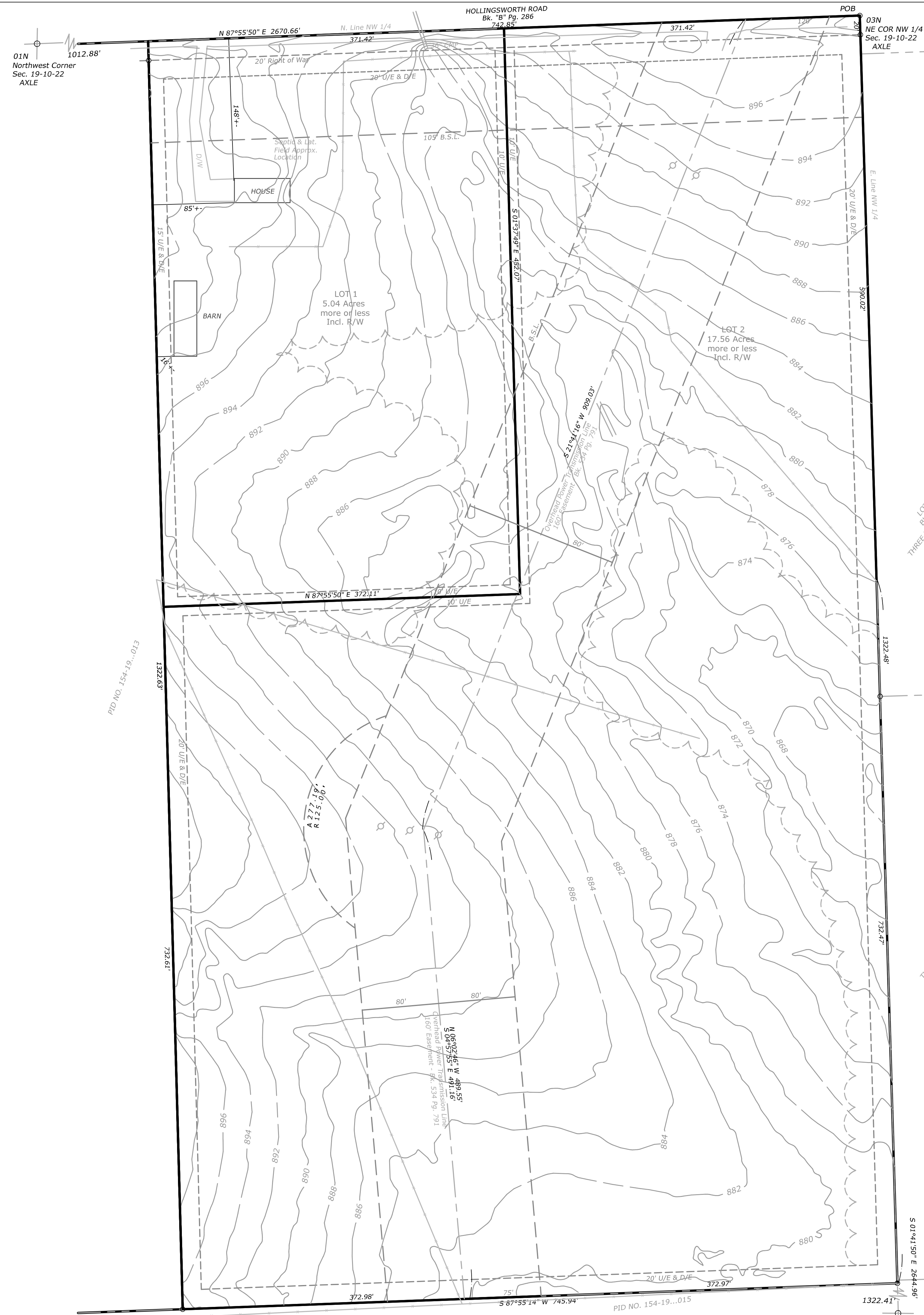
BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

PRELIMINARY PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-013.01

RECORD DESCRIPTION:
Tract of land in the North Half of the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Beginning at the Northeast corner of said Northwest Quarter; thence South 01 degrees 41'50" East for a distance of 1322.48 feet along the East line of said Northwest Quarter; thence South 87 degrees 55'14" West for a distance of 745.94 feet; thence North 01 degrees 33'48" West for a distance of 1322.63 feet to the North line of said Northwest Quarter; thence North 87 degrees 55'50" East for a distance of 742.85 feet to the true point of beginning.
Together with and subject to covenants, easements, and restrictions of record.
Said property contains 22.60 acres, more or less, including road right of way.
Error of Closure: 1 - 982411

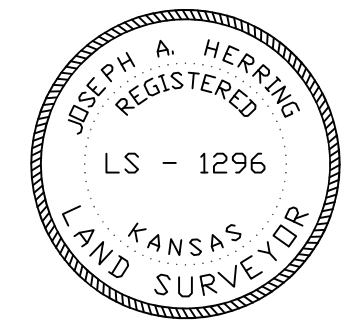


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 - 10) Easements, if any, are created hereon or listed in referenced title commitment.
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 - 12) Utility Companies -
- Water - RWD 8
- Electric - Evergy
- Sewer - Septic / Lagoon
- Gas - Propane / Natural Gas
 - 13) Reference McCaffrey Short Title Owners & Encumbrances updated December 14, 2020
 - 14) Property is not in a Special Flood Hazard Area per FEMA FIRMS Map 2010C0225 dated July 16, 2015
 - 15) Building Setback Lines as shown hereon or noted below
- All side yard setbacks - 15' (Accessory - 15')
- All rear yard setbacks - 40' (Accessory - 15')
 - 16) Distances to and of structures, if any, are +- 1'.
 - 17) Easements as per referenced Title Commitment are shown hereon
- Easement to Kansas Power & Light Book 539 Page 1366 - Overhead Transmission Line
- Oil & Gas Lease Book 533 Page 644, blanket description in nature - not shown.
 - 18) Fence Lines do not necessarily denote the boundary line for the property.
 - 19) Reference Surveys:
Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
J.A.Herring Survey recorded Document 2020S082

- LEGEND:**
- - 1/2" Bar Set with Cap No.1296
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 - ⊞ - Section Line
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 - C.A.E. - Cross Access Easement
 - POB - Point of Beginning
 - ⊙ - Power Pole
 - X - Fence Line
 - OHP - Overhead Power Lines
 - T - Underground Telephone/Fiber Optic Line
 - ⊕ - Gas Valve
 - ⊕ - Water Meter/Valve
 - ⊕ - Telephone Pedestal
 - W - 6" Water Line - location as per district
 - ~ - Tree/Brush Line

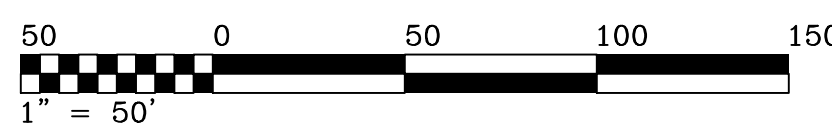


I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the month of January 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296



Scale 1" = 50'



Job # K-20-1260
December 22, 2020 Rev. 4/16/21

J. HERRING SURVEYING COMPANY
315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5361
Email - survey@eamcash.com

03P
Center of
Sec. 19-10-22
1/2" Bar Cap RBD

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

FINAL PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-00-013.01

RECORD DESCRIPTION:
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Together with and subject to covenants, easements, and restrictions of record.
Said property contains 22.60 acres, more or less, including road right of way.
Error of Closure: 1 - 982411

CERTIFICATION AND DEDICATION
The undersigned proprietors state that all taxes of the above described tract of land have been paid and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as: BOYD ESTATES.

Easements shown on this plat are hereby dedicated for public use, the rights of way which are shown with dashed lines on the accompanying plat, and said easements may be employed to locate and maintain sewers, water lines, gas lines, poles and wires and any other form of public utility now and hereafter used by the public over, under and along the strips marked "Utility Easement" (U/E).

"Drainage Easements" or "D/E" shown on this plat are hereby dedicated for the purpose of constructing, using, replacing and maintaining a culvert, storm sewer, drainage ditch, or other drainage facility or tributary connections, including similar facilities, and appurtenances thereto, including the right to maintain, repair and replace the drainage facility and for any reconstruction and future expansion of such facility, together with the right of access for the same, is hereby dedicated for public use. Drainage Easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities. The maintenance and upkeep of said Easements shall be the responsibility of the individual owners of the lots whereupon said Easements are dedicated. Leavenworth County shall bear no responsibility for any maintenance and upkeep of said Easements.

Streets shown on the accompanying plat and not heretofore dedicated for public use are hereby so dedicated.

Building Lines or Setback Lines (B.S.L.) are hereby established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

IN TESTIMONY WHEREOF,
We, the undersigned owners of BOYD ESTATES, have set our hands this _____ day of _____, 2021.

Janice I. Boyd

NOTARY CERTIFICATE:
Be it remembered that on this _____ day of _____, 2021, before me, a notary public in and for said County and State came Janice I. Boyd, a single person, to me personally known to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

NOTARY PUBLIC _____
My Commission Expires: _____ (seal)

APPROVALS
We, the Leavenworth County Planning Commission, do hereby approve the foregoing plat of BOYD ESTATES this _____ day of _____, 2021.

Secretary Krystal A. Voth
Chairman Steven Rosenthal

COUNTY ENGINEER'S APPROVAL:
The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.

County Engineer - _____

COUNTY COMMISSION APPROVAL:
We, the Board of County Commissioners of Leavenworth County, Kansas, do hereby approve the foregoing plat of BOYD ESTATES, this _____ day of _____, 2021.

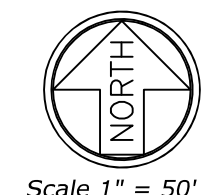
Chairman Mike Smith
County Clerk Attest: Janet Klasinski

REGISTER OF DEED CERTIFICATE:
Filed for Record as Document No. _____ on this _____ day of _____, 2021 at _____ o'clock _____ M in the Office of the Register of Deeds of Leavenworth County, Kansas.

Register of Deeds - TerriLois G. Mashburn

COUNTY SURVEYOR
I hereby certify this plat meets the requirements of KSA-58-2001 through 58-2005. The face of this plat was reviewed based on Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for surveying information only.

COUNTY SURVEYOR -
Stephan C. Tufte, KS PS No. 1252
Leavenworth County Reviewer

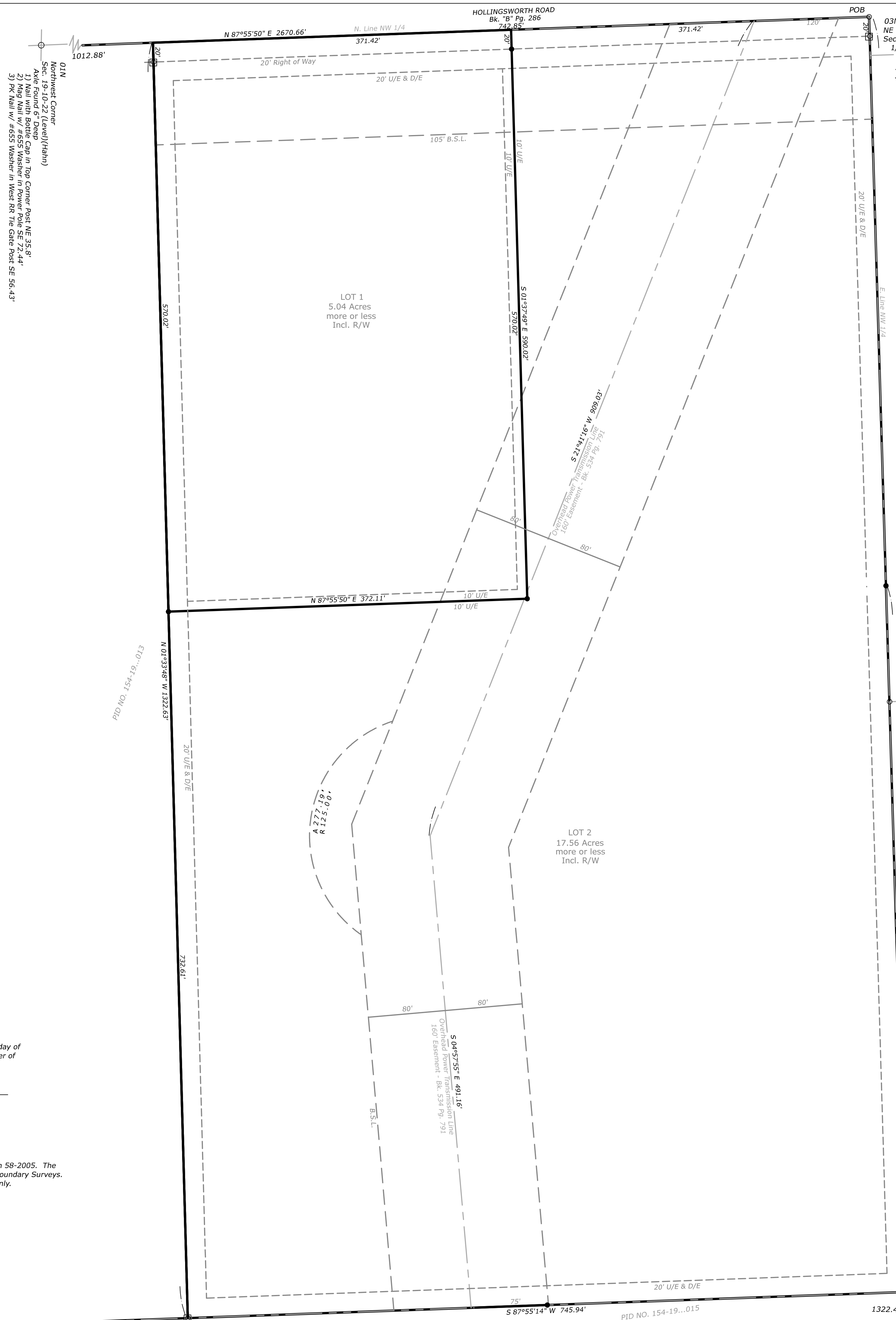
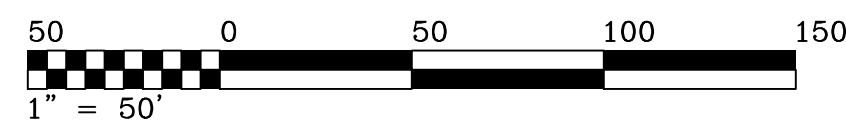


Scale 1" = 50'

Job # K-20-1260
December 22, 2020 Rev. 4/16/21



315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5381
Email - survey@herringinc.com



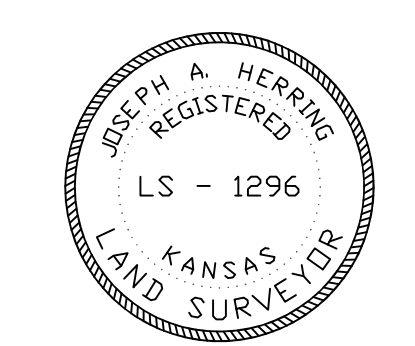
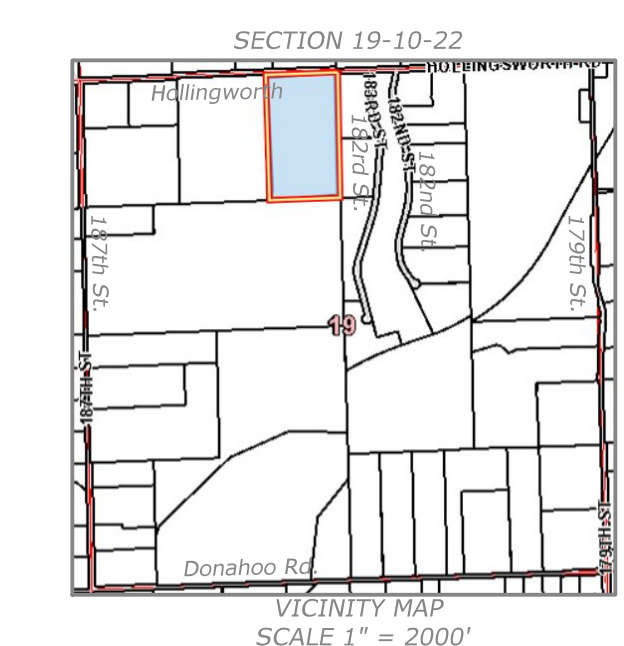
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J.A.Herring Survey recorded Document 2020S082

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POB - Point of Beginning

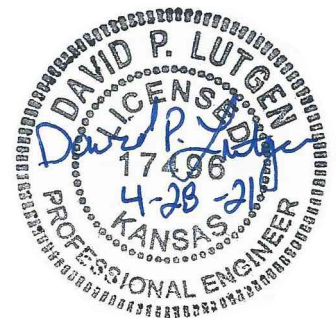


I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the dates of January thru February 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296

03P
Center of
Sec. 19-10-22 (Level)(Hahn)
1/2" Bar Cap RBD
1) East-West Fence Line N 1.5'+-
2) North-South Fence Line E 1.5'+-

Boyd Estates
Leavenworth County Kansas
Drainage Report
Prepared April 28, 2021



Parcel Information - The 23.3-acre (+/-) parcel is located on the south side of Hollingsworth Road west of 179th Street in Leavenworth County KS. The parcel is zoned RR 5.0.

Existing Conditions – There is an existing home and outbuilding located in the north west corner of the property. There is a large overhead transmission line that runs north south through the property. The remainder of the ground appears to be an overgrown neglected pasture. It was estimated that half of the property is covered with trees.

The site can be divided into two drainage areas as shown on exhibit #1. A composite c value was calculated for each drainage area as shown in the table below. The composite c value is based on the soil type, slopes, and existing land use, see Exhibits #2 and #3.

Existing	Acres in each Drainage Area			
	c value	DA #1		
Wooded	0.35	8.82		
Pasture	0.36	8.83		
Impervious	0.90	0.15		
Composite c		0.36		

$$\text{composite c} = \frac{(\text{Wooded Acres} * 0.35 + \text{Pasture Acres} * 0.36 + \text{Impervious} * 0.90)}{\text{Total Acres}}$$

Developed Conditions – The proposed development will create 1 new residential building lot. It is assumed that all new structures will be in drainage area #1. The developed storm water runoff calculations include 10,000 sq ft of impervious area for the new lot. This impervious area will account for the driveway, house footprint, and outbuilding. It was assumed that an area, 1.23 acres, would be cleared for the construction of a home with an area around each home maintained as a lawn. The remainder of the lot is assumed to be remain in its current condition. A composite c value for each drainage area was calculated as shown below.

Developed	Acres in each Drainage Area			
	c value	DA #1		
Wooded	0.35	7.59		
Pasture	0.36	8.83		
Impervious	0.90	0.38		
Grass	0.20	1.00		
Composite c		0.36		

$$\text{composite } c = \frac{(\text{Wooded Acres} * 0.35 + \text{Pasture Acres} * 0.36 + \text{Grass Acres} * 0.20 + \text{Impervious Acres} * 0.90)}{\text{Total Acres}}$$

The storm water runoff for existing and developed conditions is summarized in the following tables. Calculations for the storm water runoff are included with the report.

DA #1

	Q10	Q100
Existing	33.1	58.9
Developed	33.0	58.6
Change	0%	0%

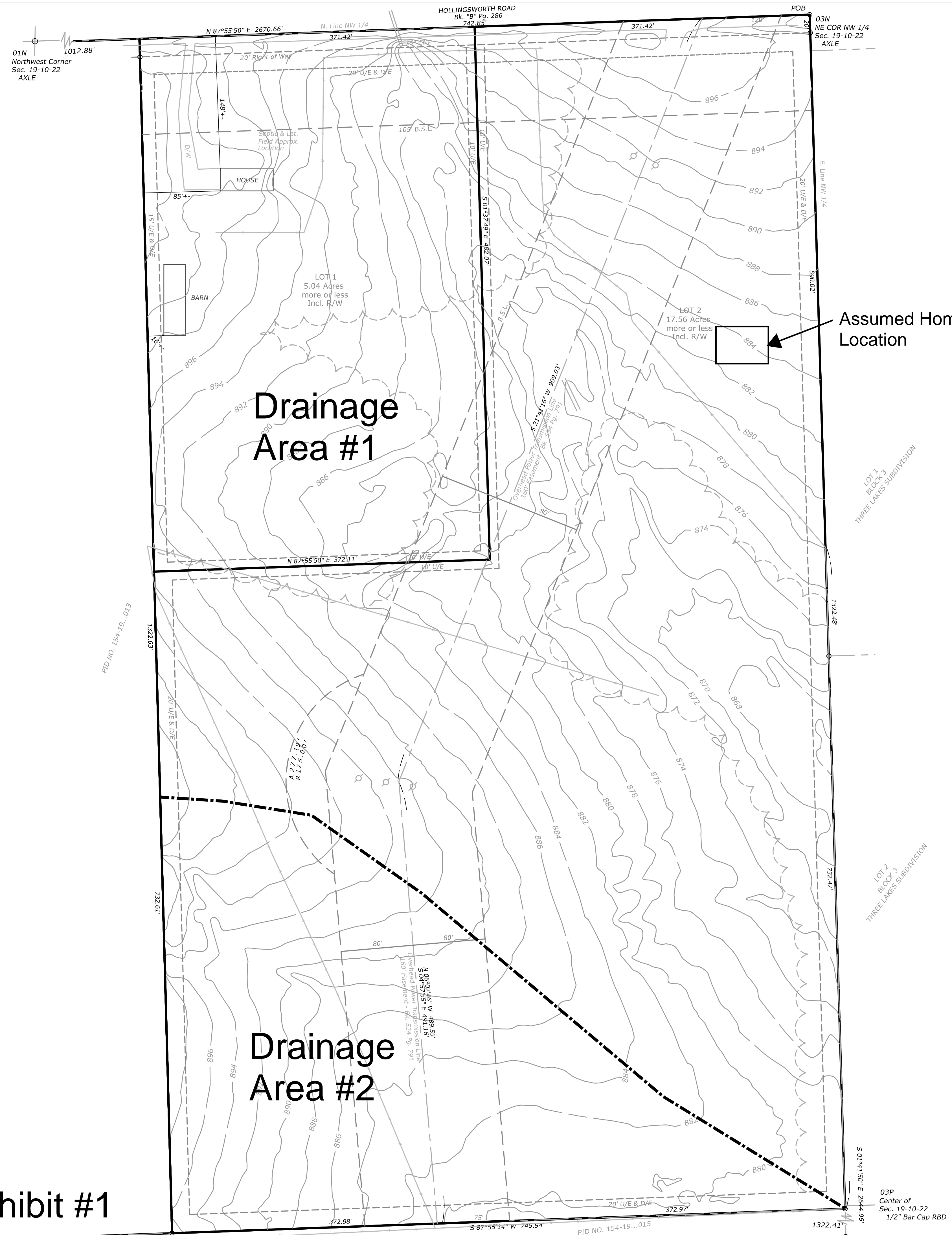
Conclusion – The development of this property will result in no change to the storm water runoff from the site.

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

PRELIMINARY PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-00-013.01



NTS

Exhibit #1

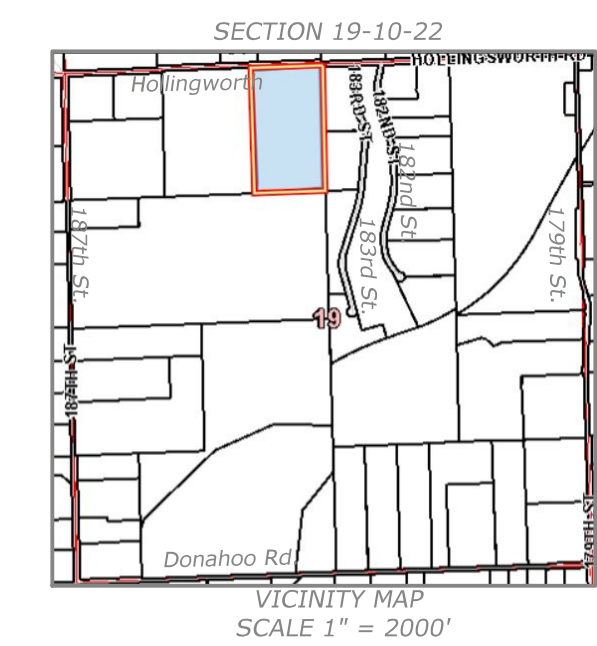


TABLE 1 Values of Runoff Coefficient C

URBAN AREAS:	
Type of drainage area	Runoff coefficient C
Lawns:	0.05 - 0.10
Sandy soil, flat 2%	0.10 - 0.15
Sandy soil, average, 2 - 7%	0.15 - 0.20
Sandy soil, steep, 7%	0.13-0.17
Heavy soil, flat, 2%	0.18 - 0.22
Heavy soil, average, 2 - 7%	0.25 - 0.35
Heavy soil, steep, 7%	
Business:	0.70 - 0.95
Downtown areas Neighborhood areas	0.50.0.70
Residential:	0.30 - 0.50
Single-family areas	0.40 - 0.60
Multi units, detached Multi units,	0.60 - 0.75
attached Suburban	0.25 - 0.40
Apartment dwelling areas	0.50 - 0.70
Industrial:	
Light areas	0.50 - 0.80
Heavy areas	0.60 - 0.90
Parks, cemeteries	0.10 - 0.25
Playgrounds	0.20 - 0.35
Railroad yard areas	0.20 - 0.40
Unimproved areas	0.10 - 0.30
Streets:	0.70 - 0.95
Asphaltic	0.80 - 0.95
Concrete	0.70 - 0.85
Brick	
Drives and walks	0.75 - 0.85
Roofs	0.75 - 0.95

AGRICULTURAL AREAS:

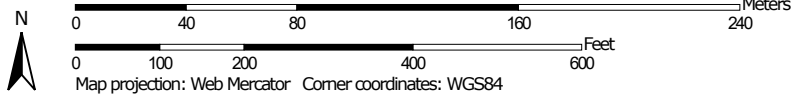
Topography and Vegetation	Runoff Coefficient C Soil Texture		
	Soil Texture		
	Open Sandy Loam	Clay and Silt Loam	Tight Clay
Woodland			
Flat 0 - 5% Slope	0.10	0.30	0.40
Rolling 5 - 10% Slope	0.25	0.35	0.50
Hilly 10 - 30% Slope	0.30	0.50	0.60
Pasture			
Flat	0.10	0.30	0.40
Rolling	0.16	0.36	0.55
Hilly	0.22	0.42	0.60
Cultivated			
Flat	0.30	0.50	0.60
Rolling	0.40	0.60	0.70
Hilly	0.52	0.72	0.82

Source - Natural Resources Conservation Service (NRCS) US Department of Agriculture (USDA) Peak Discharge Course
https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1083019.pdf

Exhibit #2



Map Scale: 1:2,730 if printed on A portrait (8.5" x 11") sheet.



Map projection: Web Mercator Corner coordinates: WGS84

USDA Natural Resources Conservation Service

Web Soil Survey
National Cooperative Soil Survey

Map Unit Symbol	Map Unit Name
7254	Grundy silty clay loam, 3 to 7 percent slopes, eroded
7575	Shelby clay loam, 4 to 8 percent slopes, eroded
Totals for Area of Interest	

Exhibit #3

Drainage Area #1- 10 year

Existing Conditions

Area = 17.8 acres
C= 0.36
L= 900
S= 5.0
K= 1

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{\max} = 300$$

$$i_{10} = 175/(T_c + 18.8) \quad 5 < T_c < 15$$

$$T_i = 13.50$$

$$i_{10} = 214/(T_c + 26.7) \quad 15 < T_c < 60$$

$$T_t = 1.50$$

$$T_c = 15.00$$

$$i_{10} = 5.18$$

$$Q = KCiA$$

$$Q = 33.1 \text{ cfs}$$

Developed Conditions

Area = 17.8 acres
C= 0.36
L= 900
S= 5.0
K= 1

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{\max} = 300$$

$$i_{10} = 175/(T_c + 18.8) \quad 5 < T_c < 15$$

$$T_i = 13.52$$

$$i_{10} = 214/(T_c + 26.7) \quad 15 < T_c < 60$$

$$T_t = 1.50$$

$$T_c = 15.02$$

$$i_{10} = 5.17$$

$$Q = KCiA$$

$$Q = 33.0 \text{ cfs}$$

Drainage Area #1 - 100 year

Existing Conditions

Area = 17.8 acres
C= 0.36
L= 900
S= 5.0
K= 1.25

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{max} = 300$$

$$i_{100} = 256/(T_c + 19.8) \quad 5 < T_c < 15$$

$$T_i = 13.50$$

$$i_{100} = 331/(T_c + 30) \quad 15 < T_c < 60$$

$$T_t = 1.50$$

$$T_c = 15.00$$

$$i_{100} = 7.36$$

$$Q = KCiA$$

$$Q = 58.9 \text{ cfs}$$

Developed Conditions

Area = 17.8 acres
C= 0.36
L= 900
S= 5.0
K= 1.25

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{max} = 300$$

$$i_{100} = 256/(T_c + 19.8) \quad 5 < T_c < 15$$

$$T_i = 13.52$$

$$i_{100} = 331/(T_c + 30) \quad 15 < T_c < 60$$

$$T_t = 1.50$$

$$T_c = 15.02$$

$$i_{100} = 7.35$$

$$Q = KCiA$$

$$Q = 58.6 \text{ cfs}$$

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

PRELIMINARY PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-013.01

RECORD DESCRIPTION:
Tract of land in the North Half of the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Beginning at the Northeast corner of said Northwest Quarter; thence South 01 degrees 41'50" East for a distance of 1322.48 feet along the East line of said Northwest Quarter; thence South 87 degrees 55'14" West for a distance of 745.94 feet; thence North 01 degrees 33'48" West for a distance of 1322.63 feet to the North line of said Northwest Quarter; thence North 87 degrees 55'30" East for a distance of 742.85 feet to the true point of beginning.
Together with and subject to covenants, easements, and restrictions of record.
Said property contains 22.60 acres, more or less, including road right of way.
Error of Closure: 1 - 982411

**04-21-2021
OLSSON REVIEW**

Previous proposed easement was 20'. Reduce the 20' easement along the structure. Outside the structure increase the easement to 20'.

Provide Bearings

Provide Bearings

Odd dimension. Does the Power easement reduce?

Move text outside of fence line work.

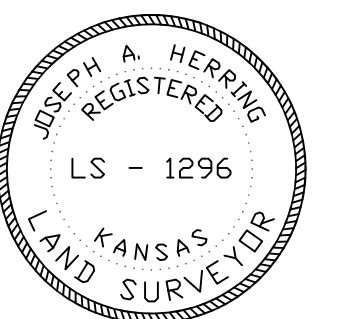
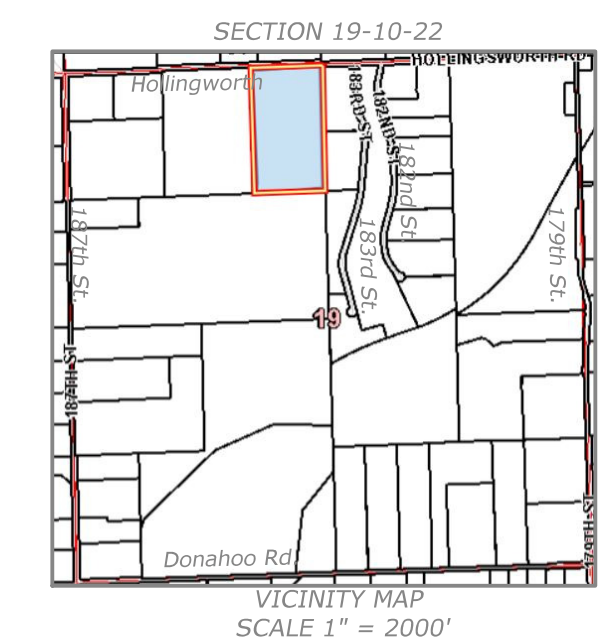
double check scale bar with Plan dimensions

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 - 4) Lots are subject to the current Access Management Policy
 - 5) No off-plat restrictions.

ZONING:
RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

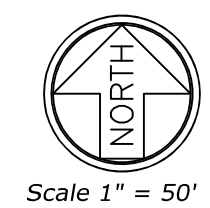
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 - 6) Point Origin Unknown, unless otherwise noted.
 - 7) Proposed Lots for Residential Use.
 - 8) Road Record - See Survey
 - 9) Benchmark - NAVD88 Project Benchmark (BM) - 1/2" Bar Cap 1296 NE Cor Lot 2 - Elev. 890.6'
 - 10) Easements, if any, are created hereon or listed in referenced title commitment.
 - 11) Reference Recorded Deed Document No. 2020R12775
 - 12) Utility Companies -
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 - Electric - Evergy
 - Sewer - Septic / Lagoon
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 - 18) Fence Lines do not necessarily denote the boundary line for the property.
 - 19) Reference Surveys:
 - Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
 - J.A.Herring Survey recorded Document 2020S082

- LEGEND:**
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 - - Concrete Base to be Set around Point
 - △ - PK Nail Found in Place
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 - R/W - Permanent Dedicated Roadway Easement dedicated this plat
 - ⊕ - Centerline
 - ⊞ - Section Line
 - BM - Benchmark
 - C.A.E. - Cross Access Easement
 - POB - Point of Beginning
 - - Power Pole
 - X - Fence Line
 - OHP - Overhead Power Lines
 - T - Underground Telephone/Fiber Optic Line
 - ⊕ - Gas Valve
 - ⊕ - Water Meter/Valve
 - ⊕ - Telephone Pedestal
 - W - 6" Water Line - location as per district
 - ~ - Tree/Brush Line



I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the month of January 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296

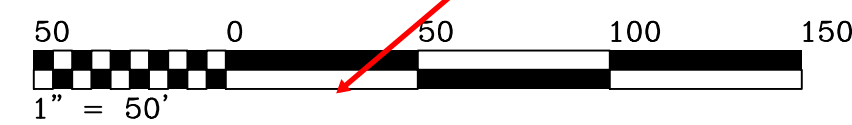


Scale 1" = 50'

Job # K-20-1260
December 22, 2020 Rev. 4/16/21



315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5381
Email - survey@eamcash.com



03P
Center of
Sec. 19-10-22
1/2" Bar Cap RBD

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

FINAL PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-00-013.01

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Together with and subject to covenants, easements, and restrictions of record.
Said property contains 22.60 acres, more or less, including road right of way.
Error of Closure: 1 - 982411

CERTIFICATION AND DEDICATION
The undersigned proprietors state that all taxes of the above described tract of land have been paid and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as: BOYD ESTATES.

Easements shown on this plat are hereby dedicated for public use, the rights of way which are shown with dashed lines on the accompanying plat, and said easements may be employed to locate and maintain sewers, water lines, gas lines, poles and wires and any other form of public utility now and hereafter used by the public over, under and along the strips marked "Utility Easement" (U/E).

"Drainage Easements" or "D/E" shown on this plat are hereby dedicated for the purpose of constructing maintaining a culvert, storm sewer, drainage ditch, or other drainage facility or tributary connections, and appurtenances thereto, including the right to maintain, repair and replace the drainage facility and future expansion of such facility, together with the right of access for the same, is hereby dedicated for Easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities. The maintenance and upkeep of said Easements shall be the responsibility of the individual owners of the lots whereupon said Easements are dedicated. Leavenworth County shall bear no responsibility for any maintenance and upkeep of said Easements.

Streets shown on the accompanying plat and not heretofore dedicated for public use are hereby so dedicated.

Building Lines or Setback Lines (B.S.L.) are hereby established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

IN TESTIMONY WHEREOF,
We, the undersigned owners of BOYD ESTATES, have set our hands this _____ day of _____, 2021.

Janice I. Boyd

NOTARY CERTIFICATE:
Be it remembered that on this _____ day of _____, 2021, before me, a notary public in and for said County and State came Janice I. Boyd, a single person, to me personally known to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

NOTARY PUBLIC _____
My Commission Expires: _____ (seal)

APPROVALS
We, the Leavenworth County Planning Commission, do hereby approve the foregoing plat of BOYD ESTATES this _____ day of _____, 2021.

Secretary Krystal A. Voth
Chairman Steven Rosenthal

COUNTY ENGINEER'S APPROVAL:
The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.

County Engineer - _____

COUNTY COMMISSION APPROVAL:
We, the Board of County Commissioners of Leavenworth County, Kansas, do hereby approve the foregoing plat of BOYD ESTATES, this _____ day of _____, 2021.

Chairman Mike Smith
County Clerk Attest: Janet Klasinski

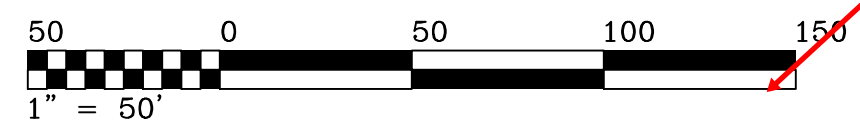
REGISTER OF DEED CERTIFICATE:
Filed for Record as Document No. _____ on this _____ day of _____, 2021 at _____ o'clock _____ M in the Office of the Register of Deeds of Leavenworth County, Kansas.

Register of Deeds - TerriLois G. Mashburn

COUNTY SURVEYOR
I hereby certify this plat meets the requirements of KSA-58-2001 through 58-2005. The face of this plat was reviewed based on Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for surveying information only.

COUNTY SURVEYOR - ~~Stephan C. Tuttle, KS PS No. 1228~~
Leavenworth County Reviewer

double check scale bar with Plan dimensions



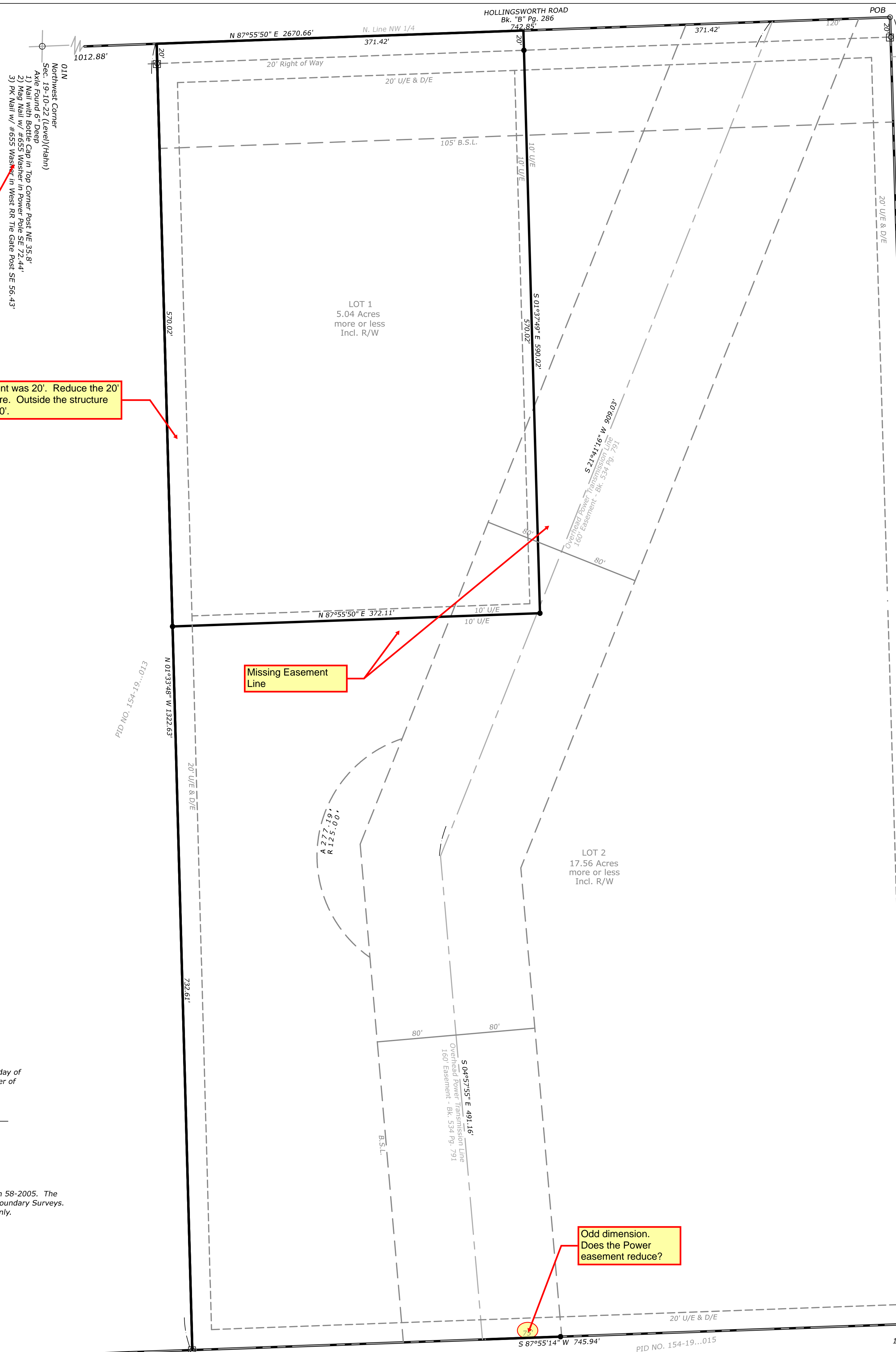
04-21-2021
OLSSON REVIEW

Rotate Text

Previous proposed easement was 20'. Reduce the 20' easement along the structure. Outside the structure increase the easement to 20'.

Missing Easement Line

Odd dimension. Does the Power easement reduce?

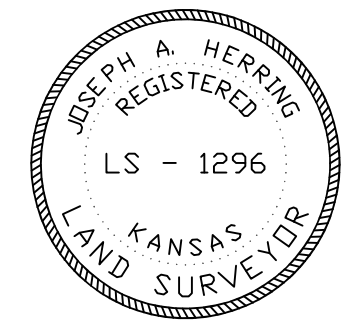
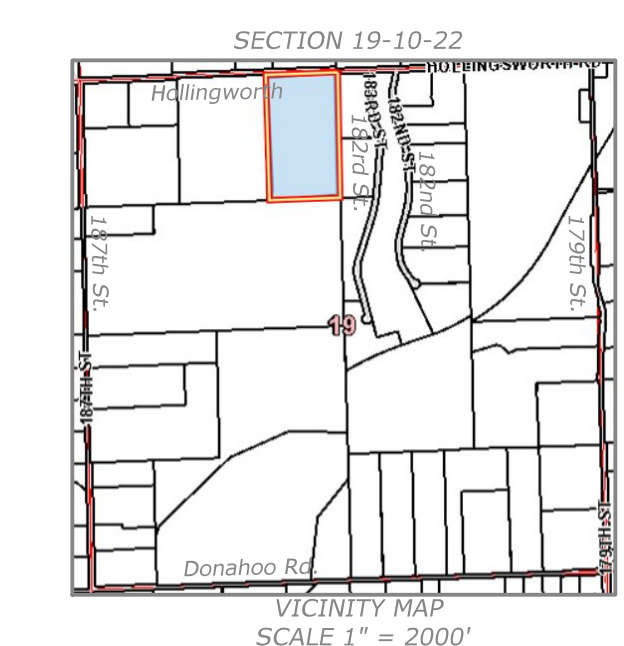


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ZONING:
RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

- NOTES:
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 - 11) Easements, if any, are created hereon or listed in referenced title commitment.
 - 12) Reference Recorded Deed Document No. 2020R12775
 - 13) Utility Companies -
 - Water - RWD 8
 - Electric - Every
 - Sewer - Septic / Lagoon
 - Gas - Propane / Natural Gas
 - 14) Reference Thompson-Affinity Title LLC File No. 227967 updated January 13, 2021
 - 15) Property is not in a Special Flood Hazard Area per FEMA FIR Map 20103C0225 dated July 16, 2015
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 - All rear yard setbacks - 40' (Accessory - 15')
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 - 18) Easements as per referenced Title Commitment are shown hereon
 - Easement to Kansas Power & Light Book 534 Page 791 - Overhead Transmission Line
 - Water Line Easement
 - 19) Fence Lines do not necessarily denote the boundary line for the property.
 - 20) Reference Surveys:
 - Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
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 - ⊕ - Centerline
 - ⊞ - Section Line
 - BM - Benchmark
 - C.A.E. - Cross Access Easement
 - POB - Point of Beginning



I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the dates of January thru February 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296

Job # K-20-1260
December 22, 2020 Rev. 4/16/21

315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5381
Email - survey@jeamcsh.com

From: [Mitch Pleak](#)
Sent: Thursday, April 22, 2021 2:59 PM
To: [Voth, Krystal](#)
Cc: [Anderson, Lauren](#); [Noll, Bill](#)
Subject: RE: Boyd Estates 2 LOT

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Krystal,
Below is a link to comments on the PP and FP.

Note, the drainage report reflects a previous plan and should be revised to reflect the current proposed plat. Olsson did not conduct a review of said report.

<https://oaconsulting.sharefile.com/d-sed4ba74b14a94e26839eede55c456c7c>

Sincerely,

Mitch Pleak, PE
Project Engineer / Civil

D 913.748.2503

7301 W. 133rd Street, Suite 200
Overland Park, KS 66213
O 913.381.1170



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[View Legal Disclaimer](#)

From: Voth, Krystal <KVoth@leavenworthcounty.gov>
Sent: Monday, April 19, 2021 4:03 PM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>
Subject: FW: Boyd Estates 2 LOT

Lauren & Mitch,

Good afternoon. Please see the attached documents for Boyd Estates. Is it possible to have comments back by April 26? I know that is pushing it, so if not, no worries.

Thanks!

Krystal

From: Joe Herring <herringsurveying@outlook.com>
Sent: Friday, April 16, 2021 3:54 PM
To: Voth, Krystal <KVoth@leavenworthcounty.gov>
Subject: Re: Boyd Estates 2 LOT

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

See attached Prelim / Final / Previously Revised Detention - can definitely make adjustments if they request - Closure Calc for New Lot 2

Thank you - Joe Herring

J.Herring Inc., dba,Herring Surveying Company
315 N. 5th Street, Leavenworth, KS 66048
913-651-3858 - ROCK CHALK!

From: Voth, Krystal <KVoth@leavenworthcounty.gov>
Sent: Friday, April 16, 2021 8:54 AM
To: 'Joe Herring' <herringsurveying@outlook.com>
Subject: RE: Boyd Estates

I am definitely not at liberty to say yes to that. I imagine the change in lots is going to require some minor updates to the drainage calculations.

From: Joe Herring <herringsurveying@outlook.com>
Sent: Friday, April 16, 2021 8:53 AM
To: Voth, Krystal <KVoth@leavenworthcounty.gov>
Subject: Re: Boyd Estates

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Gotcha - since we are losing lots and detention is not required cant we used the already reviewed and revised drainage calculations.

Thank you - Joe Herring

J.Herring Inc., dba,Herring Surveying Company
315 N. 5th Street, Leavenworth, KS 66048
913-651-3858 - ROCK CHALK!

From: Voth, Krystal <KVoth@leavenworthcounty.gov>
Sent: Friday, April 16, 2021 8:48 AM

To: 'Joe Herring' <herringsurveying@outlook.com>

Subject: RE: Boyd Estates

Gotcha. Sorry, I forgot this was going to be a two-step process. When you bring it in as a CAE we HAVE to have road plans, got it?

Get me the updated drawings and drainage report by Monday and we will try to keep this on May.

I do not want to push anything I don't have to... given this very time sensitive deadline currently living in my tummy.

From: Joe Herring <herringsurveying@outlook.com>

Sent: Friday, April 16, 2021 8:46 AM

To: Voth, Krystal <KVoth@leavenworthcounty.gov>

Subject: Re: Boyd Estates

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

No road plans - want to bring in a standard 2 Lot Plat - Lot 1 and then the 17 acre Lot 2 - will be a flagged shaped lot as discussed.

ASAP today or ASAP Monday? The attached just for reference to the layout.

Thank you - Joe Herring

J.Herring Inc., dba,Herring Surveying Company

315 N. 5th Street, Leavenworth, KS 66048

913-651-3858 - ROCK CHALK!

From: Voth, Krystal <KVoth@leavenworthcounty.gov>

Sent: Friday, April 16, 2021 8:41 AM

To: 'Joe Herring' <herringsurveying@outlook.com>

Subject: RE: Boyd Estates

Joe,

I have not gone back through PW comments, so I can't make an educated rebuttal to that. I can agree that the policy states that all lots must access the easement. That one is pretty black and white. As far keeping this on the May meeting, I would love nothing more. Have road plans been submitted? My files do not show that they have been. I have a drawing, but no actual plans. We've got to have those ASAP to keep this on. And yes, we can, for our purposes, keep this all under the same application since it never went to PC.

Krystal

From: Joe Herring <herringsurveying@outlook.com>

Sent: Friday, April 16, 2021 7:59 AM

To: Voth, Krystal <KVoth@leavenworthcounty.gov>

Subject: Re: Boyd Estates

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Went back thru reviews and can not find the comment where lot 1 has to use the CAE or the existing driveway had to be removed. Not contesting what the policy states - it is clear that all lots must use the CAE but was presented yesterday that the review has always stated that concern and just can not find it.

Paul Boyd is not against our solution but was concerned with timing. Absolutely wants to stay on May agenda for the 2 Lot so he can sell the Lot off - if you can give me a quick timeline that would be great.

Also would assume we can use a portion of the paid application for this process - use the drainage calculations as well - especially since we will be reducing the number of lot.

Hope the allergies have relaxed a bit.

Thank you - Joe Herring

J.Herring Inc., dba,Herring Surveying Company
315 N. 5th Street, Leavenworth, KS 66048
913-651-3858 - ROCK CHALK!

From: Voth, Krystal <KVoth@leavenworthcounty.gov>
Sent: Wednesday, February 17, 2021 2:22 PM
To: 'Joe Herring' <herringsurveying@outlook.com>
Subject: Boyd Estates

Joe,

Please see the attached reviews. Note: I do not have any additional comments, Olsson pretty well picked them all up. Below are the comments on the drainage study:

1. Provide a statement within the existing conditions section that all improvements are assumed in DA #1.
2. Gravel driveway/parking areas should have a higher c value closer to 0.5-0.7.
3. Source of gravel areas not included in the exhibit #2.
4. Provide size of assumed maintained lawn per lot on page 2 paragraph 4.

Respectfully,

Krystal A. Voth, CFM
Director
Planning & Zoning
Leavenworth County

BOYD ESTATES

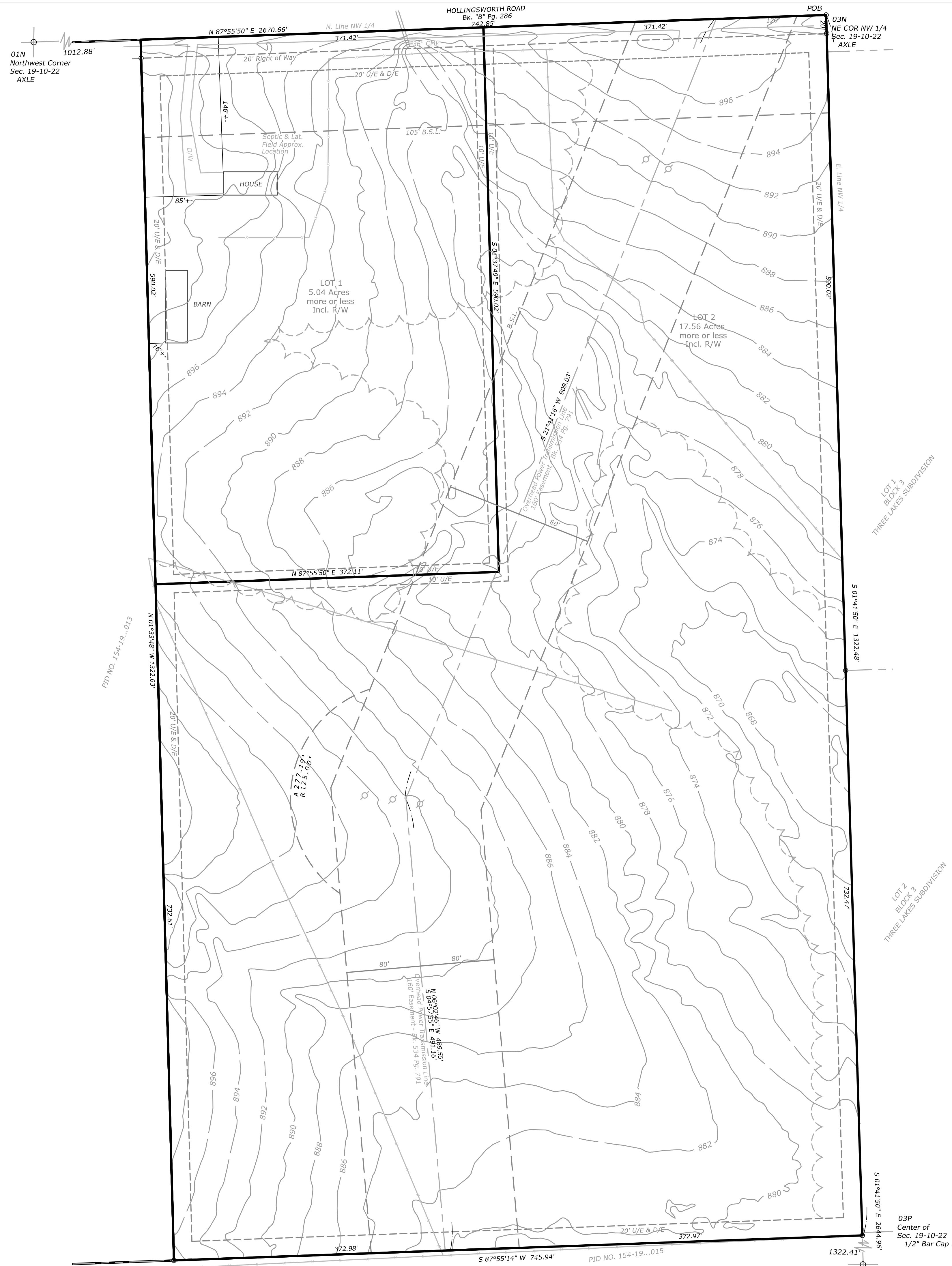
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PREPARED FOR:
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Error of Closure: 1 - 982411

**05-03-2021
OLSSON REVIEW
No Comments**

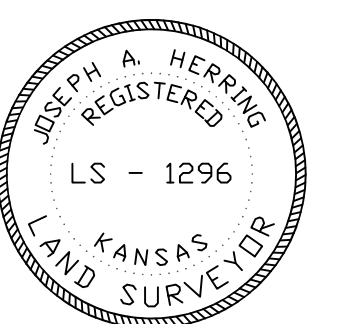
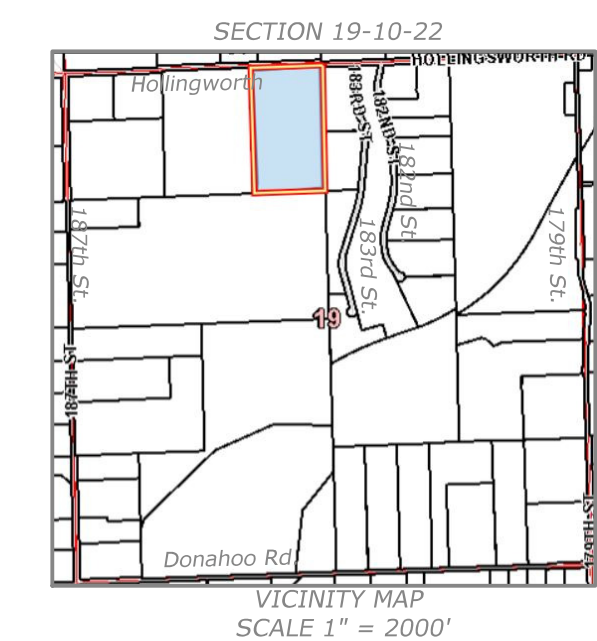


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RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

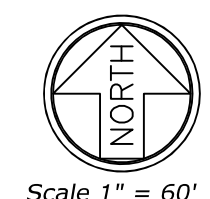
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Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
J.A.Herring Survey recorded Document 2020S082
 - 20) Existing barn on Lot 1 encroaches upon the Western 20' Utility and Drainage Easement, barn may remain as it exists today. Any modifications, repairs to the barn shall be subject to the current zoning regulations.

- LEGEND:**
- - 1/2" Bar Set with Cap No.1296
 - - 1/2" Bar Found, unless otherwise noted.
 - - Concrete Base to be Set around Point
 - △ - PK Nail Found in Place
 - () - Record / Deeded Distance
 - U/E - Utility Easement
 - D/E - Drainage Easement
 - B.S.L. - Building Setback Line
 - R/W - Permanent Dedicated Roadway Easement dedicated this plat
 - ⊕ - Centerline
 - ⊞ - Section Line
 - BM - Benchmark
 - C.A.E. - Cross Access Easement
 - POB - Point of Beginning
 - ⊙ - Power Pole
 - X - Fence Line
 - OHP - Overhead Power Lines
 - T - Underground Telephone/Fiber Optic Line
 - ⊕ - Gas Valve
 - ⊕ - Water Meter/Valve
 - ⊕ - Telephone Pedestal
 - W - 6" Water Line - location as per district
 - ~ - Tree/Brush Line



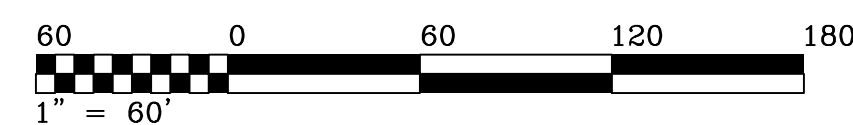
I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the month of January 2021 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296



Scale 1" = 60'

Job # K-20-1260
December 22, 2020 Rev. 4/27/21



03P
Center of
Sec. 19-10-22
1/2" Bar Cap RBD

BOYD ESTATES

A Minor Subdivision in the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

FINAL PLAT

PREPARED FOR:
Janice I. Boyd
18401 Hollingsworth Road
Tonganoxie, Kansas 66086
PID NO. 154-19-0-00-013.01

RECORD DESCRIPTION:
Tract of land in the North Half of the Northwest Quarter of Section 19, Township 10 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Beginning at the Northeast corner of said Northwest Quarter; thence South 01 degrees 41'50" East for a distance of 1322.48 feet along the East line of said Northwest Quarter; thence South 87 degrees 55'14" West for a distance of 745.94 feet; thence North 01 degrees 33'48" West for a distance of 1322.63 feet to the North line of said Northwest Quarter; thence North 87 degrees 55'50" East for a distance of 742.85 feet to the true point of beginning.
Together with and subject to covenants, easements, and restrictions of record. Said property contains 22.60 acres, more or less, including road right of way.
Error of Closure: 1 - 982411

CERTIFICATION AND DEDICATION
The undersigned proprietors state that all taxes of the above described tract of land have been paid and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as: BOYD ESTATES.

Easements shown on this plat are hereby dedicated for public use, the rights of way which are shown with dashed lines on the accompanying plat, and said easements may be employed to locate and maintain sewers, water lines, gas lines, poles and wires and any other form of public utility now and hereafter used by the public over, under and along the strips marked "Utility Easement" (U/E).

"Drainage Easements" or "D/E" shown on this plat are hereby dedicated for the purpose of constructing, using, replacing and maintaining a culvert, storm sewer, drainage ditch, or other drainage facility or tributary connections, including similar facilities, and appurtenances thereto, including the right to maintain, repair and replace the drainage facility and for any reconstruction and future expansion of such facility, together with the right of access for the same, is hereby dedicated for public use. Drainage Easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities. The maintenance and upkeep of said Easements shall be the responsibility of the individual owners of the lots whereupon said Easements are dedicated. Leavenworth County shall bear no responsibility for any maintenance and upkeep of said Easements.

Streets shown on the accompanying plat and not heretofore dedicated for public use are hereby so dedicated.

Building Lines or Setback Lines (B.S.L.) are hereby established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

IN TESTIMONY WHEREOF,
We, the undersigned owners of BOYD ESTATES, have set our hands this _____ day of _____, 2021.

Janice I. Boyd

NOTARY CERTIFICATE:
Be it remembered that on this _____ day of _____, 2021, before me, a notary public in and for said County and State came Janice I. Boyd, a single person, to me personally known to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

NOTARY PUBLIC _____
My Commission Expires: _____ (seal)

APPROVALS
We, the Leavenworth County Planning Commission, do hereby approve the foregoing plat of BOYD ESTATES this _____ day of _____, 2021.

Secretary _____ Chairman
Krystal A. Voth Steven Rosenthal

COUNTY ENGINEER'S APPROVAL:
The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.

County Engineer - _____

COUNTY COMMISSION APPROVAL:
We, the Board of County Commissioners of Leavenworth County, Kansas, do hereby approve the foregoing plat of BOYD ESTATES, this _____ day of _____, 2021.

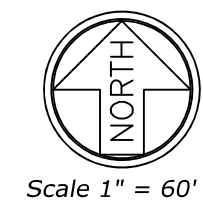
Chairman _____ County Clerk
Mike Smith Attest: Janet Klasinski

REGISTER OF DEED CERTIFICATE:
Filed for Record as Document No. _____ on this _____ day of _____, 2021 at _____ o'clock _____ M in the Office of the Register of Deeds of Leavenworth County, Kansas.

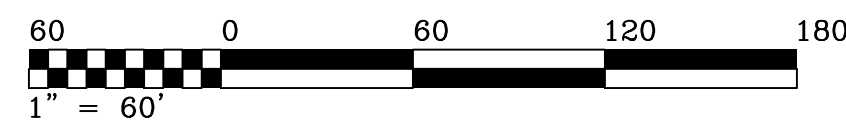
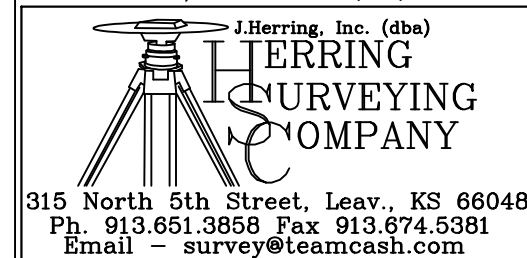
Register of Deeds - TerriLois G. Mashburn

COUNTY REVIEWER
I hereby certify this plat meets the requirements of KSA-58-2001 through 58-2005. The face of this plat was reviewed based on Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for surveying information only.

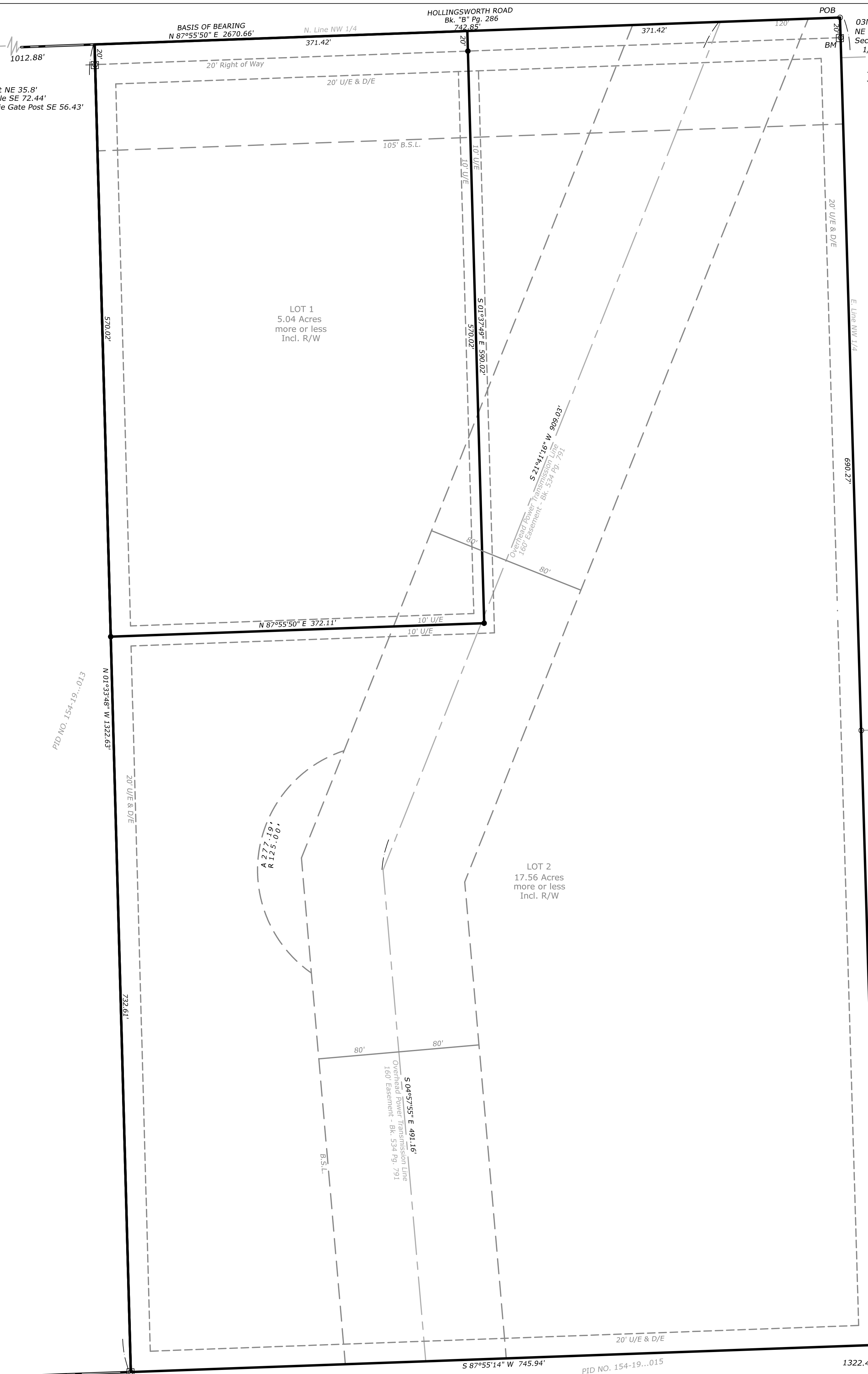
COUNTY REVIEWER _____
Leavenworth County Reviewer



Job # K-20-1260
December 22, 2020 Rev. 4/27/21



05-03-2021
OLSSON
REVIEW
No Comments



03N
NE COR NW 1/4
Sec. 19-10-22 (Level)(Hahn)
1/2" Bar Found
1) PK Nail with Washer Corner Post N 32.44'
2) Mag Nail in Fence Post SSW 32.33'
3) 1/2" Bar Cap LS-1296 S 20.0'

RESTRICTIONS:
1) All proposed structures within this plat shall comply with the Leavenworth County Zoning and Subdivision Regulations or zoning regulation jurisdiction.
2) An Engineered Waste Disposal System may be required due to poor soil conditions.
3) Erosion and sediment control measures shall be used when designing and constructing driveways and other structures. Re-vegetation of all disturbed areas shall be completed within 45 days after final grading.
4) Lots are subject to the current Access Management Policy
5) No off-plat restrictions.

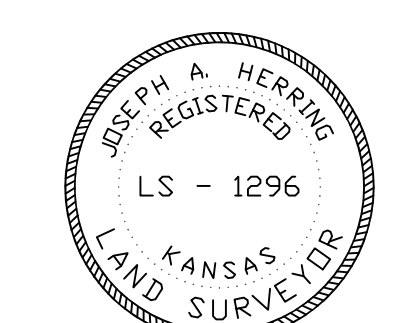
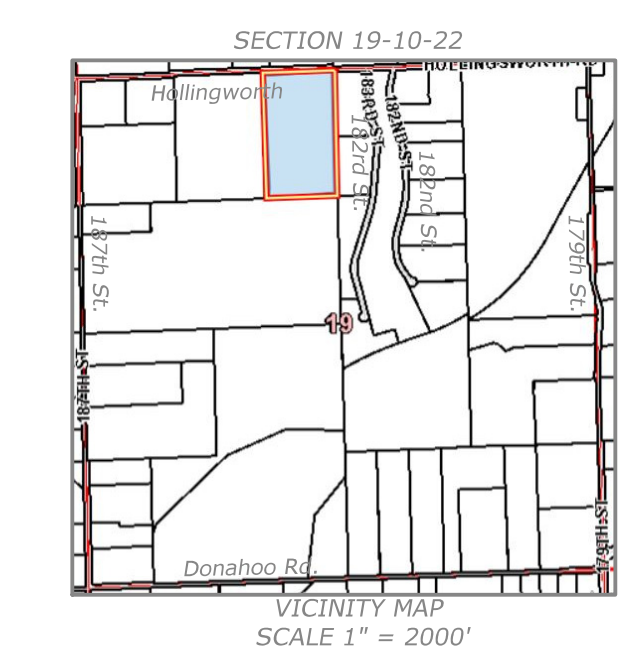
ZONING:
RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

NOTES:
1) This survey does not show ownership.
2) All distances are calculated from measurements or measured this survey, unless otherwise noted.
3) All recorded and measured distances are the same, unless otherwise noted.
4) Error of Closure - See Error of Closure Calculations
5) Basis of Bearing - KS State Plane NAD 83, North Zone 1501
North line of Northwest Quarter - N 87°55'50" E
6) Point Origin Unknown, unless otherwise noted.
7) Proposed Lots for Residential Use.
8) Road Record - See Survey
9) Benchmark - NAVD88
10) Easements, if any, are created hereon or listed in referenced title commitment.
11) Reference Recorded Deed Document No. 2020R12775
12) Utility Companies -
- Water - RWD 8
- Electric - Evergy
- Sewer - Septic / Lagoon
- Gas - Propane / Natural Gas
13) Reference Thompson-Affinity Title LLC File No. 227967 updated January 13, 2021
14) Property is not in a Special Flood Hazard Area per FEMA FIRM Map 20103C0225 dated July 16, 2015
15) Building Setback Lines as shown hereon or noted below
- All side yard setbacks - 15' (Accessory - 15')
- All rear yard setbacks - 40' (Accessory - 15')
16) Distances to and of structures, if any, are +- 1'.
17) Easements as per referenced Title Commitment are shown hereon
- Easement to Kansas Power & Light Book 534 Page 791 - Overhead Transmission Line
- Water Line Easement
18) Fence Lines do not necessarily denote the boundary line for the property.
19) Reference Surveys:
Recorded Plats - DOYLE ACRES, GRAVEL ROAD SUBDIVISION, THREE LAKES SUBDIVISION
J.A.Herring Survey recorded Document 2020S082
20) Existing barn on Lot 1 encroaches upon the Western 20' Utility and Drainage Easement, barn may remain as it exists today. Any modifications, repairs to the barn shall be subject to the current zoning regulations.

LEGEND:
● - 1/2" Rebar Set with Cap No.1296
○ - 1/2" Rebar Found, unless otherwise noted.
□ - Concrete Base to be Set around Point
() - Record / Deeded Distance
U/E - Utility Easement
D/E - Drainage Easement
B.S.L. - Building Setback Line
R/W - Permanent Dedicated Roadway Easement dedicated this plat
C - Centerline
S - Section Line
BM - Benchmark
POB - Point of Beginning

LOT 1
BLOCK 3
THREE LAKES SUBDIVISION

LOT 2
BLOCK 3
THREE LAKES SUBDIVISION



03P
Center of
Sec. 19-10-22 (Level)(Hahn)
1/2" Bar Cap RBD
1) East-West Fence Line N 1.5'+-
2) North-South Fence Line E 1.5'+-

I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the dates of January thru February 2021 and this map or plat is correct to the best of my knowledge.
Joseph A. Herring
PS # 1296

From: [Mitch Pleak](#)
Sent: Monday, May 3, 2021 11:53 AM
To: [Voth, Krystal](#); [Anderson, Lauren](#)
Cc: [Noll, Bill](#); [019-2831](#)
Subject: RE: Boyd Estates Drainage Report

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Krystal,
Lauren and I have reviewed the revised Drainage Report and have found all comments to be addressed.

Thanks,

Mitch Pleak

From: Voth, Krystal <KVoth@leavenworthcounty.gov>
Sent: Wednesday, April 28, 2021 10:29 AM
To: Mitch Pleak <mpleak@olsson.com>; Anderson, Lauren <LAnderson@leavenworthcounty.gov>
Subject: Boyd Estates Drainage Report

Mitch & Lauren,

Attached is the updated drainage report for Boyd. Thanks.

Respectfully,

Krystal A. Voth, CFM
Director
Planning & Zoning
Leavenworth County
913.684.0461

From: [Mitch Pleak](#)
Sent: Monday, May 3, 2021 11:57 AM
To: [Voth, Krystal](#)
Cc: [Anderson, Lauren](#); [Noll, Bill](#); [019-2831](#)
Subject: RE: Boyd Estates

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Krystal,
Lauren and I have reviewed the revised Boyd Estates PP and FP. No comments are remaining.
Below is the link to the reviewed PP and FP.

<https://oaconsulting.sharefile.com/d-sf83bf8ca17074449b1652b37e9a71111>

Thanks,

Mitch Pleak

From: Voth, Krystal <KVoth@leavenworthcounty.gov>
Sent: Thursday, April 29, 2021 8:57 AM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>
Subject: Boyd Estates

Mitch & Lauren,

Please see the updated plat for Boyd Estates. I told Joe to keep the 20 easement, even though there is a building within it, and to add a note, which he has done. Historically, this is how we have handled the situation. In the event the barn is destroyed or the owner wishes to make modifications we do not let them build within the easement.

Respectfully,

Krystal A. Voth, CFM
Director
Planning & Zoning
Leavenworth County
913.684.0461

Sloop, Stephanie

From: Rural Water <rwd8lv@gmail.com>
Sent: Tuesday, February 9, 2021 5:20 PM
To: Sloop, Stephanie
Subject: Re: DEV-21-004 & 005 Preliminary & Final Plat - Boyd Estates

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Stephanie,

RE: Boyd Estates

RWD#8 has not received a request or an inquiry to supply water service to Boyd Estates by the owner. RWD#8 has a 2" line on the southside of Hollingsworth Rd., at this time we are reluctant to add more services that are not on our immediate schedule. However, RWD#8 has plans to improve the Tong. Rd & 187th St. lines, (2021 Project). The completion of this project would allow for additional services on Hollingsworth Rd.

The preliminary plan shows the utility easement from north to south down the center of the lots. The land owner would have to pre-pay RWD#8 for a line extension to supply water service to the SW (Lot #3) and the SE(Lot #4) 2 lots. RWD#8 would require an additional easement so that the water line would not share the same easement with a buried electricity supply line.

RWD#8 does not have fire hydrants in this immediate area of Hollingsworth Rd., no fire hydrants are scheduled in the future plans.

Please contact me with any questions.

Becky Fousek, Office Manager for the Board of RWD#8

On Thu, Feb 4, 2021 at 3:00 PM Sloop, Stephanie <SSloop@leavenworthcounty.gov> wrote:

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Boyd Estates.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by Thursday, February 11th.

If you have any questions or need additional information, please contact me at (913) 684-0465 or at SSloop@LeavenworthCounty.Gov

Thank you,

Stephanie Sloop

Planning Coordinator

Leavenworth County Planning and Zoning

300 Walnut St. Ste. 212

Leavenworth, KS 66048

(913)684-0465

--

Becky Fousek

Office Manager

Rural Water District #8-LV CO

FINAL & PRELIMINARY PLAT APPLICATION
 Leavenworth County Planning and Zoning Department
 300 Walnut St., Suite 212
 Leavenworth, Kansas
 913-684-0465

Office Use Only

PID: _____
 Township: _____
 Planning Commission Meeting Date: _____
 Case No. _____ Date Received/Paid: _____
 Zoning District _____
 Comprehensive Plan land use designation _____

APPLICANT/AGENT INFORMATION

OWNER INFORMATION

NAME: Joe Herring NAME: Janice I. Boyd
 MAILING ADDRESS: 315 North 5th Street MAILING ADDRESS 18401 Hollingsworth Road
 CITY/ST/ZIP: Leavenworth, KS 66048 CITY/ST/ZIP Tonganoxie, KS 66086
 PHONE: 913-651-3858 PHONE: N/A
 EMAIL: Herringsurveying@outlook.com EMAIL: N/A

GENERAL INFORMATION

Proposed Subdivision Name: BOYD ESTATES
 Address of Property: 18401 Hollingsworth Road
 Urban Growth Management Area: N/A

SUBDIVISION INFORMATION

Gross Acreage: 23	Number of Lots: 4	Minimum Lot Size: 6
Maximum Lot Size: 5	Proposed Zoning: RR5	Density: N/A
Open Space Acreage: N/A	Water District: RW 8	Proposed Sewage: Septic
Fire District: Stranger	Electric Provider: Evergy	Natural Gas Provider: Propane
Covenants: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Road Classification: <u>Local</u> Collector - Arterial - State - Federal	

Is any part of the site designated as Floodplain? Yes No if yes, what is the panel number:

I, the undersigned, am the owner, duly authorized agent, of the aforementioned property situated in the unincorporated portion of Leavenworth County, Kansas. By execution of my signature, I do hereby officially apply for a preliminary plat approval as indicated above.

Signature: _____ Date: 1/22/21

ATTACHMENT A

*****Consent Agenda*****

**Leavenworth County
Request for Board Action
Case No. DEV-21-041/042
Preliminary & Final Plat Putthoff Acres**

Date: May 26, 2021
To: Board of County Commissioners
From: Planning & Zoning Staff

Department Head Review: Krystal Voth, Reviewed

Additional Reviews as needed:

Budget Review **Administrator Review** **Legal Review**

Action Requested: The applicants are requesting a Preliminary and Final Plat for a two-lot subdivision. Proposed Lots 1 & 2 are both 10 acres, in size.

Analysis: The applicant is requesting the approval of a 2-lot subdivision located at 21476 219th Street, Tonganoxie. Zoning of the property and the surrounding area is RR-5. Both lots are 10 acres in size and meet the requirements for the zoning district.

Staff is supportive of the request as proposed and recommends approval of the development.

Recommendation: The Planning Commission voted 7-0 (2 absences) to recommend approval of Case No. DEV-21-041/042, Preliminary and Final Plat for Putthoff Acres subject to conditions.

Alternatives:

1. Approve Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, with or without conditions; or
2. Deny Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, for the following reasons; or
3. Revise or Modify the Planning Commission Recommendation to Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, with Findings of Fact; or
4. Remand the case back to the Planning Commission.

Budgetary Impact:

- Not Applicable
- Budgeted item with available funds
- Non-Budgeted item with available funds through prioritization
- Non-Budgeted item with additional funds requested

Total Amount Requested: \$0.00

Additional Attachments: Staff Report, Plat, Planning Commission Minutes

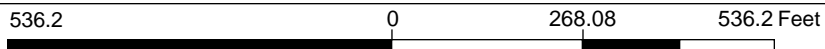
DEV-21-041 & 042 Putthoff Acres



Legend

- Address Point
- Parcel Number
- Lot Line
- Parcel
- ⋮ City Limit Line
- Major Road
- <all other values>
- 70
- Road
- + Railroad
- Section
- ▭ Section Boundaries
- ▭ County Boundary

1 in. = 268ft.



This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

*****Consent Agenda*****
Case No. DEV-21-041/042
Putthoff Acres
Preliminary and Final Plat

Staff Report – Board of County Commissioners

May 26, 2021

GENERAL INFORMATION:

**Applicant/
Property Owner:** Putthoff Trust
21686 219th Street
Tonganoxie, KS 66086

Agent: Hahn Surveying

Legal Description: A tract of land in the north half of the Northwest Quarter of the Southwest Quarter of Section 10, Township 10 South, Range 21 East of the 6th P.M, in Leavenworth County, Kansas.

Parcel Size: ± 20.1 acres

Zoning/Land Use: RR-5, Rural Residential 5-acre minimum size parcels

Comprehensive Plan: This parcel is within the Residential Estate land use category.

Parcel ID No.: 145-21-0-00-00-007.05

Planner: Joshua Gentzler

REPORT:

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted to recommend approval 7-0 (2 absences) of Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, with the following conditions:

1. Building permits shall be required for any new construction.
2. Erosion control shall be used when designing and constructing driveways. A form of sediment control shall be installed before work begins and maintained throughout the time that the land disturbing activities are taking place. Re-vegetation of all disturbed sites shall be completed within 45 days after completion of final grading weather permitting.
3. A waiver for the use of private septic systems within this subdivision is granted with this approval.
4. At time of development, fire hydrants shall be required if necessary infrastructure is available.
5. After approval of this subdivision by the Board of County Commission, all conditions listed shall be adhered to and copies shall be provided to the Planning and Zoning Department within 30 days.

Request

The applicant is requesting a Preliminary and Final Plat for a two (2) lot subdivision.

Adjacent Land Use

The surrounding properties are residences and farms on varying sized parcels ranging from 10 acres to 46 acres in size.

Flood Plain

There are no Special Flood Hazard Areas on this parcel per FEMA Firm Map 20103C0225G July 16, 2015.

Utilities/Services

Sewer: Private septic system
Fire: Tonganoxie Fire Department
Water: Rural Water District 9
Electric: Freestate

Access/Streets

The property is accessed by 219th Street. This road is a County Collector with a paved surface ± 25' wide.

Agency Comments

See attached comments – Email – Lauren Anderson – Public Works, May 3, 2021
See attached comments – Email – Timothy Smith – Tonganoxie Township FD, April 5, 2021
See attached comments – Email – Jon Orndorff – Rural Water District 9, April 13, 2021
See attached comments – Email – Amanda Tarwater – FreeState, April 2, 2021

Findings

1. The proposed subdivision is consistent with the zoning district of RR 5; Rural Residential Zoning 5 acre minimum size parcels and meets the lot-depth to lot-width ratio of 3.5:1 or 4:1, have the minimum frontage of 300', and a minimum lot size of 5 acres.

2. The property is not within a sewer district boundary or is within 660 feet of the incorporated limits of a municipality; therefore, a waiver to the requirement of allowing private septic systems is supported by staff. A private sewage disposal permit may be issued per Leavenworth County Sanitary Code requirements.

3. At time of development, fire hydrants shall be required if necessary infrastructure is available.

4. The proposed subdivision is in accordance with the Comprehensive Plan.

Subdivision Classification

This is classified as a Class "C" Subdivision. According to the Leavenworth County Zoning & Subdivision regulations, a Class "C" Subdivision is any subdivision in which all the lots lie within the Rural Growth Area of Leavenworth County. Staff is supportive of a waiver of the requirement to connect to a sanitary sewer system as sanitary sewers are not located within 660' of the subdivision. (See condition 3.)

Staff Comments

The applicant is requesting the approval of a 2-lot subdivision located at 21476 219th Street, Tonganoxie. Zoning of the property and the surrounding area is RR-5. Both lots are 10 acres in size and meet the requirements for the zoning district.

Staff is supportive of the request as proposed and recommends approval of the development.

ACTION OPTIONS:

1. Approve Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, with or without conditions; or
2. Deny Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, for the following reasons; or
3. Revise or Modify the Planning Commission Recommendation to Case No. DEV-21-041 & 042, Preliminary and Final Plat for Putthoff Acres, with Findings of Fact; or
4. Remand the case back to the Planning Commission.

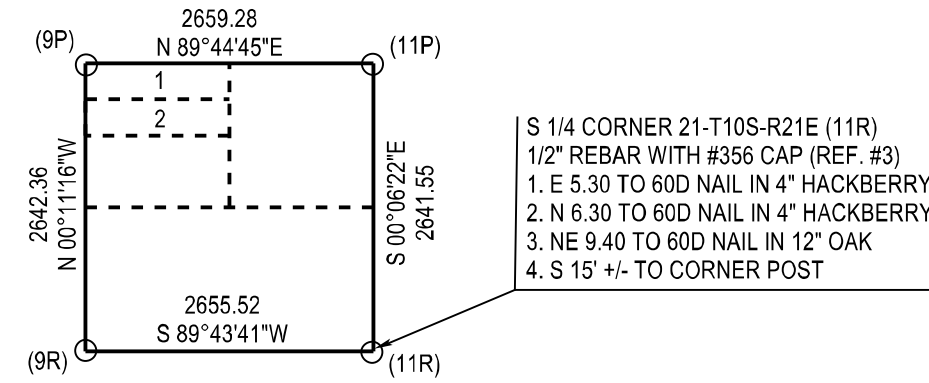
ATTACHMENTS:

Aerial Map
Memorandums
Preliminary and Final Plat

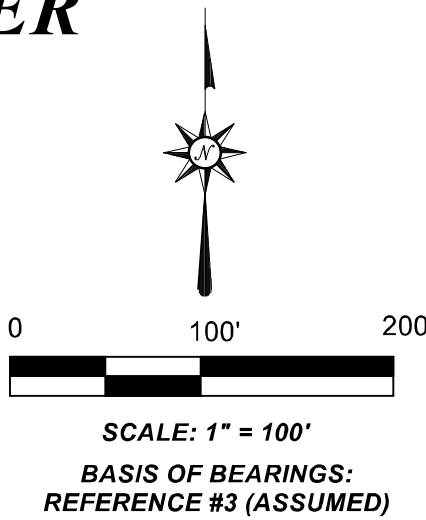
PUTTHOFF ACRES

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER
SECTION 21-T10S-R21E OF THE 6TH P.M.,
LEAVENWORTH COUNTY, KANSAS

PRELIMINARY PLAT

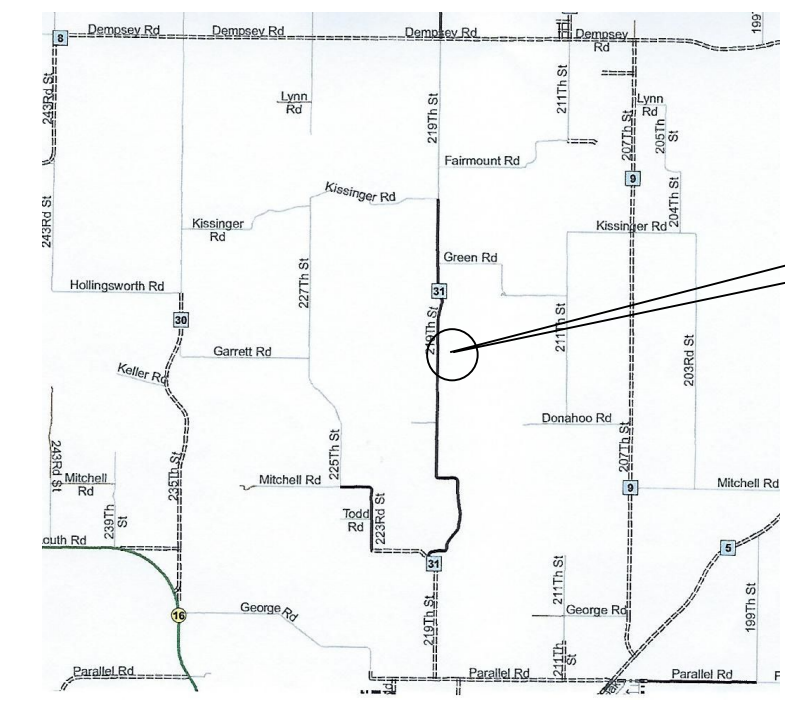


SECTION MAP - SW 1/4
NO SCALE



LEGEND

- 1/2" x 24" REBAR SET WITH #1349 CAP
- 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
- SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
- U/E UTILITY EASEMENT



LOCATION MAP
NO SCALE

DEED DESCRIPTION - DOC. #2017R07637

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS, COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 680.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 680.49 FEET; THENCE, WEST 1329.54 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

OWNER

GEORGE L. COOPER TRUST
21476 219TH STREET
TONGANOXIE, KANSAS 66086
PN. 145-21-0-00-007.05

DEVELOPER

PUTTHOFF TRUST - LAURIE PUTTHOFF
21686 219TH STREET
TONGANOXIE, KANSAS 66086
(913)908-8900

RESTRICTIONS

1. 40' REAR SETBACK FOR RESIDENCES
- 15' REAR SETBACK FOR ACCESSORY BUILDINGS
- 15' SIDE SETBACK
2. AN ENGINEERED WASTEWATER DISPOSAL SYSTEM MAY BE REQUIRED DUE TO POOR SOIL CONDITIONS.
3. EROSION CONTROL SHALL BE USED WHEN DESIGNING AND CONSTRUCTING DRIVEWAYS.
4. A FORM OF SEDIMENT CONTROL SHALL BE INSTALLED BEFORE WORK BEGINS AND MAINTAINED THROUGHOUT THE TIME THAT THE LAND DISTURBING ACTIVITIES ARE TAKING PLACE.
5. RE-VEGETATION OF ALL DISTURBED SITES SHALL BE COMPLETED WITHIN 45 DAYS AFTER COMPLETION OF FINAL GRADING, WEATHER PERMITTING.
6. LOTS ARE SUBJECT TO THE CURRENT ACCESS MANAGEMENT POLICY RESOLUTION.

NOTES

1. FENCE LINES DO NOT DENOTE PROPERTY LINES.
2. EXISTING USE OF AREA BEING PLATTED - AGRICULTURAL / RESIDENTIAL PROPOSE USE - AGRICULTURAL / RESIDENTIAL
3. LEAVENWORTH COUNTY, KANSAS, DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT THE DETAILS SHOWN ON THIS DOCUMENT AND PROVIDED BY THE APPLICANT, INCLUDING ANY SURVEY INFORMATION SHOULD BE RELIED UPON BY ANY THIRD PARTY AS BEING WHOLLY OR PARTIALLY ACCURATE AND COMPLETE.
4. THIS PROPOSED PLAT IS NOT IN A SPECIAL FLOOD HAZARD AREA. FEMA MAP 20103C0225G, DATED 07/16/2015

REFERENCES

1. S-15, #2 (2003)
2. S-15, #5 (2003)
3. DOC. #2015S016
4. ROAD RECORD B-128

ZONING

RURAL RESIDENTIAL / RR-5.0

UTILITIES

WATER / R.W.D. #9
ELECTRIC / FREESTATE
GAS / PRIVATE PROPANE
SEWER / PRIVATE ON SITE SYSTEM

DRAINAGE CALCULATIONS

ON SEPARATE DOCUMENT BY DAVID LUTGEN, PE

BENCHMARK

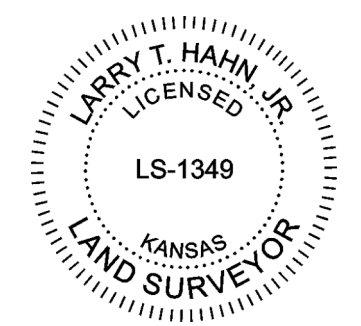
1/2" REBAR WITH #1314 AT THE W 1/4 CORNER
21-T10S-R21E EL. 1034.33 (NAVD88)

ROAD INFORMATION

COUNTY COLLECTOR - 20' +/- WIDE WITH PAVED SURFACE

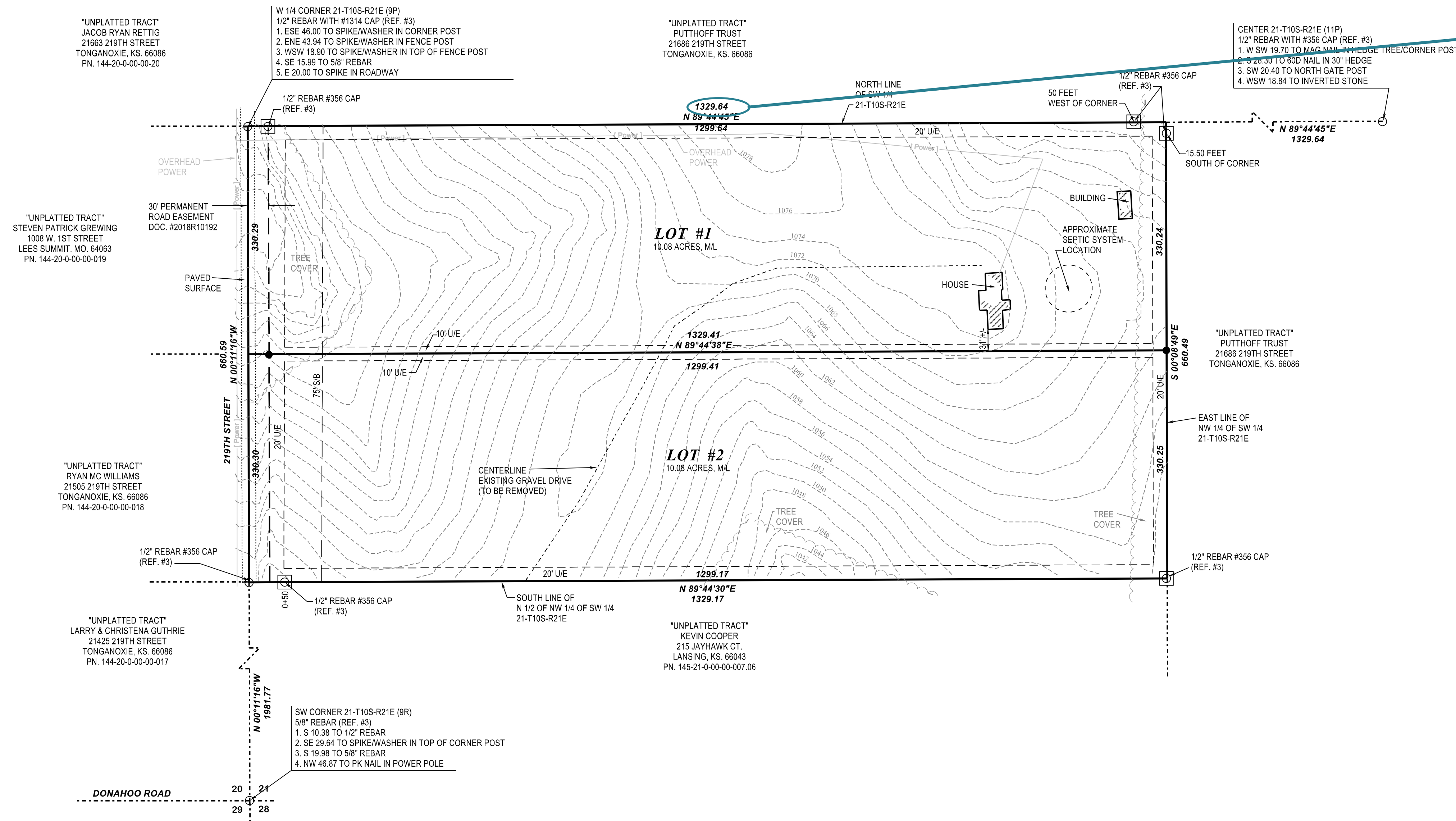
EASEMENT DEDICATION

AN EASEMENT OR LICENSE TO ENTER UPON, LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION OR MAINTAINANCE AND USE OF CONDUITS, WATER, GAS, SEWER PIPE, POLES, WIRES, DRAINAGE FACILITIES, DUCTS, CABLES AND SIMILAR FACILITIES UPON, OVER AND UNDER THESE AREAS OUTLINED AND DESIGNATED ON THIS PLAT AS UTILITY EASEMENT OR U/E IS HEREBY GRANTED TO LEAVENWORTH COUNTY, KANSAS WITH SUBORDINATE USE OF THE SAME BY OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES AS MAY BE AUTHORIZED BY STATE LAW TO USE SUCH EASEMENT FOR SAID PURPOSES.



LARRY T. HAHN, LS #1349

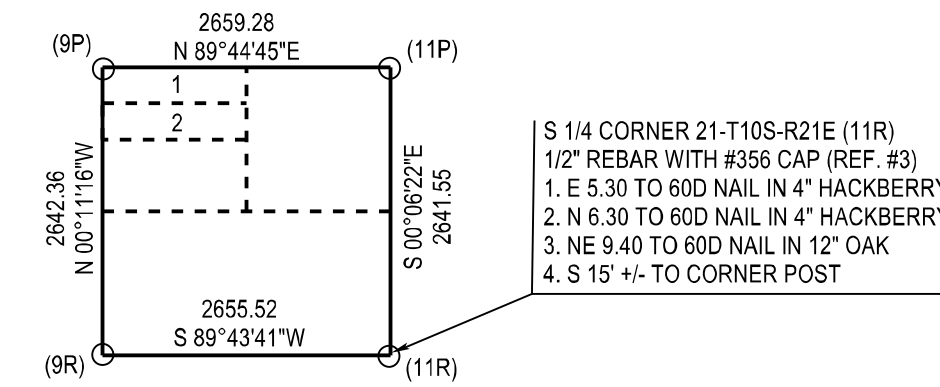
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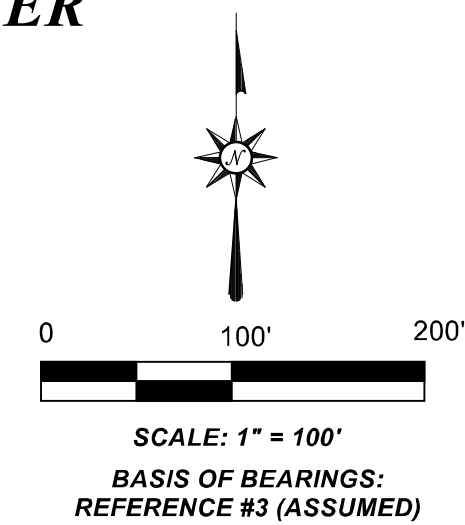
PUTTHOFF ACRES

A SUBDIVISION IN THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS

FINAL PLAT

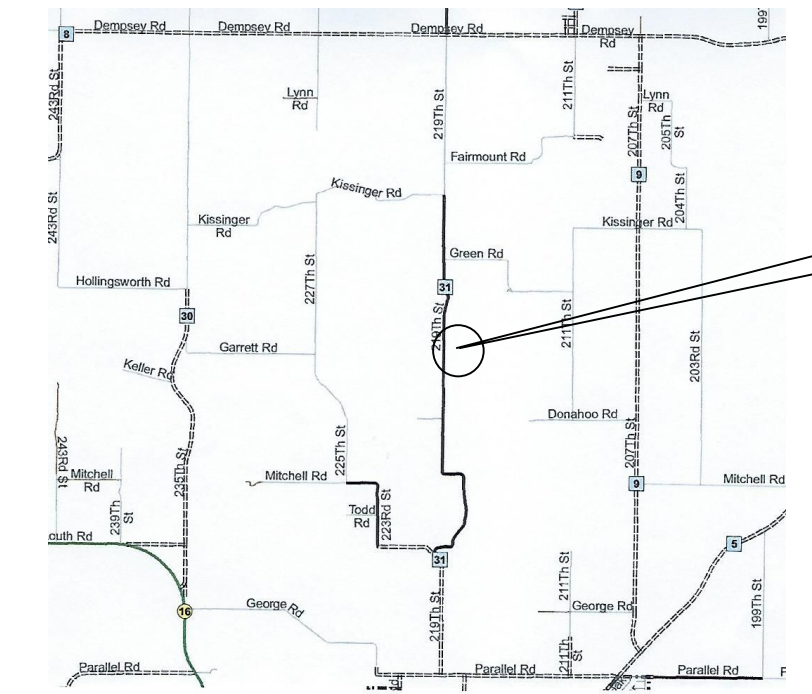


SECTION MAP - SW 1/4
NO SCALE



LEGEND

- 1/2" x 24" REBAR SET WITH #1349 CAP
- 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
- SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
- U/E UTILITY EASEMENT - DEDICATED THIS PLAT



LOCATION MAP
NO SCALE

DEED DESCRIPTION - DOC. #2017R07637

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS, COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 660.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 660.49 FEET; THENCE, WEST 1329.64 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

IN TESTIMONY WHEREOF

THE UNDERSIGNED PROPRIETOR STATE THAT ALL TAXES ON THE ABOVE DESCRIBED TRACT OF LAND HAVE BEEN PAID AND THAT SHE HAS CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING PLAT WHICH SHALL BE KNOWN AS "PUTTHOFF ACRES".

Laurie Putthoff
Putthoff Trust

STATE OF KANSAS / COUNTY OF LEAVENWORTH

ON THIS _____ DAY OF _____, 2021, BEFORE ME APPEARED LAURIE PUTTHOFF, KNOWN TO ME TO BE THE SAME PERSON DESCRIBED HEREIN AND WHO EXECUTED THE SAME AS HER FREE ACT AND DEED. IN WITNESS THEREOF, I HAVE SET MY HAND AND AFFIXED MY NOTARIAL SEAL THIS _____ DAY OF _____, 2021.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

APPROVAL

WE THE LEAVENWORTH COUNTY PLANNING COMMISSION, DO HEREBY APPROVE THE FOREGOING PLAT OF "PUTTHOFF ACRES" THIS _____ DAY OF _____, 2021.

CHAIRPERSON / STEVE ROSENTHAL _____ SECRETARY / KRISTAL VOTH, CFM _____

THE LEAVENWORTH COUNTY ENGINEERS PLAT REVIEW IS ONLY FOR GENERAL CONFORMANCE WITH THE SUBDIVISION REGULATIONS AS ADOPTED BY LEAVENWORTH COUNTY. THE COUNTY IS NOT RESPONSIBLE FOR THE ACCURACY AND ADEQUACY OF THE DESIGN, DIMENSIONS, ELEVATIONS AND QUANTITIES.

COUNTY ENGINEER _____

WE THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS, DO HEREBY APPROVE THE FOREGOING PLAT OF "PUTTHOFF ACRES" THIS _____ DAY OF _____, 2021.

CHAIRPERSON / MICHAEL SMITH _____ COUNTY CLERK / JANET KLASINSKI (ATTEST) _____

COUNTY SURVEY CERTIFICATION

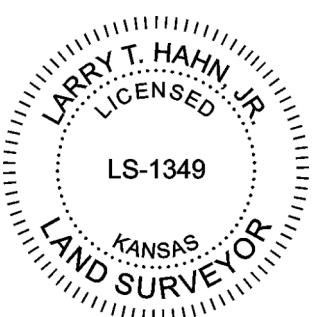
I HEREBY CERTIFY THAT THIS DOCUMENT HAS BEEN REVIEWED BY ME AND IS BEING FILED FOR SURVEY INFORMATION ONLY.

LEAVENWORTH COUNTY SURVEY REVIEWER _____

STATE OF KANSAS / COUNTY OF LEAVENWORTH

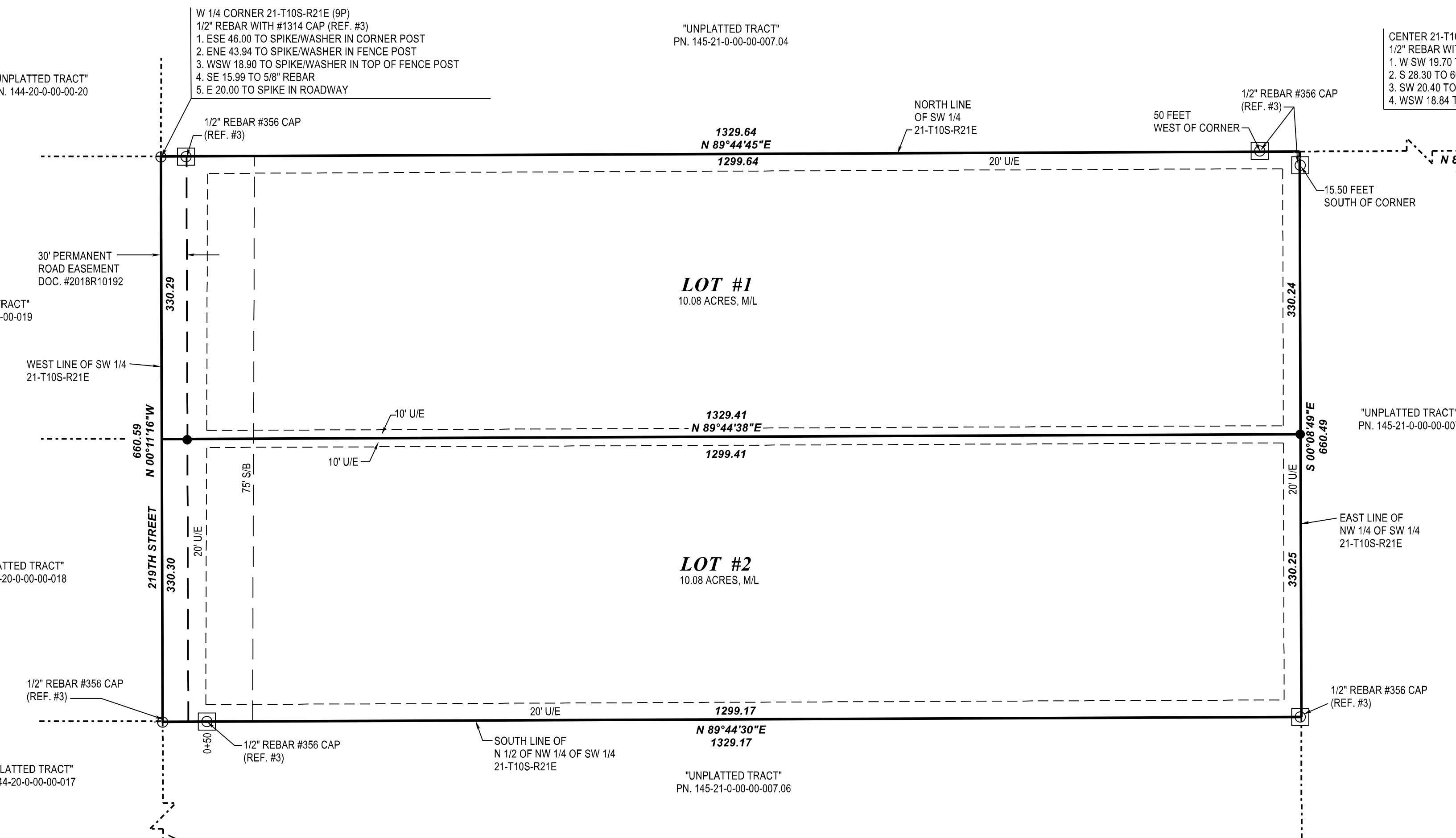
FILED FOR RECORD IN DOCUMENT# _____ ON THIS _____ DAY OF _____, 2021 AT _____ O'CLOCK _____ IN THE OFFICE OF THE REGISTER OF DEEDS, LEAVENWORTH COUNTY, KANSAS.

REGISTER OF DEEDS / TERRILOIS G. MASHBURN _____



LARRY T. HAHN, LS #1349

THIS IS TO CERTIFY THAT IN THE MONTH OF MARCH, 2021, THIS SURVEY WAS MADE UNDER MY DIRECT SUPERVISION AND THAT SAID SURVEY MEETS OR EXCEEDS THE "KANSAS MINIMUM STANDARDS" FOR BOUNDARY SURVEYS PURSUANT TO K.S.A. 74-7037.



REFERENCES

1. S-15, #2 (2003)
2. S-15, #5 (2003)
3. DOC. #2015S016
4. ROAD RECORD B-128

ZONING

RURAL RESIDENTIAL / RR-5.0

BENCHMARK

1/2" REBAR WITH #1314 AT THE W 1/4 CORNER 21-T10S-R21E. EL. 1034.33 (NAVD88)

RESTRICTIONS

1. 40' REAR SETBACK FOR RESIDENCES
- 15' REAR SETBACK FOR ACCESSORY BUILDINGS
- 15' SIDE SETBACK
2. AN ENGINEERED WASTEWATER DISPOSAL SYSTEM MAY BE REQUIRED DUE TO POOR SOIL CONDITIONS.
3. EROSION CONTROL SHALL BE USED WHEN DESIGNING AND CONSTRUCTING DRIVEWAYS.
4. A FORM OF SEDIMENT CONTROL SHALL BE INSTALLED BEFORE WORK BEGINS AND MAINTAINED THROUGHOUT THE TIME THAT THE LAND DISTURBING ACTIVITIES ARE TAKING PLACE.
5. RE-VEGETATION OF ALL DISTURBED SITES SHALL BE COMPLETED WITHIN 45 DAYS AFTER COMPLETION OF FINAL GRADING, WEATHER PERMITTING.
6. LOTS ARE SUBJECT TO THE CURRENT ACCESS MANAGEMENT POLICY RESOLUTION.

STREET DEDICATION

ALL STREETS ON THE ACCOMPANYING PLAT AND NOT HERETOFORE DEDICATED TO PUBLIC USE ARE HEREBY SO DEDICATED.

EASEMENT DEDICATION

AN EASEMENT OR LICENSE TO ENTER UPON, LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION OR MAINTENANCE AND USE OF CONDUITS, WATER, GAS, SEWER PIPE, POLES, WIRES, DRAINAGE FACILITIES, DUCTS, CABLES AND SIMILAR FACILITIES UPON, OVER AND UNDER THESE AREAS OUTLINED AND DESIGNATED ON THIS PLAT AS UTILITY EASEMENT OR U/E IS HEREBY GRANTED TO LEAVENWORTH COUNTY, KANSAS WITH SUBORDINATE USE OF THE SAME BY OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES AS MAY BE AUTHORIZED BY STATE LAW TO USE SUCH EASEMENT FOR SAID PURPOSES.

NOTES

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4. THIS PROPOSED PLAT IS NOT IN A SPECIAL FLOOD HAZARD AREA. FEMA MAP 2010C0225G, DATED 07/16/2015

DEVELOPER

PUTTHOFF TRUST - LAURIE PUTTHOFF
21886 219TH STREET
TONGANOXIE, KANSAS 66086
(913) 908-8900

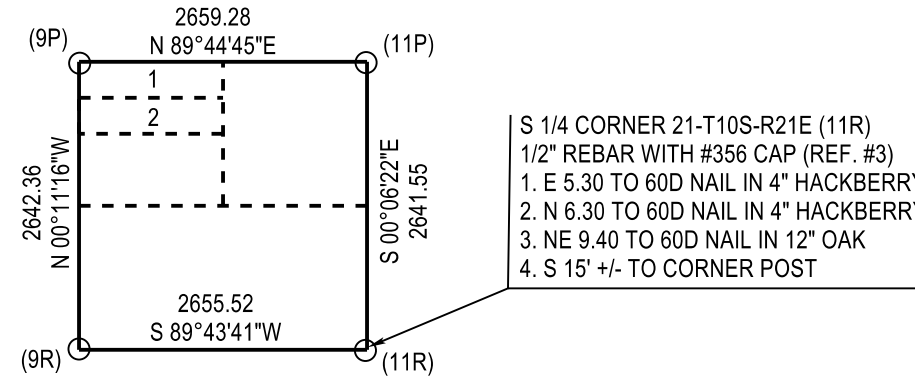


HAHN SURVEYING
PO BOX 41
LANSING, KANSAS 66043
(913) 547-3405
hahnsurvey@gmail.com

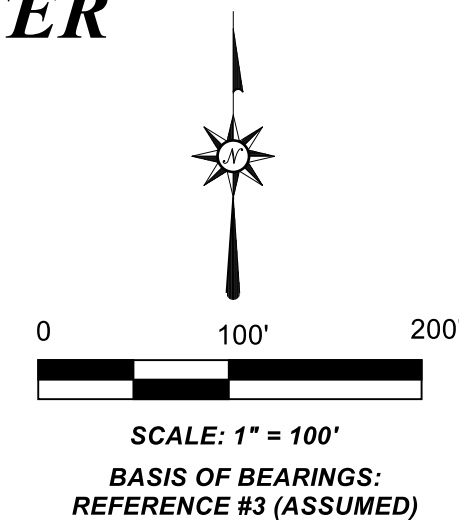
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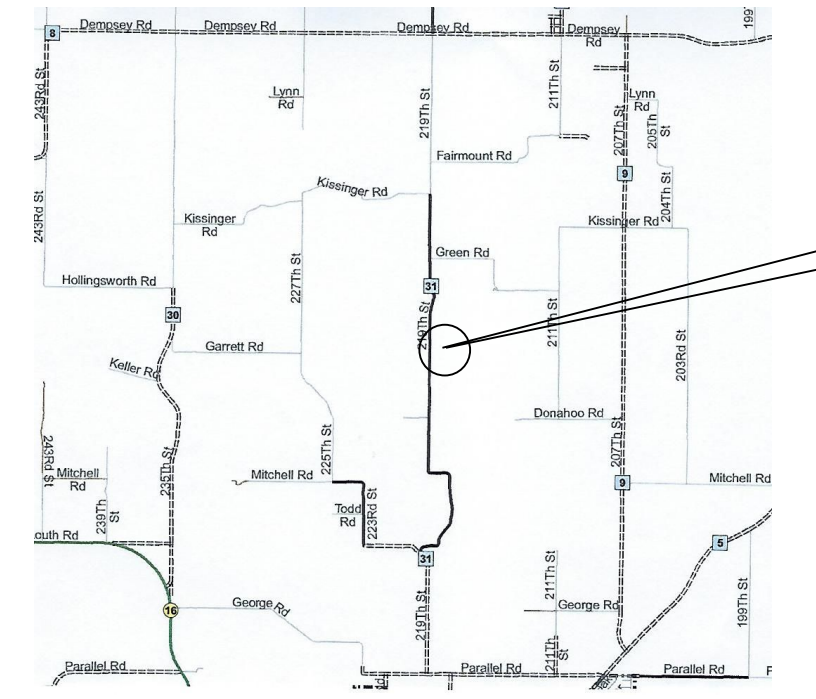
FINAL PLAT



SECTION MAP - SW 1/4
NO SCALE



- LEGEND**
- 1/2" x 24" REBAR SET WITH #1349 CAP
 - 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
 - SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
 - U/E UTILITY EASEMENT



LOCATION MAP
NO SCALE

DEED DESCRIPTION - DOC. #2017R07637

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS. COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 660.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 660.49 FEET; THENCE, WEST 1329.54 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

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Laurie Putthoff
Putthoff Trust

STATE OF KANSAS / COUNTY OF LEAVENWORTH

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NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

APPROVAL

WE THE LEAVENWORTH COUNTY PLANNING COMMISSION, DO HEREBY APPROVE THE FOREGOING PLAT OF "PUTTHOFF ACRES" THIS _____ DAY OF _____, 2021.

CHAIRPERSON / STEVE ROSENTHAL SECRETARY / KRISTAL VOTH, CFM

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COUNTY ENGINEER _____

WE THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS, DO HEREBY APPROVE THE FOREGOING PLAT OF "PUTTHOFF ACRES" THIS _____ DAY OF _____, 2021.

CHAIRPERSON / MICHAEL SMITH COUNTY CLERK / JANET KLASINSKI (ATTEST)

COUNTY SURVEYOR CERTIFICATION

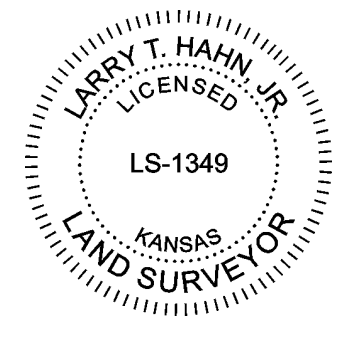
I HEREBY CERTIFY THIS PLAT MEETS THE REQUIREMENTS OF K.S.A. 58-2005. THE FACE OF THIS PLAT WAS REVIEWED BASED ON KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS. NO FIELD VERIFICATION IS IMPLIED. THIS REVIEW IS FOR SURVEY INFORMATION ONLY.

Should read "County Survey Reviewer" until LVCO has a County Surveyor

STATE OF KANSAS / COUNTY OF LEAVENWORTH

FILED FOR RECORD IN DOCUMENT# _____ ON THIS _____ DAY OF _____, 2021 AT _____ O'CLOCK _____ IN THE OFFICE OF THE REGISTER OF DEEDS, LEAVENWORTH COUNTY, KANSAS.

REGISTER OF DEEDS / TERRILOIS MASHBURN

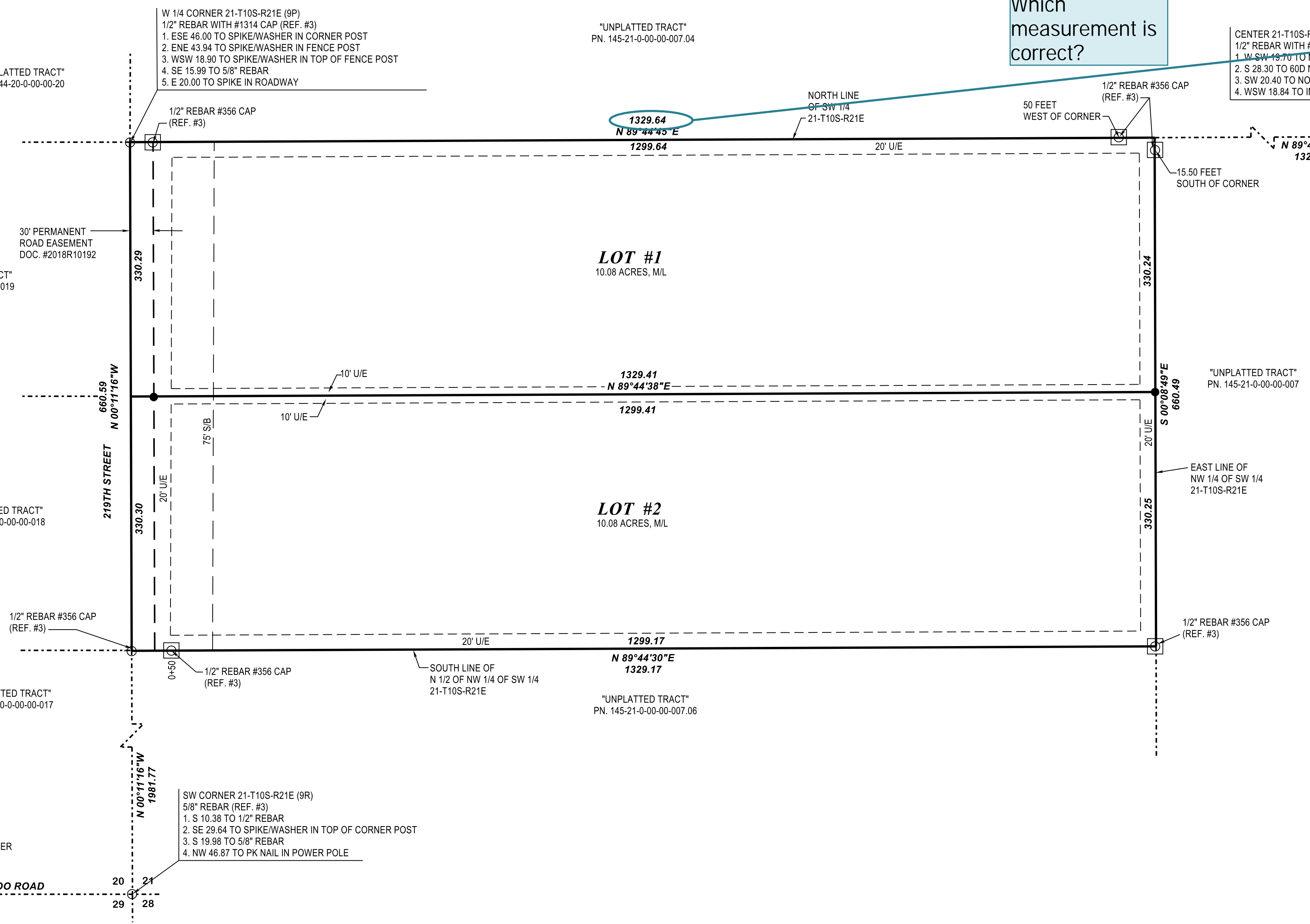


LARRY T. HAHN, LS #1349

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Which measurement is correct?

- CENTER 21-T10S-R21E (11P)
1/2" REBAR WITH #356 CAP (REF. #3)
1. SW 49.70 TO MAG NAIL IN HEDGE TREE/CORNER POST
 2. S 28.30 TO 80D NAIL IN 30" HEDGE
 3. SW 20.40 TO NORTH GATE POST
 4. WSW 18.84 TO INVERTED STONE



- REFERENCES**
1. S-15, #2 (2003)
 2. S-15, #5 (2003)
 3. DOC. #2015S016
 4. ROAD RECORD B-128

ZONING
RURAL RESIDENTIAL / RR-5.0

- BENCHMARK**
1. 1/2" REBAR WITH #1314 AT THE W 1/4 CORNER 21-T10S-R21E. EL. 1034.33 (NAVD88)

- RESTRICTIONS**
1. 40' REAR SETBACK FOR RESIDENCES
 - 15' REAR SETBACK FOR ACCESSORY BUILDINGS
 - 15' SIDE SETBACK
 2. AN ENGINEERED WASTEWATER DISPOSAL SYSTEM MAY BE REQUIRED DUE TO POOR SOIL CONDITIONS.
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 6. LOTS ARE SUBJECT TO THE CURRENT ACCESS MANAGEMENT POLICY RESOLUTION.

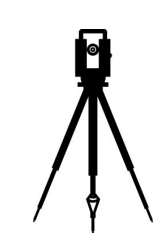
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- NOTES**
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 4. THIS PROPOSED PLAT IS NOT IN A SPECIAL FLOOD HAZARD AREA. FEMA MAP 20103C0225G, DATED 07/16/2015

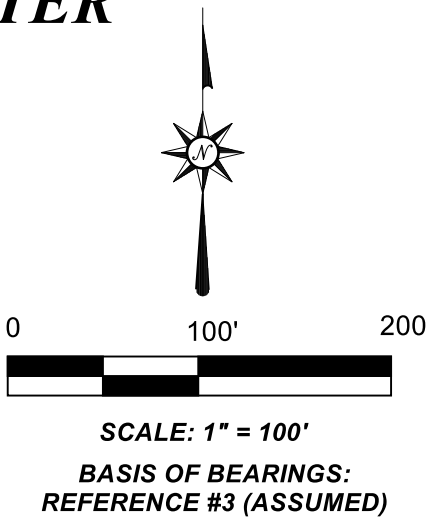
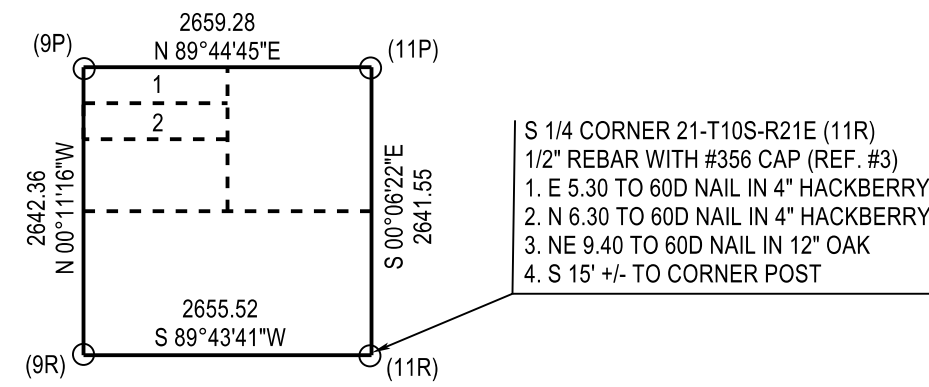
DEVELOPER
PUTTHOFF TRUST - LAURIE PUTTHOFF
21686 219TH STREET
TONGANOXIE, KANSAS 66086
(913)908-8900

Hahn Surveying
PO BOX 41
LANSING, KANSAS 66043
(913) 547-3405
hahnsurvey@gmail.com

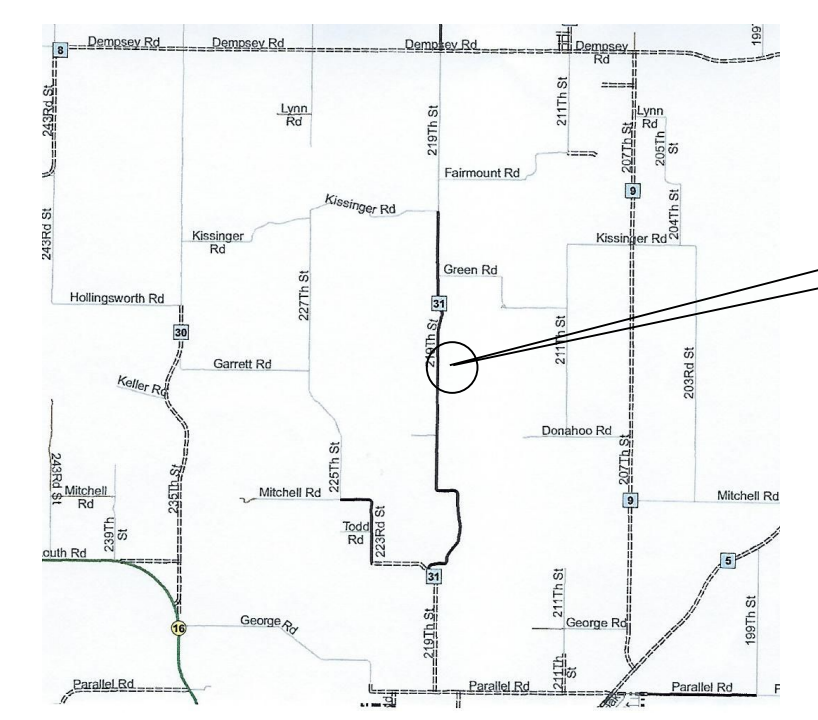


PUTTHOFF ACRES

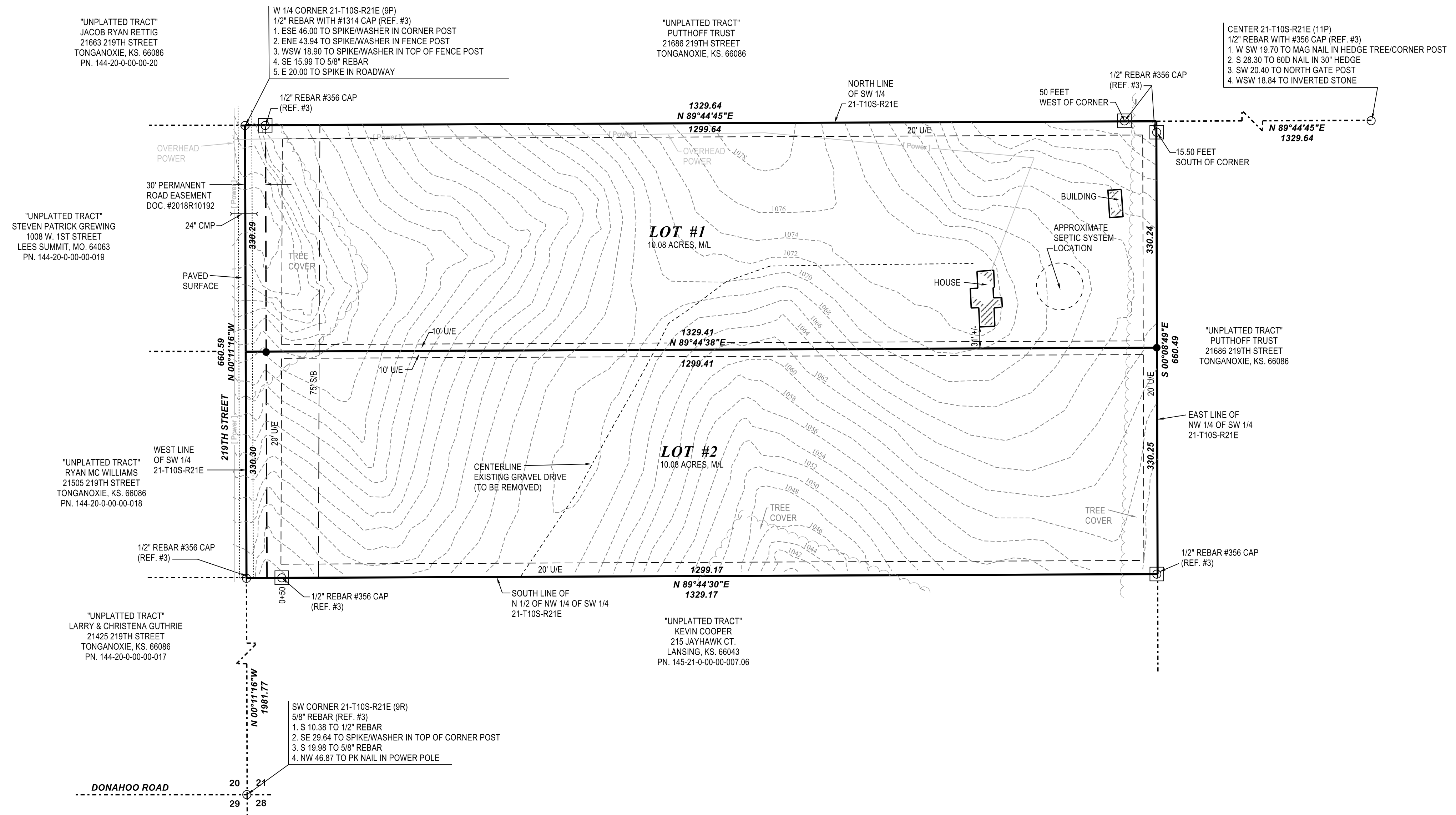
A SUBDIVISION IN THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER
SECTION 21-T10S-R21E OF THE 6TH P.M.,
LEAVENWORTH COUNTY, KANSAS
PRELIMINARY PLAT



- LEGEND**
- 1/2" x 24" REBAR SET WITH #1349 CAP
 - 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
 - SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
 - U/E UTILITY EASEMENT - DEDICATED THIS PLAT



SECTION MAP - SW 1/4
NO SCALE



DEED DESCRIPTION - DOC. #2017R07637
THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS, COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 660.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 660.49 FEET; THENCE, WEST 1329.64 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

OWNER
GEORGE L. COOPER TRUST
21476 219TH STREET
TONGANOXIE, KANSAS 66086
PN. 145-21-0-00-00-07.05

DEVELOPER
PUTTHOFF TRUST - LAURIE PUTTHOFF
21686 219TH STREET
TONGANOXIE, KANSAS 66086
(913)906-8900

- RESTRICTIONS**
1. 40' REAR SETBACK FOR RESIDENCES
 - 15' REAR SETBACK FOR ACCESSORY BUILDINGS
 - 15' SIDE SETBACK
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- REFERENCES**
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 4. ROAD RECORD B-128

ZONING
RURAL RESIDENTIAL / RR-5.0

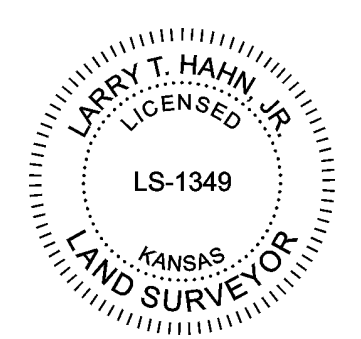
UTILITIES
WATER / R.W.D. #9
ELECTRIC / FREESTATE
GAS / PRIVATE PROPANE
SEWER / PRIVATE ON SITE SYSTEM

DRAINAGE CALCULATIONS
ON SEPARATE DOCUMENT BY DAVID LUTGEN, PE

BENCHMARK
1/2" REBAR WITH #1314 AT THE W 1/4 CORNER
21-T10S-R21E. EL. 1034.33 (NAVD88)

ROAD INFORMATION
COUNTY COLLECTOR - 20' +/- WIDE WITH PAVED SURFACE

EASEMENT DEDICATION
AN EASEMENT OR LICENSE TO ENTER UPON, LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION OR MAINTAINANCE AND USE OF CONDUITS, WATER, GAS, SEWER PIPE, POLES, WIRES, DRAINAGE FACILITIES, DUCTS, CABLES AND SIMILAR FACILITIES UPON, OVER AND UNDER THESE AREAS OUTLINED AND DESIGNATED ON THIS PLAT AS UTILITY EASEMENT OR U/E IS HEREBY GRANTED TO LEAVENWORTH COUNTY, KANSAS WITH SUBORDINATE USE OF THE SAME BY OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES AS MAY BE AUTHORIZED BY STATE LAW TO USE SUCH EASEMENT FOR SAID PURPOSES.

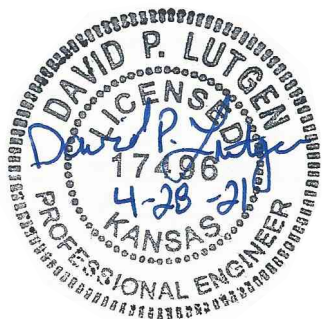


LARRY T. HAHN, LS #1349

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HAHN SURVEYING
PO BOX 41
LANSING, KANSAS 66043
(913) 547-3405
hahnsurvey@gmail.com

Putthoff Acres
Leavenworth County Kansas
Drainage Report
March 23, 2021
Revised April 28, 2021



Parcel Information - The 20.16-acre (+/-) parcel is located north of Donahoo Road on 219th Street in Leavenworth County KS. The parcel is zoned RR 5.0.

Existing Conditions – There is an existing house and outbuilding on the property. The majority of the parcel appears to be used as hay ground. The property can be divided into three drainage areas, see exhibit #1.

A composite c value was calculated for each drainage area as shown in the table below. The composite c value is based on the soil type, slopes, and existing land use, see Exhibits #2, #2A, and #3. No changes are anticipated in DA #2 so calculations for DA #2 are not included.

Existing	c value	Acres in each Drainage Area		
		DA #1	DA #3	
Wooded	0.35	0.30	0.76	
Pasture	0.36	6.78	7.84	
Gravel Drive	0.50	0.22	0.00	
Composite c		0.39	0.36	

$$\text{composite c} = \frac{(\text{Wooded Acres} * 0.35 + \text{Pasture Acres} * 0.36 + \text{Gravel Drive Acres} * 0.50)}{\text{Total Acres}}$$

Developed Conditions – The proposed development will create one new residential building lot. The new home is assumed to be located in drainage area #1 as shown on exhibit #1. A composite c value was calculated for the drainage area as shown in the table below. The composite c value is based on the soil type, slopes, and land use, see Exhibits #2, #2A, and #3. The developed storm water runoff calculations include 10,000 sq ft of impervious area for each new building lot. This impervious area will account for the driveway, house footprint, and outbuilding. It is assumed that a 2-acre area around the home will be maintained as a lawn and the remainder will be pasture. A composite c value for each drainage area was calculated as shown below.

Developed	c value	Acres in each Drainage Area		
		DA #1	DA #3	
Wooded	0.35	0.30	0.73	
Pasture	0.36	4.71	7.57	
Impervious	0.90	0.23	0.00	
Grass	0.30	2.00	0.00	
Gravel Drive	0.50	0.06	0.30	
Composite c		0.36	0.36	

$$\text{composite } c = \frac{(\text{Wooded Acres} * 0.35 + \text{Pasture Acres} * 0.36 + \text{Impervious Acres} * 0.90 + \text{Grass Acres} * 0.30 + \text{Gravel Drive Acres} * 0.50)}{\text{Total Acres}}$$

The storm water runoff for existing and developed conditions is summarized in the following tables. Calculations for the storm water runoff are included with the report.

DA #1		
	Q10	Q100
Existing	15.5	27.5
Developed	14.3	25.3
Change	-8%	-8%

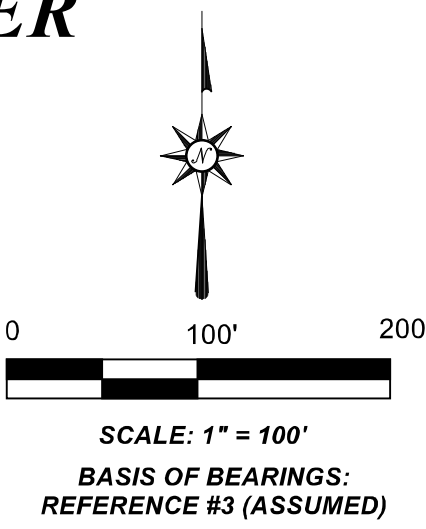
DA #3		
	Q10	Q100
Existing	16.7	30.0
Developed	16.7	30.0
Change	0%	0%

Conclusion – The change in land use for this parcel of ground results in an 8% decrease in storm water runoff from DA #1 and no change in DA #3.

PUTTHOFF ACRES

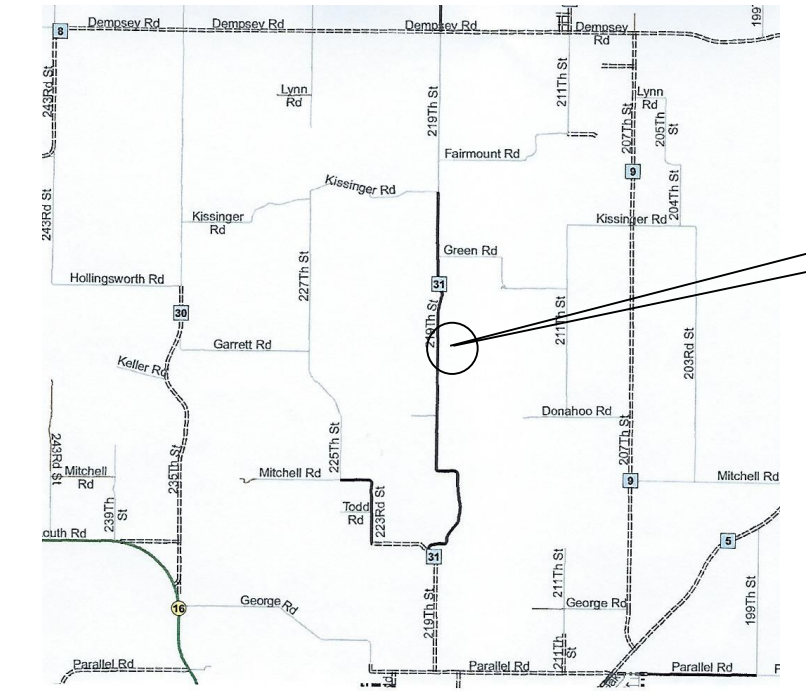
THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER
SECTION 21-T10S-R21E OF THE 6TH P.M.,
LEAVENWORTH COUNTY, KANSAS

PRELIMINARY PLAT

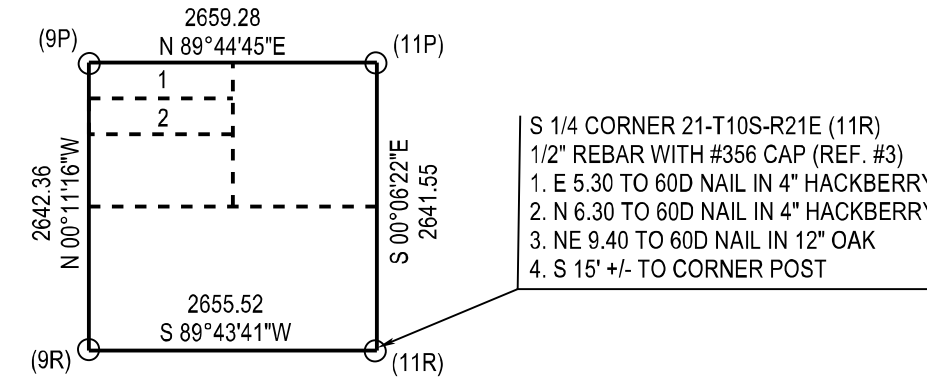


LEGEND

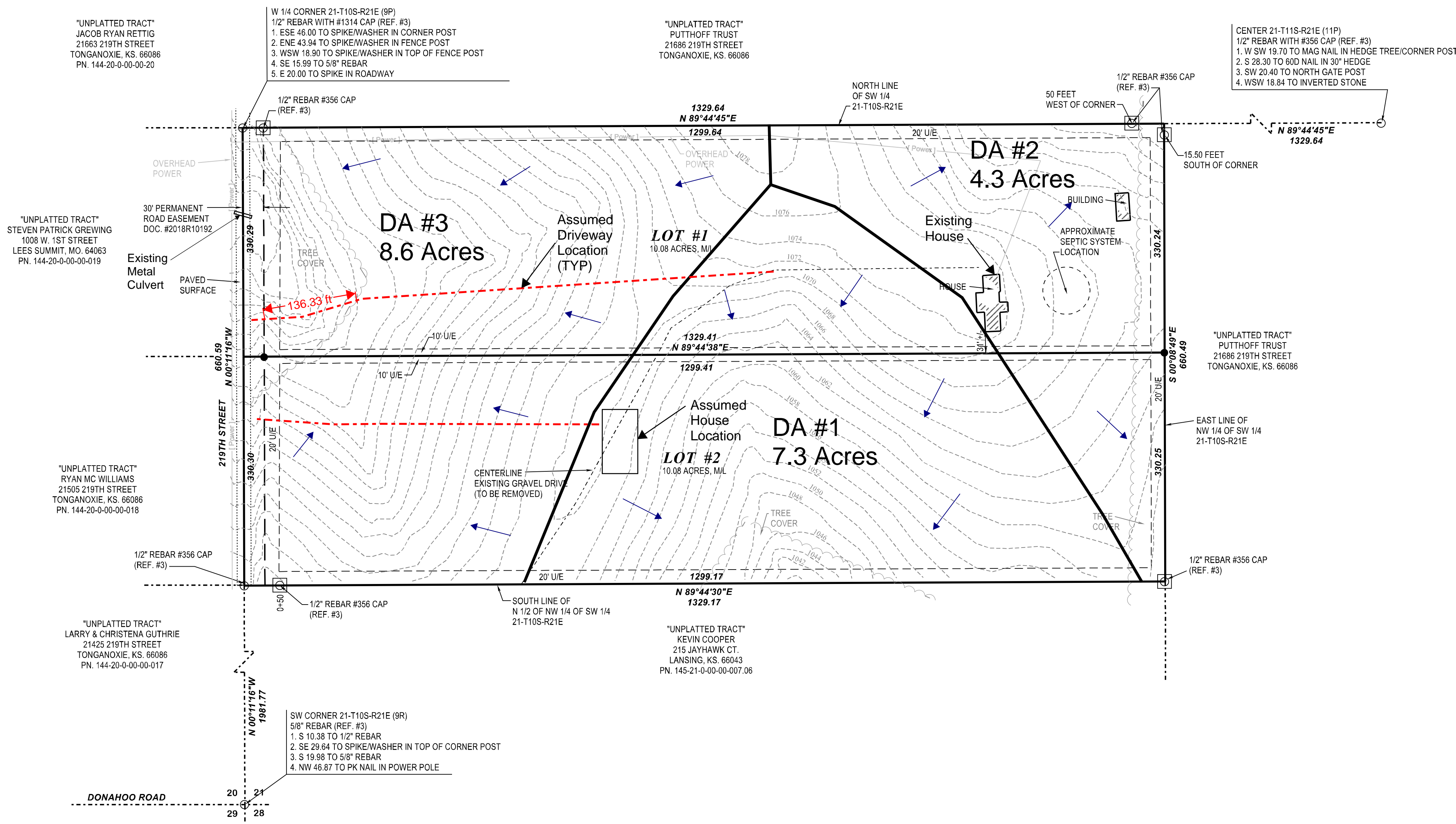
- 1/2" x 24" REBAR SET WITH #1349 CAP
- 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
- SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
- U/E UTILITY EASEMENT



SECTION MAP
NO SCALE



SECTION MAP - SW 1/4
NO SCALE



DEED DESCRIPTION - DOC. #2017R07637

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS, COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 660.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 660.49 FEET; THENCE, WEST 1329.54 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

OWNER
GEORGE L. COOPER TRUST
21476 219TH STREET
TONGANOXIE, KANSAS 66086
PN. 145-21-0-00-007.05

DEVELOPER
PUTTHOFF TRUST - LAURIE PUTTHOFF
21686 219TH STREET
TONGANOXIE, KANSAS 66086
(913)908-8900

RESTRICTIONS

1. 40' REAR SETBACK FOR RESIDENCES
- 15' REAR SETBACK FOR ACCESSORY BUILDINGS
- 15' SIDE SETBACK
2. AN ENGINEERED WASTEWATER DISPOSAL SYSTEM MAY BE REQUIRED DUE TO POOR SOIL CONDITIONS.
3. EROSION CONTROL SHALL BE USED WHEN DESIGNING AND CONSTRUCTING DRIVEWAYS.
4. A FORM OF SEDIMENT CONTROL SHALL BE INSTALLED BEFORE WORK BEGINS AND MAINTAINED THROUGHOUT THE TIME THAT THE LAND DISTURBING ACTIVITIES ARE TAKING PLACE.
5. RE-VEGETATION OF ALL DISTURBED SITES SHALL BE COMPLETED WITHIN 45 DAYS AFTER COMPLETION OF FINAL GRADING, WEATHER PERMITTING.
6. LOTS ARE SUBJECT TO THE CURRENT ACCESS MANAGEMENT POLICY RESOLUTION.

NOTES

1. FENCE LINES DO NOT DENOTE PROPERTY LINES.
2. EXISTING USE OF AREA BEING PLATTED - AGRICULTURAL / RESIDENTIAL PROPOSE USE - AGRICULTURAL / RESIDENTIAL
3. LEAVENWORTH COUNTY, KANSAS, DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT THE DETAILS SHOWN ON THIS DOCUMENT AND PROVIDED BY THE APPLICANT, INCLUDING ANY SURVEY INFORMATION SHOULD BE RELIED UPON BY ANY THIRD PARTY AS BEING WHOLLY OR PARTIALLY ACCURATE AND COMPLETE.
4. THIS PROPOSED PLAT IS NOT IN A SPECIAL FLOOD HAZARD AREA. FEMA MAP 20103C0225G, DATED 07/16/2015

REFERENCES

1. S-15, #2 (2003)
2. S-15, #5 (2003)
3. DOC. #2015S016
4. ROAD RECORD B-128

ZONING

RURAL RESIDENTIAL / RR-5.0

UTILITIES

WATER / R.W.D. #9
ELECTRIC / FREESTATE
GAS / PRIVATE PROPANE
SEWER / PRIVATE ON SITE SYSTEM

DRAINAGE CALCULATIONS

ON SEPARATE DOCUMENT BY DAVID LUTGEN, PE

BENCHMARK

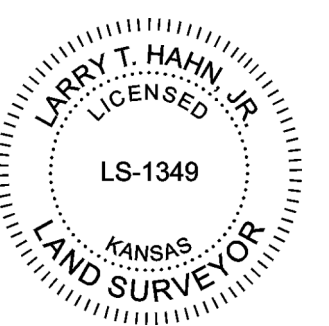
1/2" REBAR WITH #1314 AT THE W 1/4 CORNER 21-T10S-R21E - EL. 1034.33 (NAV D88)

ROAD INFORMATION

COUNTY COLLECTOR - 20' +/- WIDE WITH PAVED SURFACE

EASEMENT DEDICATION

AN EASEMENT OR LICENSE TO ENTER UPON, LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION OR MAINTAINANCE AND USE OF CONDUITS, WATER, GAS, SEWER PIPE, POLES, WIRES, DRAINAGE FACILITIES, DUCTS, CABLES AND SIMILAR FACILITIES UPON, OVER AND UNDER THESE AREAS OUTLINED AND DESIGNATED ON THIS PLAT AS UTILITY EASEMENT OR U/E IS HEREBY GRANTED TO LEAVENWORTH COUNTY, KANSAS WITH SUBORDINATE USE OF THE THE SAME BY OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES AS MAY BE AUTHORIZED BY STATE LAW TO USE SUCH EASEMENT FOR SAID PURPOSES.



LARRY T. HAHN, LS #1349

THIS IS TO CERTIFY THAT IN THE MONTH OF MARCH, 2021, THIS SURVEY WAS MADE UNDER MY DIRECT SUPERVISION AND THAT SAID SURVEY MEETS OR EXCEEDS THE "KANSAS MINIMUM STANDARDS" FOR BOUNDARY SURVEYS PURSUANT TO K.S.A. 74-7037.

EXHIBIT #1

HAHN SURVEYING
PO BOX 41
LANSING, KANSAS 66043
(913) 547-3405
hahnsurvey@gmail.com

TABLE 1 Values of Runoff Coefficient C

URBAN AREAS:	
Type of drainage area	Runoff coefficient C
Lawns:	0.05 - 0.10
Sandy soil, flat 2%	0.10 - 0.15
Sandy soil, average, 2 - 7%	0.15 - 0.20
Sandy soil, steep, 7%	0.13-0.17
Heavy soil, flat, 2%	0.18 - 0.22
Heavy soil, average, 2 - 7%	0.25 - 0.35
Heavy soil, steep, 7%	
Business:	0.70 - 0.95
Downtown areas Neighborhood areas	0.50.0.70
Residential:	0.30 - 0.50
Single-family areas	0.40 - 0.60
Multi units, detached Multi units,	0.60 - 0.75
attached Suburban	0.25 - 0.40
Apartment dwelling areas	0.50 - 0.70
Industrial:	
Light areas	0.50 - 0.80
Heavy areas	0.60 - 0.90
Parks, cemeteries	0.10 - 0.25
Playgrounds	0.20 - 0.35
Railroad yard areas	0.20 - 0.40
Unimproved areas	0.10 - 0.30
Streets:	0.70 - 0.95
Asphaltic	0.80 - 0.95
Concrete	0.70 - 0.85
Brick	
Drives and walks	0.75 - 0.85
Roofs	0.75 - 0.95

AGRICULTURAL AREAS:

Topography and Vegetation	Runoff Coefficient C Soil Texture		
	Soil Texture		
	Open Sandy Loam	Clay and Silt Loam	Tight Clay
Woodland			
Flat 0 - 5% Slope	0.10	0.30	0.40
Rolling 5 - 10% Slope	0.25	0.35	0.50
Hilly 10 - 30% Slope	0.30	0.50	0.60
Pasture			
Flat	0.10	0.30	0.40
Rolling	0.16	0.36	0.55
Hilly	0.22	0.42	0.60
Cultivated			
Flat	0.30	0.50	0.60
Rolling	0.40	0.60	0.70
Hilly	0.52	0.72	0.82

Source - Natural Resources Conservation Service (NRCS) US Department of Agriculture (USDA) Peak Discharge Course
https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1083019.pdf

EXHIBIT #2

Table 3-1 Runoff Coefficients for Rational Formula

Type of Drainage Area	Runoff Coefficient, C*
Concrete or Asphalt Pavement	0.8 – 0.9
Commercial and Industrial	0.7 – 0.9
Gravel Roadways and Shoulders	0.5 – 0.7
Residential – Urban	0.5 – 0.7
Residential – Suburban	0.3 – 0.5
Undeveloped	0.1 – 0.3
Berms	0.1 – 0.3
Agricultural – Cultivated Fields	0.15 – 0.4
Agricultural – Pastures	0.1 – 0.4
Agricultural – Forested Areas	0.1 – 0.4

For flat slopes or permeable soil, lower values shall be used. For steep slopes or impermeable soil, higher values shall be used. Steep slopes are 2:1 or steeper.

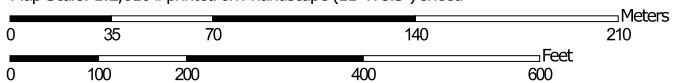
From Michigan State Administrative Rules R 280.9.

Referenced from MDOT Drainage Manual, www.michigan.gov



Map Unit Symbol	Map Unit Name
7461	Oska silty clay loam, 3 to 8 percent slopes, eroded
7501	Pawnee clay loam, 4 to 8 percent slopes, eroded
7506	Pawnee clay loam, 1 to 4 percent slopes, eroded
7550	Rosendale-Bendena silty clay loams, 3 to 40 percent slopes
7576	Shelby clay loam, 8 to 12 percent slopes, eroded

Map Scale: 1:2,610 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

EXHIBIT #3

Drainage Area #1- 10 year

Existing Conditions

Area = 7.3 acres
C= 0.39
L= 1450
S= 8.8
K= 1

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3}$$

L max = 300

$$i_{10} = 175/(T_c + 18.8) \quad 5 < T_c < 15$$

$$T_i = 10.8$$

$$i_{10} = 214/(T_c + 26.7) \quad 15 < T_c < 60$$

$$T_t = 2.42$$

$$T_c = 13.2$$

$$i_{10} = 5.47$$

$$Q = KCiA$$

$$Q = 15.5 \text{ cfs}$$

Developed Conditions

Area = 7.3 acres
C= 0.36
L= 1450
S= 8.8
K= 1

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3}$$

L max = 300

$$i_{10} = 175/(T_c + 18.8) \quad 5 < T_c < 15$$

$$T_i = 11.2$$

$$i_{10} = 214/(T_c + 26.7) \quad 15 < T_c < 60$$

$$T_t = 2.42$$

$$T_c = 13.6$$

$$i_{10} = 5.41$$

$$Q = KCiA$$

$$Q = 14.3 \text{ cfs}$$

Drainage Area #1 - 100 year

Existing Conditions

Area = 7.3 acres
C= 0.39
L= 1450
S= 8.8
K= 1.25

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{max} = 300$$

$$i_{100} = 256/(T_c + 19.8) \quad 5 < T_c < 15$$

$$T_i = 10.8$$

$$i_{100} = 331/(T_c + 30) \quad 15 < T_c < 60$$

$$T_t = 2.42$$

$$T_c = 13.2$$

$$i_{100} = 7.76$$

$$Q = KCiA$$

$$Q = 27.5 \text{ cfs}$$

Developed Conditions

Area = 7.3 acres
C= 0.36
L= 1450
S= 8.8
K= 1.25

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{max} = 300$$

$$i_{100} = 256/(T_c + 19.8) \quad 5 < T_c < 15$$

$$T_i = 11.2$$

$$i_{100} = 331/(T_c + 30) \quad 15 < T_c < 60$$

$$T_t = 2.42$$

$$T_c = 13.6$$

$$i_{100} = 7.67$$

$$Q = KCiA$$

$$Q = 25.3 \text{ cfs}$$

Drainage Area #3- 10 year

Existing Conditions

Area = 8.6 acres
C= 0.36
L= 760
S= 6.5
K= 1

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3}$$

L max = 300

$$i_{10} = 175/(T_c + 18.8) \quad 5 < T_c < 15$$

$$T_i = 12.4$$

$$i_{10} = 214/(T_c + 26.7) \quad 15 < T_c < 60$$

$$T_t = 1.27$$

$$T_c = 13.6$$

$$i_{10} = 5.39$$

$$Q = KCiA$$

$$Q = 16.7 \text{ cfs}$$

Developed Conditions

Area = 8.6 acres
C= 0.36
L= 760
S= 6.5
K= 1

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3}$$

L max = 300

$$i_{10} = 175/(T_c + 18.8) \quad 5 < T_c < 15$$

$$T_i = 12.4$$

$$i_{10} = 214/(T_c + 26.7) \quad 15 < T_c < 60$$

$$T_t = 1.27$$

$$T_c = 13.6$$

$$i_{10} = 5.39$$

$$Q = KCiA$$

$$Q = 16.7 \text{ cfs}$$

Drainage Area #3 - 100 year

Existing Conditions

Area = 8.6 acres
C= 0.36
L= 760
S= 6.5
K= 1.25

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{max} = 300$$

$$i_{100} = 256/(T_c + 19.8) \quad 5 < T_c < 15$$

$$T_i = 12.3$$

$$i_{100} = 331/(T_c + 30) \quad 15 < T_c < 60$$

$$T_t = 1.27$$

$$T_c = 13.6$$

$$i_{100} = 7.67$$

$$Q = KCiA$$

$$Q = 30.0 \text{ cfs}$$

Developed Conditions

Area = 8.6 acres
C= 0.36
L= 760
S= 6.5
K= 1.25

$$T_i = 1.8(1.1-C)L^{.5}/S^{1/3} \quad L_{max} = 300$$

$$i_{100} = 256/(T_c + 19.8) \quad 5 < T_c < 15$$

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$$i_{100} = 7.67$$

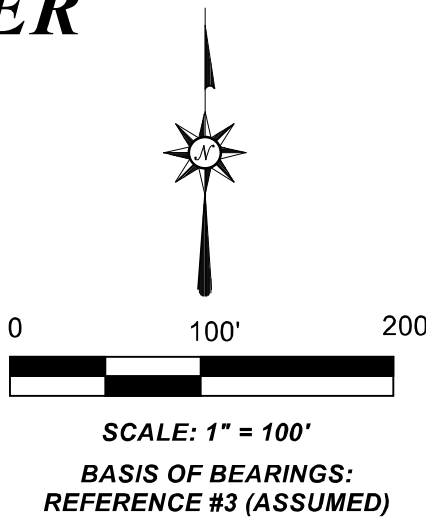
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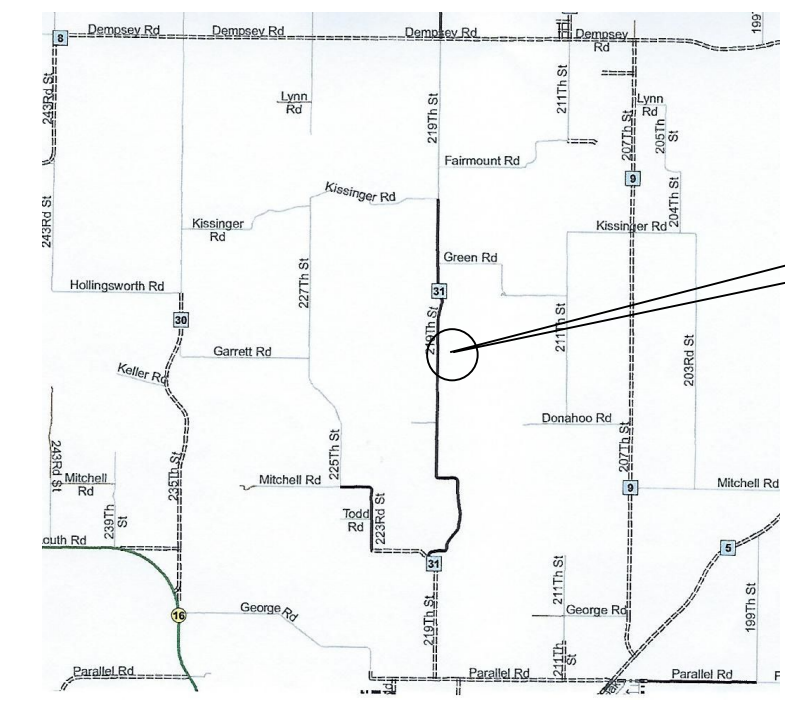
PUTTHOFF ACRES

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER
SECTION 21-T10S-R21E OF THE 6TH P.M.,
LEAVENWORTH COUNTY, KANSAS

PRELIMINARY PLAT

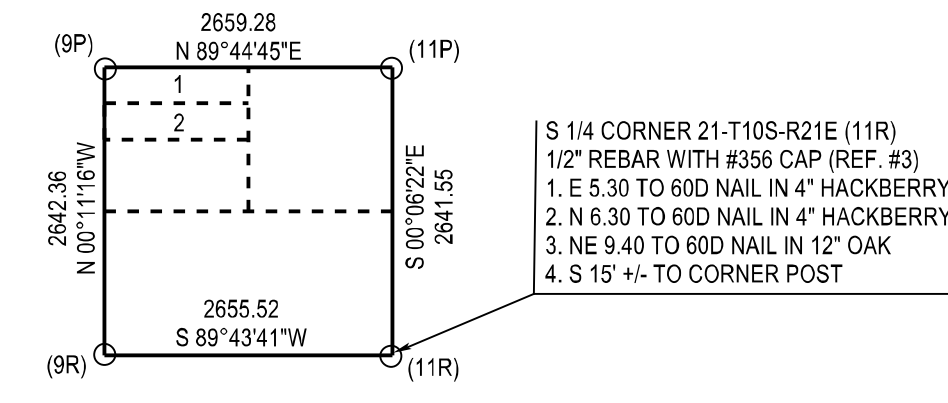


- LEGEND**
- 1/2" x 24" REBAR SET WITH #1349 CAP
 - 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
 - SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
 - U/E UTILITY EASEMENT

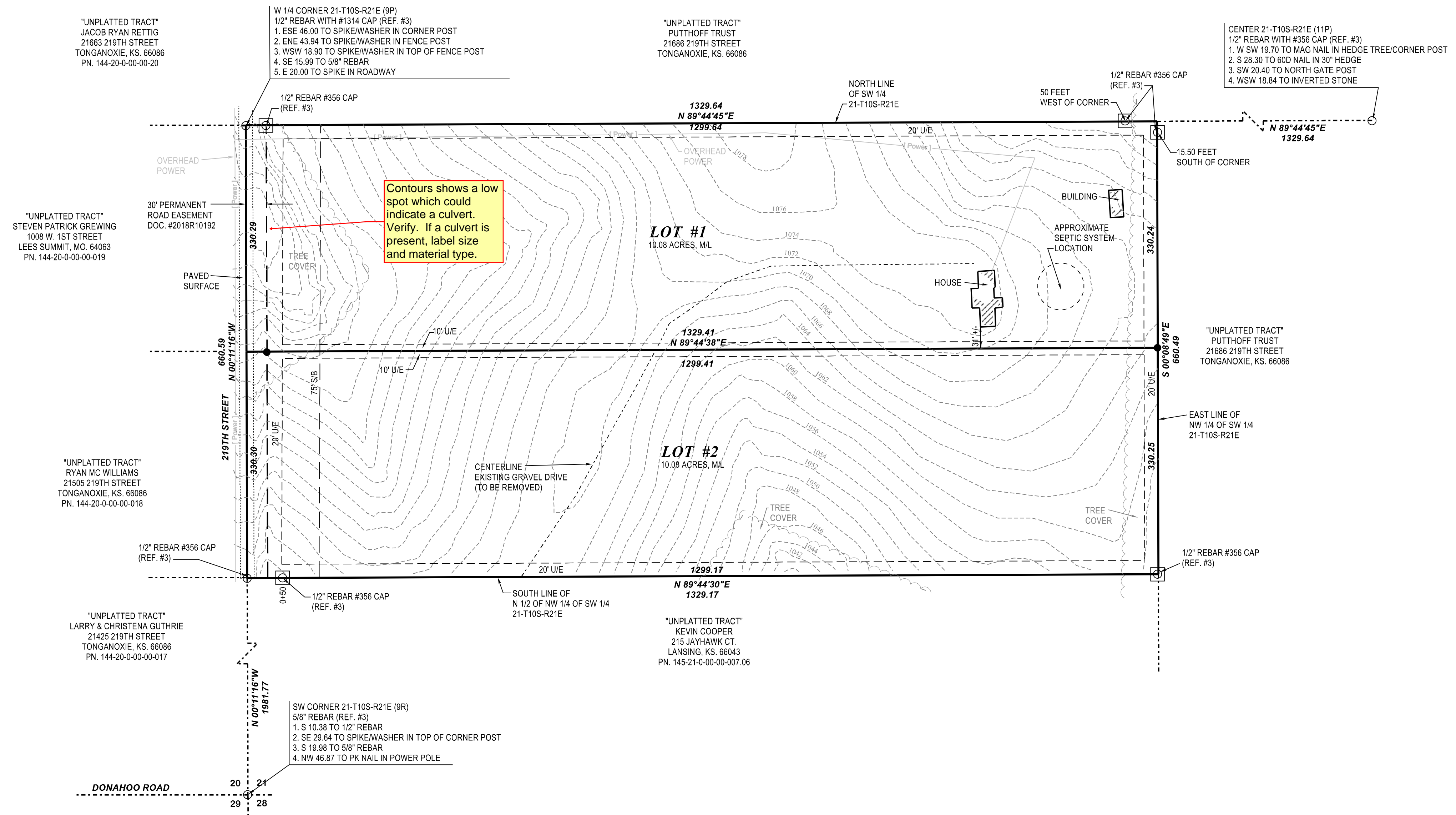


LOCATION MAP
NO SCALE

04-05-2021
OLSSON REVIEW



SECTION MAP - SW 1/4
NO SCALE



Contours shows a low spot which could indicate a culvert. Verify. If a culvert is present, label size and material type.

DEED DESCRIPTION - DOC. #2017R07637
THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS, COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 680.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 680.49 FEET; THENCE, WEST 1329.54 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

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21476 219TH STREET
TONGANOXIE, KANSAS 66086
PN. 145-21-0-00-007.05

DEVELOPER
PUTTHOFF TRUST - LAURIE PUTTHOFF
21686 219TH STREET
TONGANOXIE, KANSAS 66086
(913)908-8900

- RESTRICTIONS**
- 40' REAR SETBACK FOR RESIDENCES
 - 15' REAR SETBACK FOR ACCESSORY BUILDINGS
 - 15' SIDE SETBACK
 - AN ENGINEERED WASTEWATER DISPOSAL SYSTEM MAY BE REQUIRED DUE TO POOR SOIL CONDITIONS.
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 - LOTS ARE SUBJECT TO THE CURRENT ACCESS MANAGEMENT POLICY RESOLUTION.

- NOTES**
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 - THIS PROPOSED PLAT IS NOT IN A SPECIAL FLOOD HAZARD AREA. FEMA MAP 20103C0225G, DATED 07/16/2015

- REFERENCES**
- S-15, #2 (2003)
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 - DOC. #2015S016
 - ROAD RECORD B-128

ZONING
RURAL RESIDENTIAL / RR-5.0

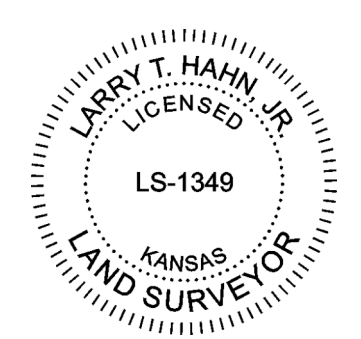
UTILITIES
WATER / R.W.D. #9
ELECTRIC / FREESTATE
GAS / PRIVATE PROPANE
SEWER / PRIVATE ON SITE SYSTEM

DRAINAGE CALCULATIONS
ON SEPARATE DOCUMENT BY DAVID LUTGEN, PE

BENCHMARK
1/2" REBAR WITH #1314 AT THE W 1/4 CORNER
21-T10S-R21E EL. 1034.33 (NAVD88)

ROAD INFORMATION
COUNTY COLLECTOR - 20' +/- WIDE WITH PAVED SURFACE

EASEMENT DEDICATION
AN EASEMENT OR LICENSE TO ENTER UPON, LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION OR MAINTAINANCE AND USE OF CONDUITS, WATER, GAS, SEWER PIPE, POLES, WIRES, DRAINAGE FACILITIES, DUCTS, CABLES AND SIMILAR FACILITIES UPON, OVER AND UNDER THESE AREAS OUTLINED AND DESIGNATED ON THIS PLAT AS UTILITY EASEMENT OR U/E IS HEREBY GRANTED TO LEAVENWORTH COUNTY, KANSAS WITH SUBORDINATE USE OF THE SAME BY OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES AS MAY BE AUTHORIZED BY STATE LAW TO USE SUCH EASEMENT FOR SAID PURPOSES.



LARRY T. HAHN, LS #1349

THIS IS TO CERTIFY THAT IN THE MONTH OF MARCH, 2021, THIS SURVEY WAS MADE UNDER MY DIRECT SUPERVISION AND THAT SAID SURVEY MEETS OR EXCEEDS THE "KANSAS MINIMUM STANDARDS" FOR BOUNDARY SURVEYS PURSUANT TO K.S.A. 74-7037.

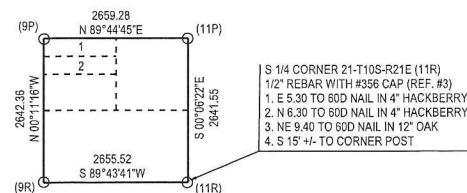
HAHN SURVEYING
PO BOX 41
LANSING, KANSAS 66043
(913) 547-3405
hahnsurvey@gmail.com

A subdivision in

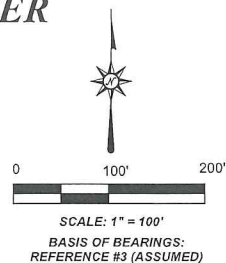
PUTTHOFF ACRES

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS

FINAL PLAT

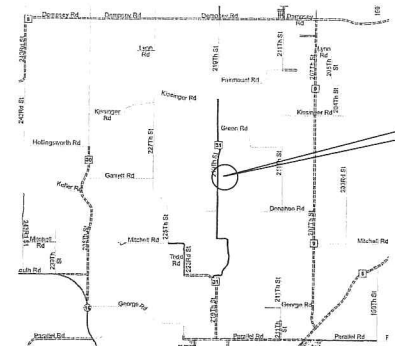


SECTION MAP - SW 1/4 NO SCALE



LEGEND

- 1/2" x 24" REBAR SET WITH #1349 CAP
- 1/2" REBAR WITH #356 CAP FOUND (REF. #3) UNLESS OTHERWISE NOTED
- SURVEY MONUMENT FOUND (AS NOTED) ADDED CONCRETE
- U/E UTILITY EASEMENT



LOCATION MAP NO SCALE

DEED DESCRIPTION - DOC. #201707637

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 21-T10S-R21E OF THE 6TH P.M., LEAVENWORTH COUNTY, KANSAS, COMMENCING AT THE WEST QUARTER CORNER OF SECTION 21; THENCE, SOUTH 660.59 FEET ALONG THE WEST LINE OF SECTION 21; THENCE, EAST 1329.17 FEET; THENCE, NORTH 660.49 FEET; THENCE, WEST 1329.54 FEET TO THE POINT OF BEGINNING, INCLUDING ROAD RIGHT OF WAY.

IN TESTIMONY WHEREOF

THE UNDERSIGNED PROPRIETOR STATE THAT ALL TAXES ON THE ABOVE DESCRIBED TRACT OF LAND HAVE BEEN PAID AND THAT SHE HAS CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING PLAT WHICH SHALL BE KNOWN AS "PUTTHOFF ACRES".

Laurie Putthoff
Putthoff Trust

STATE OF KANSAS / COUNTY OF LEAVENWORTH

ON THIS _____ DAY OF _____, 2021, BEFORE ME APPEARED LAURIE PUTTHOFF, KNOWN TO ME TO BE THE SAME PERSON DESCRIBED HEREIN AND WHO EXECUTED THE SAME AS HER FREE ACT AND DEED. IN WITNESS THEREOF, I HAVE SET MY HAND AND AFFIXED MY NOTARIAL SEAL THIS _____ DAY OF _____, 2021.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

APPROVAL

WE THE LEAVENWORTH COUNTY PLANNING COMMISSION, DO HEREBY APPROVE THE FOREGOING PLAT OF "PUTTHOFF ACRES" THIS _____ DAY OF _____, 2021.

CHAIRPERSON / STEVE ROSENTHAL _____ SECRETARY / KRISTAL VOTH, CFM _____

THE LEAVENWORTH COUNTY ENGINEERS PLAT REVIEW IS ONLY FOR GENERAL CONFORMANCE WITH THE SUBDIVISION REGULATIONS AS ADOPTED BY LEAVENWORTH COUNTY. THE COUNTY IS NOT RESPONSIBLE FOR THE ACCURACY AND ADEQUACY OF THE DESIGN, DIMENSIONS, ELEVATIONS AND QUANTITIES.

COUNTY ENGINEER _____

WE THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS, DO HEREBY APPROVE THE FOREGOING PLAT OF "PUTTHOFF ACRES" THIS _____ DAY OF _____, 2021.

CHAIRPERSON / MICHAEL SMITH _____ COUNTY CLERK / JANET KLASINSKI (ATTEST) _____

COUNTY SURVEYOR CERTIFICATION

I HEREBY CERTIFY THIS PLAT MEETS THE REQUIREMENTS OF K.S.A. 58-2005. THE FACE OF THIS PLAT WAS REVIEWED BASED ON KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS. NO FIELD VERIFICATION IS IMPLIED. THIS REVIEW IS FOR SURVEY INFORMATION ONLY.

COUNTY SURVEYOR _____

STATE OF KANSAS / COUNTY OF LEAVENWORTH

REGISTERED PROFESSIONAL SURVEYOR _____ ON THIS _____ DAY OF _____, 2021 AT _____ O'CLOCK _____ IN THE OFFICE OF THE REGISTER OF DEEDS, LEAVENWORTH COUNTY, KANSAS.

REGISTER OF DEEDS / TERRILOIS MASHBURN _____

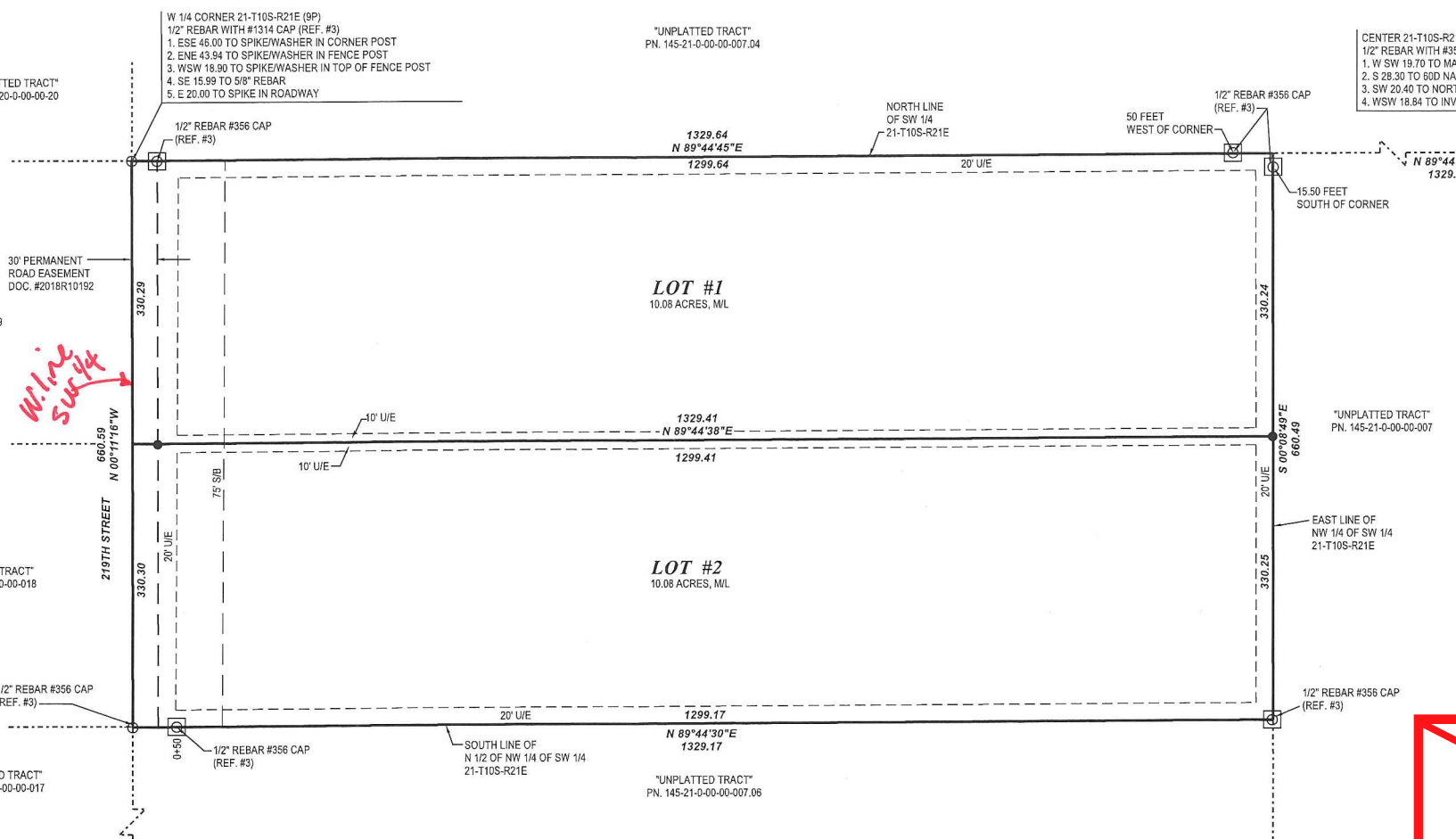


LARRY T. HAHN, LS #1349

THIS IS TO CERTIFY THAT IN THE MONTH OF MARCH, 2021, THIS SURVEY WAS MADE UNDER MY DIRECT SUPERVISION AND THAT SAID SURVEY MEETS OR EXCEEDS THE "KANSAS MINIMUM STANDARDS" FOR BOUNDARY SURVEYS PURSUANT TO K.S.A. 74-7037.



LARRY T. HAHN, JR.
LICENSED
KANSAS
PROFESSIONAL
LAND SURVEYOR
LS-1349
HAHN SURVEYING
PO BOX 41
LANING, KANSAS 66043
(913) 547-3405
hahnsurvey@gmail.com



REFERENCES

- S-15, #2 (2003)
- S-15, #5 (2003)
- DOC. #2015S016
- ROAD RECORD B-128

ZONING

RURAL RESIDENTIAL / RR-5.0

BENCHMARK

1/2" REBAR WITH #1314 AT THE W 1/4 CORNER 21-T10S-R21E. EL. 1034.33 (NAVD88)

RESTRICTIONS

- 40' REAR SETBACK FOR RESIDENCES
- 15' REAR SETBACK FOR ACCESSORY BUILDINGS
- 15' SIDE SETBACK
- AN ENGINEERED WASTEWATER DISPOSAL SYSTEM MAY BE REQUIRED DUE TO POOR SOIL CONDITIONS.
- EROSION CONTROL SHALL BE USED WHEN DESIGNING AND CONSTRUCTING DRIVEWAYS.
- A FORM OF SEDIMENT CONTROL SHALL BE INSTALLED BEFORE WORK BEGINS AND MAINTAINED THROUGHOUT THE TIME THAT THE LAND DISTURBING ACTIVITIES ARE TAKING PLACE.
- RE-VEGETATION OF ALL DISTURBED SITES SHALL BE COMPLETED WITHIN 45 DAYS AFTER COMPLETION OF FINAL GRADING, WEATHER PERMITTING.
- LOTS ARE SUBJECT TO THE CURRENT ACCESS MANAGEMENT POLICY RESOLUTION.

STREET DEDICATION

ALL STREETS ON THE ACCOMPANYING PLAT AND NOT HERETOFORE DEDICATED TO PUBLIC USE ARE HEREBY SO DEDICATED.

EASEMENT DEDICATION

AN EASEMENT OR LICENSE TO ENTER UPON, LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION OR MAINTENANCE AND USE OF CONDUITS, WATER, GAS, SEWER PIPE, POLES, WIRES, DRAINAGE FACILITIES, DUCTS, CABLES AND SIMILAR FACILITIES UPON, OVER AND UNDER THESE AREAS OUTLINED AND DESIGNATED ON THIS PLAT AS UTILITY EASEMENT OR U/E IS HEREBY GRANTED TO LEAVENWORTH COUNTY, KANSAS WITH SUBORDINATE USE OF THE SAME BY OTHER GOVERNMENTAL ENTITIES AND PUBLIC UTILITIES AS MAY BE AUTHORIZED BY STATE LAW TO USE SUCH EASEMENT FOR SAID PURPOSES.

NOTES

- FENCE LINES DO NOT DENOTE PROPERTY LINES.
- EXISTING USE OF AREA BEING PLATTED - AGRICULTURAL / RESIDENTIAL PROPOSED USE - AGRICULTURAL / RESIDENTIAL
- LEAVENWORTH COUNTY, KANSAS, DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT THE DETAILS SHOWN ON THIS DOCUMENT AND PROVIDED BY THE APPLICANT, INCLUDING ANY SURVEY INFORMATION SHOULD BE RELIED UPON BY ANY THIRD PARTY AS BEING WHOLLY OR PARTIALLY ACCURATE AND COMPLETE.
- THIS PROPOSED PLAT IS NOT IN A SPECIAL FLOOD HAZARD AREA. FEMA MAP 2010C0225G, DATED 07/16/2015

DEVELOPER

PUTTHOFF TRUST - LAURIE PUTTHOFF
21686 219TH STREET
TONGANOXIE, KANSAS 66086
(913) 908-8900

Use cert. Bl. ch. I sent

From: [Mitch Pleak](#)
Sent: Monday, May 3, 2021 11:50 AM
To: [Gentzler, Joshua](#)
Cc: [Anderson, Lauren](#); [Noll, Bill](#); [Voth, Krystal](#); [019-2831](#)
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,
Lauren and I have reviewed the revised PP and FP with no further comments. Below is a link to the reviewed documents.

<https://oaconsulting.sharefile.com/d-s916fcf9c604d43d09b22c6067083e3b0>

Sincerely,
Mitch Pleak

From: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Sent: Thursday, April 29, 2021 2:23 PM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

All,

Here is a revised copy of the Putthoff Acres Plats.

Joshua Gentzler
[Planning & Zoning](#)

From: Mitch Pleak <mpleak@olsson.com>
Sent: Monday, April 5, 2021 4:42 PM
To: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>; 019-2831 <019-2831@olsson.com>
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

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Joshua,
Below is a link to PP comments. There is no comments for the Final Plat.

Drainage Report dated 3.23.21 include:

- Remove large space in the developed conditions paragraph.
- DA #3 will include new gravel drives for Lot 1 and Lot 2. Revise report for said change and add gravel c value source.

- DA #1 has existing driveway that appears will be removed due to the plat. Include tree mass in calculations. Revise report for said existing conditions/changes.
- Contours indicate a culvert along 219th Street and Lot 1. Provide size and material type of the culvert.

Citrix Attachments Expires October 2, 2021

2021.03.26 DEV-21-041 Prelim Plat.pdf	1023.8 KB
---------------------------------------	-----------

[Download Attachments](#)

Mitchell Pleak uses Citrix Files to share documents securely.

Let me know of any questions.

Sincerely,

Mitch Pleak

From: Gentzler, Joshua
Sent: Friday, April 2, 2021 2:48 PM
To: Anderson, Lauren ; Mitch Pleak ; Noll, Bill
Subject: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Putthoff Acres DEV-21-041/042.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.org.

Thank you,

Joshua Gentzler
Planner II
[Planning & Zoning](#)
Leavenworth County
913.684.0464

From: [Mitch Pleak](#)
Sent: Wednesday, May 5, 2021 12:16 PM
To: [Gentzler, Joshua](#)
Cc: [Anderson, Lauren](#); [Noll, Bill](#); [Voth, Krystal](#); [019-2831](#)
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,
Lauren and I have reviewed the DR. The report has no further comments.

Thanks,

Mitch Pleak

From: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Sent: Monday, May 3, 2021 5:18 PM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

Here's the revised drainage report.

Joshua Gentzler
[Planning & Zoning](#)

From: Mitch Pleak <mpleak@olsson.com>
Sent: Monday, May 3, 2021 11:44 AM
To: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>; 019-2831 <019-2831@olsson.com>
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

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Joshua,
Lauren and I have reviewed the revised Drainage Report. Below is comments to the Drainage Report dated 4.28.21.

- Verify the composite c in the existing condition for DA #1. Reviewer calculated a composite c of 0.36. If verification causes a change, update report.
- Provide the size to the existing metal culvert along 219th Street.

Thanks,

Mitch Pleak, PE

Project Engineer / Civil

D 913.748.2503

7301 W. 133rd Street, Suite 200

Overland Park, KS 66213

O 913.381.1170



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[View Legal Disclaimer](#)

From: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Sent: Wednesday, April 28, 2021 8:34 AM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

Mitch,

The revised drainage report is attached.

Joshua Gentzler
[Planning & Zoning](#)

From: Mitch Pleak <mpleak@olsson.com>
Sent: Monday, April 5, 2021 4:42 PM
To: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>; 019-2831 <019-2831@olsson.com>
Subject: RE: DEV-21-041 & 042 Preliminary/Final Plat Review Requested - Putthoff Acres PP, FP, and DR

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Joshua,

Below is a link to PP comments. There is no comments for the Final Plat.

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- Remove large space in the developed conditions paragraph.
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- Contours indicate a culvert along 219th Street and Lot 1. Provide size and material type of the culvert.

Citrix Attachments Expires October 2, 2021

2021.03.26 DEV-21-041 Prelim Plat.pdf	1023.8 KB
---------------------------------------	-----------

[Download Attachments](#)

Mitchell Pleak uses Citrix Files to share documents securely.

Let me know of any questions.

Sincerely,

Mitch Pleak

From: Gentzler, Joshua
Sent: Friday, April 2, 2021 2:48 PM
To: Anderson, Lauren ; Mitch Pleak ; Noll, Bill
Subject: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Putthoff Acres DEV-21-041/042.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.org.

Thank you,

Joshua Gentzler
Planner II
[Planning & Zoning](#)
Leavenworth County
913.684.0464

From: [Amanda Tarwater](#)
Sent: Friday, April 2, 2021 3:04 PM
To: [Gentzler, Joshua](#)
Subject: Re: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

FreeState Electric has no objection to this request.

Thank you,

Amanda Tarwater
Member Account Coordinator



1-800-794-1989 | www.freestate.coop

From: "Gentzler, Joshua"
Date: Friday, April 2, 2021 at 2:52 PM
To: "Magaha, Chuck" , "Miller, Jamie" , "Patzwald, Joshua" , "Van Parys, David" , 'Timothy Smith' , Amanda Tarwater , "RWD 9 (Lvrwd9@gmail.com)"
Subject: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

Warning: This message originated outside of the FEC organization. Do not click links or open attachments unless you have validated the sender and know the content is safe. <="" span="">

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Putthoff Acres DEV-21-041/042.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.gov.

Thank you,

Joshua Gentzler
Planner II
[Planning & Zoning](#)
Leavenworth County
913.684.0464

From: [Timothy Smith](#)
Sent: Monday, April 5, 2021 8:57 AM
To: [Gentzler, Joshua](#)
Subject: Re: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,

Tonganoxie Township has no issues with this request.

Thanks,

On Fri, Apr 2, 2021 at 2:52 PM Gentzler, Joshua <JGentzler@leavenworthcounty.gov> wrote:

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Putthoff Acres DEV-21-041/042.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.gov.

Thank you,

Joshua Gentzler

Planner II

[Planning & Zoning](#)

Leavenworth County

913.684.0464

--

From: [Rural Water District 9](#)
Sent: Tuesday, April 13, 2021 3:12 PM
To: [Gentzler, Joshua](#)
Subject: Re: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

We will be able to provide water to this area.

Jon Orndorff
District Manager
Rural Water District 9
913-845-3571

On Apr 13, 2021, at 14:58, Gentzler, Joshua wrote:

Good afternoon,
I am following up on this request from last week. Does RWD 9 have any comments on this Plat?

Thank you,
Joshua Gentzler
[Planning & Zoning](#)

From: Gentzler, Joshua

Sent: Friday, April 2, 2021 2:52 PM

To: Magaha, Chuck ; Miller, Jamie ; Patzwald, Joshua ; Van Parys, David ; 'Timothy Smith' ; Amanda Holloway (Amanda.holloway@freestate.coop) ; RWD 9 (Lvrwd9@gmail.com)

Subject: DEV-21-041 & 042 Preliminary/Final Plat Review Requested

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Putthoff Acres DEV-21-041/042.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by

End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.gov.

Thank you,
Joshua Gentzler
Planner II
[Planning & Zoning](#)
Leavenworth County
913.684.0464

<2021.03.26 DEV-21-042 Application.pdf><2021.03.26 DEV-21-042 Final Plat.pdf>
<2021.03.26 DEV-21-041 Prelim Plat.pdf>

**Leavenworth County
Request for Board Action
Case No. DEV-21-043/044
Preliminary & Final Plat Lori Acres**

Date: May 26, 2021
To: Board of County Commissioners
From: Planning & Zoning Staff

Department Head Review: Krystal Voth, Reviewed

Additional Reviews as needed:

Budget Review Administrator Review Legal Review

Action Requested: The applicants are requesting a Preliminary and Final Plat for a one lot subdivision. Proposed Lot 1 is approximately 2.5 acres in size.

Analysis: The applicant is requesting approval of a one-lot subdivision located at 20851 State Avenue. Zoning of the parcel and adjacent to the east, south, and immediately west is RR-2.5. The properties to the north and southwest are located in Tonganoxie. The lot is 2.5 acres in size and meets the requirements for the zoning district.

Staff is supportive of the request as proposed and recommends approval of the development.

Recommendation: The Planning Commission voted 7-0 (2 absences) to recommend approval of Case No.DEV-21-043/044, Preliminary and Final Plat for Lori Acres subject to conditions.

Alternatives:

1. Approve Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, with or without conditions; or
2. Deny of Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, to the Board of County Commission for the following reasons; or
3. Revise or Modify the Planning Commission Recommendation to Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, with Findings of Fact; or
4. Remand the case back to the Planning Commission.

Budgetary Impact:

- Not Applicable
- Budgeted item with available funds
- Non-Budgeted item with available funds through prioritization
- Non-Budgeted item with additional funds requested

Total Amount Requested: \$0.00

Additional Attachments: Staff Report, Plat, Planning Commission Minutes

DEV-21-043 & 044 Lori Acres



Legend

- Address Point
- Parcel Number
- Lot Line
- Parcel
- City Limit Line
- Major Road
- <all other values>
- 70
- Road
- + Railroad
- + Section
- Section Boundaries
- County Boundary

1 in. = 66ft.



132.1 0 66.07 132.1 Feet

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

*****Consent Agenda***
Case No. DEV-21-043/044
Lori Acres
Preliminary and Final Plat**

Staff Report – Board of County Commissioners

May 26, 2021

GENERAL INFORMATION:

**Applicant/
Property Owner:** Visionary Homes
2040 Vermont Street
Lawrence, KS 66048

Agent: Herring Surveying

Legal Description: A tract of land in the Northeast Quarter of Section 10, Township 11 South, Range 21 East of the 6th P.M, in Leavenworth County, Kansas.

Parcel Size: ± 2.5 acres

Zoning/Land Use: RR-5, Rural Residential 5-acre minimum size parcels

Comprehensive Plan: This parcel is within the Mixed-Use land use category.

Parcel ID No.: 192-10-0-10-01-020.00

Planner: Joshua Gentzler

REPORT:

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted 7-0 (2 absences) to recommend approval of Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, with the following conditions:

1. Building permits shall be required for any new construction.
2. Erosion control shall be used when designing and constructing driveways. A form of sediment control shall be installed before work begins and maintained throughout the time that the land disturbing activities are taking place. Re-vegetation of all disturbed sites shall be completed within 45 days after completion of final grading weather permitting.
3. A waiver for the use of private septic systems within this subdivision is granted with this approval.
4. Any further subdividing of any lot within this subdivision shall require the installation of public sanitary sewer or connection to an existing public sanitary sewer.
5. At time of development, fire hydrants shall be required if necessary infrastructure is available.
6. After approval of this subdivision by the Board of County Commission, all conditions listed shall be adhered to and copies shall be provided to the Planning and Zoning Department within 30 days.

Request

The applicant is requesting a Preliminary and Final Plat for a one (1) lot subdivision.

Adjacent Land Use

The surrounding properties are residences and farms on varying sized parcels ranging from 0.25 acre to over 150 acres in size.

Flood Plain

There are no Special Flood Hazard Areas on this parcel per FEMA Firm Map 20103C0306G July 16, 2015.

Utilities/Services

Sewer: Private septic system
Fire: Tonganoxie
Water: Suburban Water
Electric: Freestate

Access/Streets

The property is accessed by Highway 24/40 (State Avenue). This road is a split State Highway with a paved surface \pm 100' wide.

Agency Comments

See attached comments – Email – Mitch Pleak – Public Works, May 3, 2021
See attached comments – Email – Amanda Tarwater – FreeState, April 13, 2021
See attached comments – Email – Steve Tufte – County Survey Reviewer, April 30, 2021

Findings

1. The proposed subdivision is consistent with the zoning district of RR 2.5; Rural Residential Zoning 2.5-acre minimum size parcels and meets the lot-depth to lot-width ratio of 3.5:1 or 4:1, have the minimum frontage of 200', and the minimum lot size of 2.5 acres.
2. The property is within a sewer district boundary or is within 660 feet of the incorporated limits of a Municipality. however, a waiver to the requirement of allowing private septic systems is supported by staff. A private sewage disposal permit may be issued per Leavenworth County Sanitary Code requirements. Any further subdividing of any lot within this subdivision shall require the installation of public sanitary sewer or connection to an existing public sanitary sewer.
3. At time of development, fire hydrants shall be required if necessary infrastructure is available.
4. The lots are located within the US 24/40 Corridor Study area. The proposed subdivision does not comply with the T3 – Suburban Development Zone.
5. The proposed subdivision is in accordance with the Comprehensive Plan.

Subdivision Classification

This is classified as a Class "A" Subdivision. According to the Leavenworth County Zoning & Subdivision regulations, a Class "A" Subdivision is any subdivision in which all the lots lie within the Initial Urban Growth Area of Leavenworth County. Staff is supportive of a waiver of the requirement to connect to a sanitary sewer system as the property currently has a single-family home with a septic system developed on it. (See condition 3.)

Staff Comments

The applicant is requesting approval of a one-lot subdivision located at 20851 State Avenue. Zoning of the parcel and adjacent to the east, south, and immediately west is RR-2.5. The properties to the north and southwest are located in Tonganoxie. The lot is 2.5 acres in size and meets the requirements for the zoning district.

Staff is supportive of the request as proposed and recommends approval of the development.

ACTION OPTIONS:

1. Approve Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, with or without conditions; or
2. Deny of Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, to the Board of County Commission for the following reasons; or
3. Revise or Modify the Planning Commission Recommendation to Case No. DEV-21-043/044, Preliminary and Final Plat for Lori Acres, with Findings of Fact; or
4. Remand the case back to the Planning Commission.

ATTACHMENTS:

Aerial Map
Memorandums
Preliminary and Final Plat

LORI ACRES

A Rural Subdivision Plat in the Northwest Quarter of Section 16, Township 12 North, Range 22 East of the 6th Range, Tenth Principal Meridian, Adams County, Iowa

PLAT NO. 103
SECTION 16, TOWNSHIP 12 NORTH, RANGE 22 EAST OF THE 6TH RANGE, TENTH PRINCIPAL MERIDIAN, ADAMS COUNTY, IOWA

U.S. DEPARTMENT OF AGRICULTURE
OFFICE OF LAND MANAGEMENT
WASHINGTON, D.C. 20250

1/11/07
1/11/07
1/11/07
1/11/07
1/11/07
1/11/07

FINAL PLAT

1. INTRODUCTION

This plat is the final plat of the Rural Subdivision of Section 16, Township 12 North, Range 22 East of the 6th Range, Tenth Principal Meridian, Adams County, Iowa, as shown on the attached map. The plat is subject to the provisions of the Rural Subdivision Act, Chapter 177, Iowa Code, and the Rural Subdivision Rules, Chapter 177, Iowa Administrative Code. The plat is subject to the provisions of the Rural Subdivision Act, Chapter 177, Iowa Code, and the Rural Subdivision Rules, Chapter 177, Iowa Administrative Code. The plat is subject to the provisions of the Rural Subdivision Act, Chapter 177, Iowa Code, and the Rural Subdivision Rules, Chapter 177, Iowa Administrative Code.

2. DESCRIPTION OF THE LAND

The land described in this plat is situated in the Northwest Quarter of Section 16, Township 12 North, Range 22 East of the 6th Range, Tenth Principal Meridian, Adams County, Iowa. The land is bounded on the north by the Township 12 North line, on the east by the Range 22 East line, on the south by the Section 16 line, and on the west by the Section 15 line. The land is bounded on the north by the Township 12 North line, on the east by the Range 22 East line, on the south by the Section 16 line, and on the west by the Section 15 line.

3. STATEMENTS OF FACTS

The land described in this plat is owned by the State of Iowa. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development.

4. STATEMENTS OF FACTS

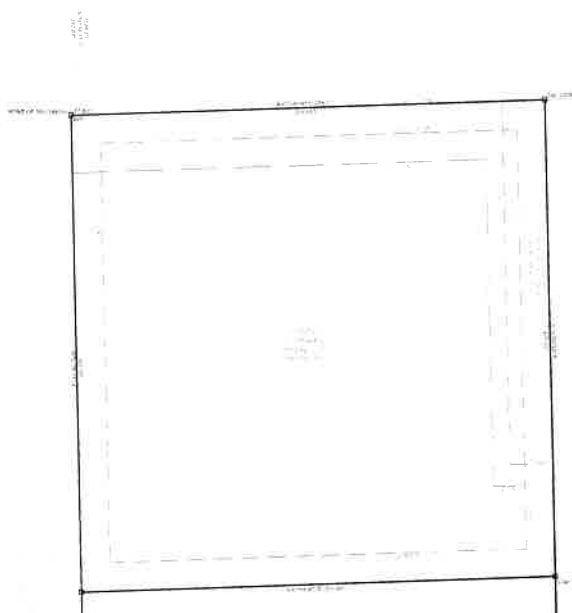
The land described in this plat is owned by the State of Iowa. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development.

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The land described in this plat is owned by the State of Iowa. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development.

6. STATEMENTS OF FACTS

The land described in this plat is owned by the State of Iowa. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development. The land is being subdivided into lots for the purpose of rural development.

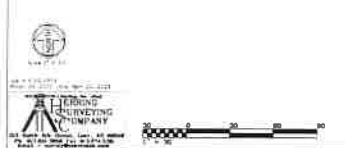


- ### RESTRICTIONS
- 1) All lots shall be used for agricultural purposes only.
 - 2) No lot shall be subdivided into smaller lots.
 - 3) No lot shall be used for residential purposes.
 - 4) No lot shall be used for commercial purposes.
 - 5) No lot shall be used for industrial purposes.
 - 6) No lot shall be used for any other purpose.

- ### NOTES
- 1) The land described in this plat is owned by the State of Iowa.
 - 2) The land is being subdivided into lots for the purpose of rural development.
 - 3) The land is being subdivided into lots for the purpose of rural development.
 - 4) The land is being subdivided into lots for the purpose of rural development.
 - 5) The land is being subdivided into lots for the purpose of rural development.
 - 6) The land is being subdivided into lots for the purpose of rural development.



- ### LEGEND
- 1) Lot boundaries
 - 2) Township boundaries
 - 3) Range boundaries
 - 4) Section boundaries
 - 5) Township center
 - 6) Range center
 - 7) Section center



ADAMS COUNTY SURVEYORS OFFICE
IOWA

LORI ACRES

A Major Subdivision Plat in the Unincorporated Quarter of Section 26, Range 22 North, Range 27 East of the 6th P.M., DeWitt County, Kansas

PRELIMINARY PLAT

PREPARED BY
James H. Moore, Inc.
2001 WEST 10TH AVENUE
WICHITA, KANSAS
67202-1000

POINT OF BEGINNING
E1/4
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S2/4
S3/4
S4/4
S5/4
S6/4
S7/4
S8/4
S9/4
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S94/4
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S99/4
S100/4

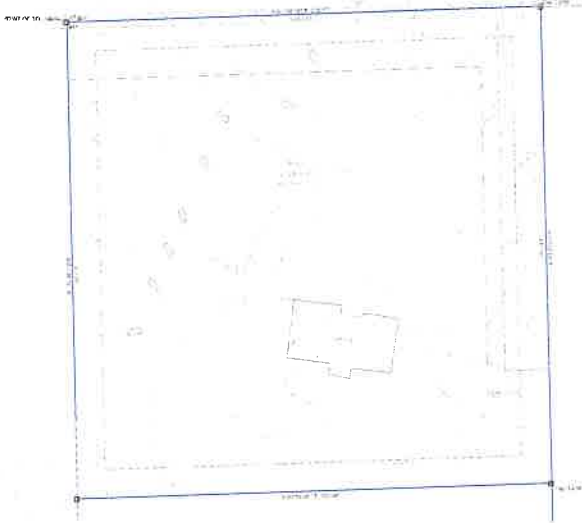
U.S. DEPARTMENT OF AGRICULTURE
COUNTY ENGINEER
(Exam Case 9721 VA 111)

DATE
1997
BY
James H. Moore, Inc.
2001 WEST 10TH AVENUE
WICHITA, KANSAS
67202-1000

STATE OF KANSAS
I, the undersigned, County Engineer of DeWitt County, Kansas, do hereby certify that the above and foregoing plat of Lori Acres, as shown on the attached map, is a true and correct copy of the original plat as filed in my office, and that the same complies with the provisions of the laws of this State relating to the subdivision of land.

EXPLANATIONS
1. All dimensions shown on this map are in feet and inches, and are rounded to the nearest inch.
2. All bearings are given in degrees, minutes and seconds, and are rounded to the nearest second.
3. All areas are given in acres and cents, and are rounded to the nearest cent.
4. All bearings and distances are given in feet and inches, and are rounded to the nearest inch.
5. All bearings and distances are given in feet and inches, and are rounded to the nearest inch.

NOTES
1. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.
2. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.
3. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.
4. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.
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8. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.
9. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.
10. The plat is subject to the provisions of the laws of this State relating to the subdivision of land.



- 1. All dimensions shown on this map are in feet and inches, and are rounded to the nearest inch.
- 2. All bearings are given in degrees, minutes and seconds, and are rounded to the nearest second.
- 3. All areas are given in acres and cents, and are rounded to the nearest cent.
- 4. All bearings and distances are given in feet and inches, and are rounded to the nearest inch.
- 5. All bearings and distances are given in feet and inches, and are rounded to the nearest inch.



JAMES H. MOORE, INC.
SURVEYING COMPANY
2001 WEST 10TH AVENUE
WICHITA, KANSAS
67202-1000



DATE
1997
BY
James H. Moore, Inc.
2001 WEST 10TH AVENUE
WICHITA, KANSAS
67202-1000

LORI ACRES

A Final Subdivision Plat in the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina)

FINAL PLAT

PLANNED FOR
OWNER: Norma Lee
CASH AND JAMES
CASH, JR. & SONS
RECORD NO. 142-100-13-100

RECORD NO. 142-100-13-100
TAX MAP NO. 142-100-13-100
COUNTY CASE NO. 142-100-13-100

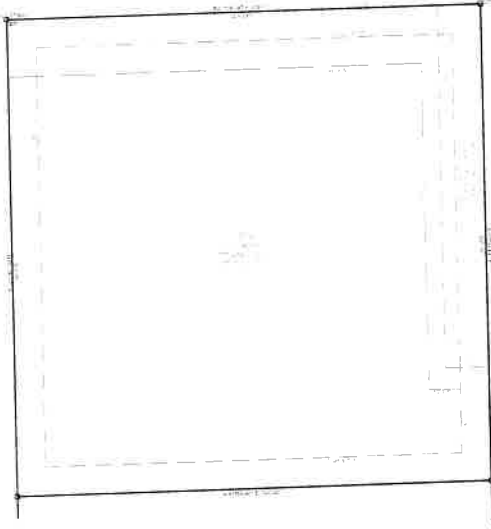
DATE: 11/11/2011
BY: [Signature]
FOR: [Signature]

PROPERTY OF: [Signature]
DATE: 11/11/2011
BY: [Signature]

RESTRICTIONS:
1. All lots shall be used for residential purposes only.
2. No commercial or industrial uses are permitted.
3. No other uses are permitted unless specifically approved by the Board of Zoning Adjustment.
4. All lots shall be subject to the easements, covenants, and restrictions of the parent plat.
5. No lot shall be subdivided.

DESCRIPTION OF PROPERTY:
The land shown on this plat is a portion of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.

PROPERTY OF:
The land shown on this plat is the property of Norma Lee Cash and James Cash, Jr. & Sons, as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.



COMMISSIONER'S CERTIFICATE:
I, the undersigned, Commissioner of the Board of Zoning Adjustment, do hereby certify that the above described property is zoned for residential purposes and that the subdivision shown on this plat is in accordance with the zoning ordinance of Greenwood County, North Carolina.

NOTARY PUBLIC:
I, the undersigned, Notary Public, do hereby certify that the above described property is the property of Norma Lee Cash and James Cash, Jr. & Sons, as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.

COUNTY COMMISSIONER'S APPROVAL:
I, the undersigned, County Commissioner, do hereby approve the subdivision shown on this plat and the zoning ordinance of Greenwood County, North Carolina.

NOTARY PUBLIC:
I, the undersigned, Notary Public, do hereby certify that the above described property is the property of Norma Lee Cash and James Cash, Jr. & Sons, as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.

NOTES:
1. The survey was conducted by a licensed surveyor.
2. The survey was conducted in accordance with the North Carolina Surveying and Mapping Act of 1997.
3. The survey was conducted in accordance with the North Carolina Surveying and Mapping Act of 1997.
4. The survey was conducted in accordance with the North Carolina Surveying and Mapping Act of 1997.
5. The survey was conducted in accordance with the North Carolina Surveying and Mapping Act of 1997.



COMMISSIONER'S CERTIFICATE:
I, the undersigned, Commissioner of the Board of Zoning Adjustment, do hereby certify that the above described property is zoned for residential purposes and that the subdivision shown on this plat is in accordance with the zoning ordinance of Greenwood County, North Carolina.

NOTARY PUBLIC:
I, the undersigned, Notary Public, do hereby certify that the above described property is the property of Norma Lee Cash and James Cash, Jr. & Sons, as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.

COUNTY COMMISSIONER'S APPROVAL:
I, the undersigned, County Commissioner, do hereby approve the subdivision shown on this plat and the zoning ordinance of Greenwood County, North Carolina.

NOTARY PUBLIC:
I, the undersigned, Notary Public, do hereby certify that the above described property is the property of Norma Lee Cash and James Cash, Jr. & Sons, as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.



NOTARY PUBLIC:
I, the undersigned, Notary Public, do hereby certify that the above described property is the property of Norma Lee Cash and James Cash, Jr. & Sons, as shown on the plat of the Northwest Quarter of Section 24, Township 21 North, Range 22 East of the 6th T. & R. (Greenwood County, North Carolina) recorded in the Public Records of Greenwood County, North Carolina, Book 142-100-13-100, Page 1.

LORI ACRES

A Four Part in the Northeast Quarter of Section 12, Township 23 South, Range 22 East of the 6th PM, Leavenworth County, Kansas

PRELIMINARY PLAT

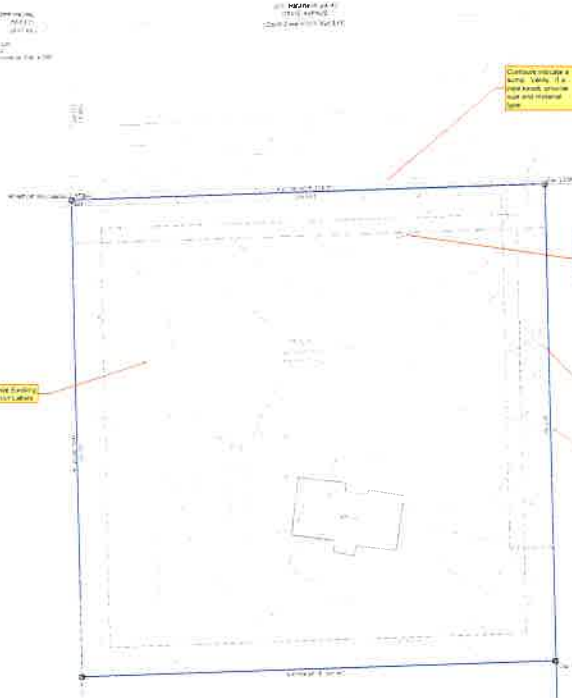
PLAT NUMBER: 101
 COUNTY: LEAVENWORTH
 DATE: 04-20-2021

04-20-2021
 Planning Review

04-05-2021
 PLANNING REVIEW

STATE CONSTITUTION ON

ARTICLE 18, SECTION 17, PARAGRAPH 1. The Board of Commissioners of any county shall have the right to divide any land within the county into lots, blocks, streets, alleys, and other subdivisions, and to lay out, locate, and establish the same, and to regulate the same, and to amend, alter, or change the same, and to vacate the same, and to do all things necessary and proper to carry out the purposes of this article.



CONTRACTOR TO BE DETERMINED BY THE OWNER. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LEAVENWORTH COUNTY BOARD OF COMMISSIONERS AND THE KANSAS DEPARTMENT OF TRANSPORTATION (KDOT) PRIOR TO CONSTRUCTION.

ADDITIONAL NOTES:
 1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 2. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO THE CENTER UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS ARE TO THE CENTER UNLESS OTHERWISE NOTED.

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 3. ALL DIMENSIONS ARE TO THE CENTER UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS ARE TO THE CENTER UNLESS OTHERWISE NOTED.

1. The lot is to be divided into four (4) parts.
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20. The lot is to be divided into four (4) parts.



- LEGEND
- 1. 1" = 100' (Scale of drawing)
 - 2. 1" = 100' (Scale of drawing)
 - 3. 1" = 100' (Scale of drawing)
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 - 18. 1" = 100' (Scale of drawing)
 - 19. 1" = 100' (Scale of drawing)
 - 20. 1" = 100' (Scale of drawing)

PLANNING REVIEW



LEAVENWORTH COUNTY, KANSAS
 BOARD OF COMMISSIONERS
 PLANNING REVIEW



04/05/2021

LORI ACRES SUBD. REVIEW

1. This is a subdivision, needs to say that, put that behind Minor as such: A Minor Subdivision Plat in the Northeast
2. Typo's in description: Commencing at Southwest, not Northwest corner.... there are two norths after "(state avenue)"
3. No bearing on drawing from commencement point to east, no bearing on east side lot
4. Clean up legend, 10 or 12 non-applicable symbols
5. Change your drawing templates to describe the rebars specifically, minimum standards call for detailed description of monuments, the old term "Bars" replaced with "Rebars". Bars can be square, round or rectangular, modern rebars are round only.
6. Survey drawings are to be based on recent field work, your date in lower right is a year and a half ago, that's not recent. If you were out there recently to confirm rebars are still in, then put that date there.
7. The certification not correct, put below on it.

COUNTY REVIEWER CERTIFICATION

I hereby certify that this document
has been reviewed by me and is
being filed for survey information only.

Stephan C. Tufte, KS PS No. 1252
Leavenworth County Reviewer

From: [Amanda Tarwater](#)
Sent: Friday, April 2, 2021 3:07 PM
To: [Gentzler, Joshua](#)
Subject: Re: DEV-21-043 & 044 Preliminary/Final Plat Review Requested

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

FreeState Electric has no objection to this request.

Thank you,

Amanda Tarwater
Member Account Coordinator



1-800-794-1989 | www.freestate.coop

From: "Gentzler, Joshua"
Date: Friday, April 2, 2021 at 2:58 PM
To: 'Timothy Smith', "'Travis@SuburbanWaterInc.com'", Amanda Tarwater, "Magaha, Chuck", "Miller, Jamie", "Patzwald, Joshua", "Van Parys, David"
Subject: DEV-21-043 & 044 Preliminary/Final Plat Review Requested

Warning: This message originated outside of the FEC organization. Do not click links or open attachments unless you have validated the sender and know the content is safe. <=

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Lori Acres, case number DEV-21-043/044.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.gov.

Thank you,

Joshua Gentzler
Planner II
[Planning & Zoning](#)
Leavenworth County
913.684.0464

From: [Mitch Pleak](#)
Sent: Thursday, April 22, 2021 3:08 PM
To: [Gentzler, Joshua](#)
Cc: [Anderson, Lauren](#); [Noll, Bill](#); [Voth, Krystal](#); [019-2831](#)
Subject: RE: DEV-21-043 & 044 Preliminary/Final Plat Review Requested - Lori Acres PP and FP

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,
Lauren and I have reviewed the PP and FP. The FP has no further comments. The PP has outstanding comments.

I have enclosed both in the link below.

Please let us know of any questions.

<https://oaconsulting.sharefile.com/d-s8a32d4708c8a479395b7475b2c5bed8c>

Sincerely,

Mitch Pleak, PE
Project Engineer / Civil

D 913.748.2503

7301 W. 133rd Street, Suite 200
Overland Park, KS 66213
O 913.381.1170

The logo for Olsson, featuring the word "olsson" in a lowercase, green, sans-serif font with a registered trademark symbol (®) to the upper right.

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[View Legal Disclaimer](#)

From: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Sent: Tuesday, April 20, 2021 2:02 PM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>
Subject: RE: DEV-21-043 & 044 Preliminary/Final Plat Review Requested - Lori Acres PP and FP

All,

Joe resubmitted the prelim and final today. I've attached them for review.

Joshua Gentzler
[Planning & Zoning](#)


From: Mitch Pleak <mpleak@olsson.com>
Sent: Monday, April 5, 2021 4:52 PM
To: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Cc: Anderson, Lauren <LAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>; 019-2831 <019-2831@olsson.com>
Subject: RE: DEV-21-043 & 044 Preliminary/Final Plat Review Requested - Lori Acres PP and FP

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,
The link below contains comments on the PP and FP. Please let me know of any questions.
Thanks,

Mitch Pleak

Citrix Attachments	Expires October 2, 2021
2021.03.26 DEV-21-043 Prelim Plat.pdf	1.1 MB
2021.03.26 DEV-21-044 Final Plat.pdf	1.7 MB



Mitchell Pleak uses Citrix Files to share documents securely.

From: Gentzler, Joshua
Sent: Friday, April 2, 2021 2:56 PM
To: Anderson, Lauren ; Mitch Pleak ; Noll, Bill
Subject: DEV-21-043 & 044 Preliminary/Final Plat Review Requested

The Leavenworth County Department of Planning and Zoning has received a request for a Preliminary and Final Plat for Lori Acres, case number DEV-21-043/044.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by End of Business on Friday, April 9th, 2021.

If you have any questions or need additional information, please contact me at (913) 684-0464 or at JGentzler@LeavenworthCounty.gov.

Thank you,

From: [Steve](#)
Sent: Tuesday, April 27, 2021 11:23 AM
To: [Noll, Bill](#)
Cc: ['Joe Herring'](#); [Gentzler, Joshua](#)
Subject: Re: Lori Acres Subd. review

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Lori Acres is good to go.

Steve Tufte

American Surveying

On Tuesday, April 27, 2021, 09:00:12 AM CDT, Noll, Bill <bnoll@leavenworthcounty.gov> wrote:

I believe all of the corrections have been made on this review. Will you look and I will get you a copy to sign.

Thanks

Bill Noll, PS MPA CPM CFM

Leavenworth County

Infrastructure and Construction Services Director

(913) 684-0470

From: Joe Herring [<mailto:herringsurveying@outlook.com>]
Sent: Tuesday, April 27, 2021 8:43 AM
To: Noll, Bill <BNoll@leavenworthcounty.gov>; Gentzler, Joshua <JGentzler@leavenworthcounty.gov>
Subject: Re: Lori Acres Subd. review

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Thank you - Joe Herring

J.Herring Inc., dba,Herring Surveying Company
315 N. 5th Street, Leavenworth, KS 66048
913-651-3858 - ROCK CHALK!

From: Noll, Bill <BNoll@leavenworthcounty.gov>
Sent: Tuesday, April 27, 2021 8:36 AM
To: Gentzler, Joshua <JGentzler@leavenworthcounty.gov>; 'Joe Herring' <herringsurveying@outlook.com>
Subject: FW: Lori Acres Subd. review

Can anyone provide me a status update for these comments. Have they been addressed?

Bill

From: Noll, Bill
Sent: Tuesday, April 20, 2021 2:33 PM
To: 'Joe Herring' <herringsurveying@outlook.com>
Subject: FW: Lori Acres Subd. review

From: Steve [<mailto:stevetufte@yahoo.com>]
Sent: Tuesday, April 20, 2021 2:30 PM
To: Noll, Bill <BNoll@leavenworthcounty.gov>
Subject: Re: Lori Acres Subd. review

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Yes, except for a couple typo's, shown on review scan attached, appears wrong section and range on drawing.

Steve

On Tuesday, April 20, 2021, 10:11:07 AM CDT, Noll, Bill <bnoll@leavenworthcounty.gov> wrote:

Please verify he addressed all comments.

Thanks

Bill

From: Joe Herring [<mailto:herringsurveying@outlook.com>]
Sent: Tuesday, April 20, 2021 9:59 AM
To: Noll, Bill <BNoll@leavenworthcounty.gov>
Subject: Re: Lori Acres Subd. review

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

See attached revised Plat for Steve's review.

Thank you - Joe Herring

J.Herring Inc., dba,Herring Surveying Company

From: [Mitch Pleak](#)
Sent: Monday, May 3, 2021 11:36 AM
To: [Gentler, Joshua](#)
Cc: [Anderson, Lauren](#); [Noll, Bill](#); [Voth, Krystal](#); [019-2831](#)
Subject: RE: DEV-21-043 & 044 Preliminary/Final Plat Review Requested - Lori Acres PP and FP

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,
Lauren and I have reviewed the sent PP. There is no further comments. Below is a link to the PP reviewed.

<https://oaconsulting.sharefile.com/d-s607d2caa1c2a4f9dbd9e84b5338e1f03>

Thanks,

Mitch Pleak

From: Gentler, Joshua <JGentler@leavenworthcounty.gov>
Sent: Tuesday, April 27, 2021 10:13 AM
To: Mitch Pleak <mpleak@olsson.com>
Cc: Anderson, Lauren <LAAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>
Subject: RE: DEV-21-043 & 044 Preliminary/Final Plat Review Requested - Lori Acres PP and FP

Updated prelim attached, Joe addressed your last comments, Mitch.

Joshua Gentler
[Planning & Zoning](#)

From: Mitch Pleak <mpleak@olsson.com>
Sent: Thursday, April 22, 2021 3:08 PM
To: Gentler, Joshua <JGentler@leavenworthcounty.gov>
Cc: Anderson, Lauren <LAAnderson@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; Voth, Krystal <KVoth@leavenworthcounty.gov>; [019-2831](#) <019-2831@olsson.com>
Subject: RE: DEV-21-043 & 044 Preliminary/Final Plat Review Requested - Lori Acres PP and FP

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

Joshua,
Lauren and I have reviewed the PP and FP. The FP has no further comments. The PP has outstanding comments.

I have enclosed both in the link below.

Please let us know of any questions.

<https://oaconsulting.sharefile.com/d-s8a32d4708c8a479395b7475b2c5bed8c>

PRELIMINARY &
FINAL PLAT APPLICATION
 Leavenworth County Planning and Zoning Department,
 300 Walnut St., Suite 212
 County Courthouse
 Leavenworth, Kansas 66048
 913-684-0465

Office Use Only	
Township: _____	Planning Commission Meeting Date: _____
Case No. _____	Date Received/Paid: _____
Zoning District _____	Comprehensive Plan Land Use Designation: _____

APPLICANT/AGENT INFORMATION	OWNER INFORMATION
NAME: <u>Herring Surveying Company</u>	NAME: <u>Visionary Homes LLC</u>
MAILING ADDRESS: <u>315 North 5th Street</u> Leavenworth, KS 66048	MAILING ADDRESS: <u>2040 Vermont Street</u>
CITY/ST/ZIP: Lawrence, KS 66046 <u>Lawrence, KS 66046</u>	CITY/ST/ZIP: <u>Lawrence, KS 66046</u>
PHONE: <u>913-651-3858</u>	PHONE: <u>N/A</u>
EMAIL: <u>herringsurveying@outlook.com</u>	EMAIL: <u>N/A</u>

GENERAL INFORMATION

Proposed Subdivision Name: LORI ACRES

Address of Property: 20851 State Avenue

PID: 192-10-0-10-01-020 Urban Growth Management Area: Yes

SUBDIVISION INFORMATION		
Gross Acreage: <u>2.5</u>	Number of Lots: <u>1</u>	Minimum Lot Size: <u>2.5</u>
Maximum Lot Size: <u>2.5</u>	Proposed Zoning: <u>RR 2.5</u>	Density: <u>N/A</u>
Open Space Acreage: <u>N/A</u>	Water District: <u>Suburban</u>	Proposed Sewage: <u>Septic</u>
Fire District: <u>Stranger</u>	Electric Provider: <u>Freestate</u>	Natural Gas Provider: <u>Propane/Atmos</u>
Covenants: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Road Classification: Arterial <u>ARTERIAL</u>	
Cross-Access Easement Requested: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Is any part of the site designated as Floodplain? Yes No if yes, what is the panel number:

I, the undersigned, am the owner, duly authorized agent, of the aforementioned property situated in the unincorporated portion of Leavenworth County, Kansas. By execution of my signature, I do hereby officially apply for a final plat approval as indicated above.

Signature: _____ Date: _____

**WORK SESSION
MATERIAL ONLY**



DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505-AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

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

DATES: *Effective date:* The provisions in this interim final rule are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comment date: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal:

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

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

consider confidential or inappropriate for public disclosure.

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

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, the disease has infected over 32 million and killed over 575,000 Americans.¹ The disease has impacted every part of life: as social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.² As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.³ During this time, a significant share of households have faced food and housing insecurity.⁴ Economic disruptions impaired the flow of credit to households, State and

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

² U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/UNRATE>, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNU02000000>, May 3, 2021.

³ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS>, May 7, 2021.

⁴ Nirmita Panchal et al., The Implications of COVID-19 for Mental Health and Substance Abuse (Feb. 10, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis>; U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, <https://www.census.gov/programs-surveys/household-pulse-survey.html> (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic – United States, January 1 – October 17, 2020, *Morb. Mortal. Wkly. Rep.* 69(45):1675-80 (Nov. 13, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm>.

local governments, and businesses of all sizes.⁵ As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.⁶

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of COVID-19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID-19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic's impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic

⁵ Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), <https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm>.

⁶ Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/>.

patterns during the pandemic.⁷ Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.⁸ These cuts to State, local, and Tribal government workforces come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.⁹

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,¹⁰ as well as higher rates of unemployment and lack of basic necessities like food and housing.¹¹ Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID-19 health

⁷ Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), <https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities>.

⁸ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited May 8, 2021).

⁹ Tracy Gordon, State and Local Budgets and the Great Recession, Brookings Institution (Dec. 31, 2012), <http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession>.

¹⁰ Sebastian D. Romano et al., Trends in Racial and Ethnic Disparities in COVID-19 Hospitalizations, by Region – United States, March-December 2020, MMWR Morb Mortal Wkly Rep 2021, 70:560-565 (Apr. 16, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.

¹¹ Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-housing-and> (last visited May 4, 2021).

outcomes.¹² Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.¹³ Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid learning models.¹⁴ Unfortunately, the pandemic also has reversed many gains made by communities of color in the prior economic expansion.¹⁵

B. The Statute and Interim Final Rule

¹² Lisa R. Fortuna et al., *Inequity and the Disproportionate Impact of COVID-19 on Communities of Color in the United States: The Need for Trauma-Informed Social Justice Response*, *Psychological Trauma* Vol. 12(5):443-45 (2020), *available at* <https://psycnet.apa.org/fulltext/2020-37320-001.pdf>.

¹³ Emily Vogles et al., *53% of Americans Say the Internet Has Been Essential During the COVID-19 Outbreak* (Apr. 30, 2020), <https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/>.

¹⁴ Emma Dorn et al., *COVID-19 and student learning in the United States: The hurt could last a lifetime* (June 2020), https://webtest.childrensinsitute.net/sites/default/files/documents/COVID-19-and-student-learning-in-the-United-States_FINAL.pdf; Andrew Bacher-Hicks et al., *Inequality in Household Adaptation to Schooling Shocks: Covid-Induced Online Engagement in Real Time*, *J. of Public Econ.* Vol. 193(C) (July 2020), *available at* <https://www.nber.org/papers/w27555>.

¹⁵ *See, e.g.*, Tyler Atkinson & Alex Richter, *Pandemic Disproportionately Affects Women, Minority Labor Force Participation*, <https://www.dallasfed.org/research/economics/2020/1110> (last visited May 9, 2021); Jared Bernstein & Janelle Jones, *The Impact of the COVID19 Recession on the Jobs and Incomes of Persons of Color*, https://www.cbpp.org/sites/default/files/atoms/files/6-2-20bud_0.pdf (last visited May 9, 2021).

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.¹⁶ Section 9901 of ARPA amended Title VI of the Social Security Act¹⁷ (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).¹⁸ The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).¹⁹

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a

¹⁶ American Rescue Plan Act of 2021 (ARPA), sec. 9901, Pub. L. 117-2, codified at 42 U.S.C. 802 *et seq.* The term “state” as used in this SUPPLEMENTARY INFORMATION and defined in section 602 of the Act means each of the 50 States and the District of Columbia. The term “territory” as used in this SUPPLEMENTARY INFORMATION and defined in section 602 of the Act means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa. Tribal government is defined in the Act and the interim final rule to mean “the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of the [American Rescue Plan Act] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).” See section 602(g)(7) of the Social Security Act, as added by the American Rescue Plan Act. On January 29, 2021, the Bureau of Indian Affairs published a current list of 574 Tribal entities. See 86 FR 7554, January 29, 2021. The term “local governments” as used in this SUPPLEMENTARY INFORMATION includes metropolitan cities, counties, and nonentitlement units of local government.

¹⁷ 42 U.S.C. 801 *et seq.*

¹⁸ Sections 602, 603 of the Act.

¹⁹ The CRF was established by the section 601 of the Act as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. 116-136, 134 Stat. 281 (2020).

fund for metropolitan cities, nonentitlement units of local government, and counties.

Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

- a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include “directly or indirectly offset[ting] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation.”

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID-19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the last year. Recipients may also use payments from the Fiscal Recovery Funds to replace State, local, and Tribal government revenue lost due

to COVID-19, helping to ensure that governments can continue to provide needed services and avoid cuts or layoffs. Finally, these resources lay the foundation for a strong, equitable economic recovery, not only by providing immediate economic stabilization for households and businesses, but also by addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color.

Within the eligible use categories outlined in the Fiscal Recovery Funds provisions of ARPA, State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The interim final rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider. These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns. They also reflect changes in the needs of communities, as evidenced by, for example, nationwide data demonstrating disproportionate impacts of the COVID-19 public health emergency on certain populations, geographies, and economic sectors. The interim final rule takes into consideration these disproportionate impacts by recognizing a broad range of eligible uses to help States, local, and Tribal governments support the families, businesses, and communities hardest hit by the COVID-19 public health emergency.

Implementation of the Fiscal Recovery Funds also reflect the importance of public input, transparency, and accountability. Treasury seeks comment on all aspects of the interim final rule and, to better facilitate public comment, has included specific questions throughout this SUPPLEMENTARY INFORMATION. Treasury encourages State, local, and Tribal governments in particular to provide feedback and to engage with Treasury regarding issues that may arise regarding all aspects of this interim final rule and Treasury's work in administering the

Fiscal Recovery Funds. In addition, the interim final rule establishes certain regular reporting requirements, including by requiring State, local, and Tribal governments to publish information regarding uses of Fiscal Recovery Funds payments in their local jurisdiction. These reporting requirements reflect the need for transparency and accountability, while recognizing and minimizing the burden, particularly for smaller local governments. Treasury urges State, territorial, Tribal, and local governments to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader economic recovery and rebuilding.

II. Eligible Uses

A. Public Health and Economic Impacts

Sections 602(c)(1)(A) and 603(c)(1)(A) provide significant resources for State, territorial, Tribal governments, and counties, metropolitan cities, and nonentitlement units of local governments (each referred to as a recipient) to meet the wide range of public health and economic impacts of the COVID-19 public health emergency.

These provisions authorize the use of payments from the Fiscal Recovery Funds to respond to the public health emergency with respect to COVID-19 or its negative economic impacts. Section 602 and section 603 also describe several types of uses that would be responsive to the impacts of the COVID-19 public health emergency, including assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.²⁰

Accordingly, to assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID-19 public health emergency. Assessing whether a program or service “responds to” the COVID-19 public health emergency requires the recipient to, first, identify a need or negative impact of

²⁰ Sections 602(c)(1)(A), 603(c)(1)(A) of the Act.

the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. While the COVID-19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency.

The interim final rule implements these provisions by identifying a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. The interim final rule also provides flexibility for recipients to use payments from the Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but that fall under the terms of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency or its negative economic impacts. As an example, in determining whether a program or service responds to the negative economic impacts of the COVID-19 public health emergency, the interim final rule provides that payments from the Fiscal Recovery Funds should be designed to address an economic harm resulting from or exacerbated by the public health emergency. Recipients should assess the connection between the negative economic harm and the COVID-19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm.

As discussed, the pandemic and the necessary actions taken to control the spread had a severe impact on households and small businesses, including in particular low-income workers and communities and people of color. While eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) provide flexibility to recipients to identify the most pressing local needs, Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

1. Responding to COVID-19

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.²¹ By late March, the virus had spread to many States and the first wave was growing rapidly, centered in the northeast.²² This wave brought acute strain on health care and public health systems: hospitals and emergency medical services struggled to manage a major influx of patients; response personnel faced shortages of personal protective equipment; testing for the virus was scarce; and congregate living facilities like nursing homes and prisons saw rapid spread. State, local, and Tribal governments mobilized to support the health care system, issue public health orders to mitigate virus spread, and communicate safety measures to the public. The United States has since faced at least two additional COVID-19 waves that brought many similar challenges: the second in the summer, centered in the south and southwest, and a wave throughout the fall and winter, in which the virus reached a point of uncontrolled spread across the country and over 3,000 people died per day.²³ By early May 2021, the United States has experienced over 32 million confirmed COVID-19 cases and over 575,000 deaths.²⁴

Mitigating the impact of COVID-19, including taking actions to control its spread and support hospitals and health care workers caring for the sick, continues to require a major public health response from State, local and Tribal governments. New or heightened public health needs include COVID-19 testing, major expansions in contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts,

²¹ Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), <https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html>.

²² Anne Schuchat et al., Public Health Response to the Initiation and Spread of Pandemic COVID-19 in the United States, February 24 – April 21, 2021, *MMWR Morb Mortal Wkly Rep* 2021, 69(18):551-56 (May 8, 2021), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm>.

²³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited May 8, 2021).

²⁴ *Id.*

public health surveillance (e.g., monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs. State, local, and Tribal governments have also supported major efforts to prevent COVID-19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included implementing infection prevention measures or making ventilation improvements in congregate settings, health care settings, or other key locations.

Other response and adaptation costs include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. In recent months, State, local, and Tribal governments across the country have mobilized to support the national vaccination campaign, resulting in over 250 million doses administered to date.²⁵

The need for public health measures to respond to COVID-19 will continue in the months and potentially years to come. This includes the continuation of the vaccination campaign for the general public and, if vaccinations are approved for children in the future, eventually for youths. This also includes monitoring the spread of COVID-19 variants, understanding the impact of these variants (especially on vaccination efforts), developing approaches to respond to those variants, and monitoring global COVID-19 trends to understand continued risks to the United States. Finally, the long-term health impacts of COVID-19 will continue to require a public health response, including medical services for individuals with “long COVID,” and research to understand how COVID-19 impacts future health needs and raises risks for the millions of Americans who have been infected.

²⁵ Centers for Disease Control and Prevention, COVID Data Tracker: COVID-19 Vaccinations in the United States, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last visited May 8, 2021).

Other areas of public health have also been negatively impacted by the COVID-19 pandemic. For example, in one survey in January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.²⁶ The proportion of children’s emergency department visits related to mental health has also risen noticeably.²⁷ Similarly, rates of substance misuse and overdose deaths have spiked: preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from September 2019 to September 2020.²⁸ Stay-at-home orders and other pandemic responses may have also reduced the ability of individuals affected by domestic violence to access services.²⁹ Finally, some preventative public health measures like childhood vaccinations have been deferred and potentially forgone.³⁰

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.³¹ The CDC has found that racial and ethnic minorities are at increased risk

²⁶ Panchal, *supra* note 4; Mark É. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID-19 Pandemic– United States, June 24-30 2020, *Morb. Mortal. Wkly. Rep.* 69(32):1049-57 (Aug. 14, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm>.

²⁷ Leeb, *supra* note 4.

²⁸ Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (last visited May 8, 2021).

²⁹ Megan L. Evans, et al., A Pandemic within a Pandemic – Intimate Partner Violence during Covid-19, *N. Engl. J. Med.* 383:2302-04 (Dec. 10, 2020), *available at* <https://www.nejm.org/doi/full/10.1056/NEJMp2024046>.

³⁰ Jeanne M. Santoli et al., Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration – United States, *Morb. Mortal. Wkly. Rep.* 69(19):591-93 (May 8, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm>; Marisa Langdon-Embry et al., Notes from the Field: Rebound in Routine Childhood Vaccine Administration Following Decline During the COVID-19 Pandemic – New York City, March 1-June 27, 2020, *Morb. Mortal. Wkly. Rep.* 69(30):999-1001 (Jul. 31 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6930a3.htm>.

³¹ Office of the White House, National Strategy for the COVID-19 Response and Pandemic Preparedness (Jan. 21, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf>.

for infection, hospitalization, and death from COVID-19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.³²

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000, as of May 2021.³³ Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national average, with 211 deaths per 100,000 as of May 2021.³⁴ Over the last year, Native Americans have experienced more than one and a half times the rate of COVID-19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.³⁵ Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID-19 mortality.³⁶

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and

³² In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID-19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. *See Romano, supra* note 10.

³³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by County-level Population Factors, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁴ The CDC's Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by Social Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁵ Centers for Disease Control and Prevention, Risk for COVID-19 Infection, Hospitalization, and Death By Race/Ethnicity, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (last visited Apr. 26, 2021).

³⁶ *See, e.g.*, Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID-19 (Dec. 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html> (last visited Apr. 26, 2021).

were over-represented among essential workers, who faced greater risk of exposure.³⁷ Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.³⁸ The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.³⁹

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID-19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID-19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID-19 public health emergency

³⁷ Milena Almagro et al., *Racial Disparities in Frontline Workers and Housing Crowding During COVID-19: Evidence from Geolocation Data* (Sept. 22, 2020), NYU Stern School of Business (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249; Grace McCormack et al., *Economic Vulnerability of Households with Essential Workers*, *JAMA* 324(4):388-90 (2020), available at <https://jamanetwork.com/journals/jama/fullarticle/2767630>.

³⁸ See, e.g., Joseph G. Courtney et al., *Decreases in Young Children Who Received Blood Lead Level Testing During COVID-19 – 34 Jurisdictions, January-May 2020*, *Morb. Mort. Wkly. Rep.* 70(5):155-61 (Feb. 5, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm>; Emily A. Benfer & Lindsay F. Wiley, *Health Justice Strategies to Combat COVID-19: Protecting Vulnerable Communities During a Pandemic*, *Health Affairs Blog* (Mar. 19, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200319.757883/full/>.

³⁹ See, e.g., Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra* note 38; Nathaniel M. Lewis et al., *Disparities in COVID-19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation – Utah, March 3-July 9, 2020*, *Morb. Mort. Wkly. Rep.* 69(38):1369-73 (Sept. 25, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm>.

has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

The interim final rule identifies a non-exclusive list of uses that address the effects of the COVID-19 public health emergency, including:

- *COVID-19 Mitigation and Prevention.* A broad range of services and programming are needed to contain COVID-19. Mitigation and prevention efforts for COVID-19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;⁴⁰ ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.⁴¹ They

⁴⁰ This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational Strategy for K-12 Schools through Phased Prevention, *available at* <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>.

⁴¹ Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under the ARPA, including those not explicitly listed here (e.g., telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions), with the following two exceptions: 1) the standard for eligibility of public health and safety payrolls has been updated (see section II.A of this SUPPLEMENTARY INFORMATION) and 2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service in section II.B of this SUPPLEMENTARY INFORMATION).

also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. These COVID-19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.⁴²

- *Medical Expenses.* The COVID-19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID-19 variants has raised new risks and genomic surveillance needs.⁴³ Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID-19, or for post-intensive care syndrome.⁴⁴ State and local governments may need to continue to provide care and services to address these near- and longer-term needs.⁴⁵
- *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and

⁴² Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182 (Jan. 15, 2021), *available at* https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.

⁴³ Centers for Disease Control and Prevention, *supra* note 24.

⁴⁴ Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html> (last visited Apr. 26, 2021).

⁴⁵ Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

- *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID-19 public health emergency.⁴⁶ Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID-19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence

⁴⁶ In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

demonstrating work on the COVID-19 response. Recipients need not routinely track staff hours.

- *Expenses to Improve the Design and Execution of Health and Public Health Programs.*

State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID-19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID-19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the interim final rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),⁴⁷ to families living in QCTs, or when these services are provided by Tribal governments.⁴⁸ Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support

⁴⁷ Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

⁴⁸ U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, <https://www.huduser.gov/portal/datasets/qct.html> (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), <https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf> (last visited Apr. 26, 2021).

their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

- Funding community health workers to help community members access health services and services to address the social determinants of health;⁴⁹
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;
- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.⁵⁰

⁴⁹ The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. *See, e.g.*, U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, *Healthy People 2030: Social Determinants of Health*, <https://health.gov/healthypeople/objectives-and-data/social-determinants-health> (last visited Apr. 26, 2021).

⁵⁰ National Commission on COVID-19 and Criminal Justice, *Impact Report: COVID-19 and Crime* (Jan. 31, 2021), <https://covid19.counciloncj.org/2021/01/31/impact-report-covid-19-and-crime-3/> (showing a spike in homicide and assaults); Brad Boesrup et al., *Alarming Trends in US domestic violence during the COVID-19 pandemic*, *Am. J. of Emerg. Med.* 38(12): 2753-55 (Dec. 1, 2020), *available at* [https://www.ajemjournal.com/article/S0735-6757\(20\)30307-7/fulltext](https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext) (showing a spike in domestic violence).

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.⁵¹ Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,⁵² and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.⁵³

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.⁵⁴ Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.⁵⁵ A severe

⁵¹ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS> (last visited May 8, 2021).

⁵² *Id.*

⁵³ U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CLF16OV> (last visited May 8, 2021).

⁵⁴ U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), <https://www.bls.gov/news.release/empsit.t01.htm> (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), <https://www.bls.gov/web/empsit/cpseea04.htm> (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), <https://www.bls.gov/web/empsit/cpseea05.htm> (last visited May 8, 2021).

⁵⁵ Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), <https://files.epi.org/pdf/219418.pdf>. *See also*, Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID-19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), <https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf>.

recession—and its concentrated impact among low-income workers—has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.⁵⁶ Over the course of the pandemic, inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.⁵⁷ Women of color have been hit especially hard: the labor force participation rate for Black women has fallen by 3.2 percentage points⁵⁸ during the pandemic as compared to 1.0 percentage points for Black men⁵⁹ and 2.0 percentage points for White women.⁶⁰

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.⁶¹ In addition to the labor

⁵⁶ Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and> (last visited May 8, 2021).

⁵⁷ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. *See, e.g.*, Gema Zamarró & María J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID-19, *Rev. Econ. Household* 19:11-40 (2021), *available at* <https://link.springer.com/article/10.1007/s11150-020-09534-7>; Titan Alon et al., The Impact of COVID-19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), *available at* <https://www.nber.org/papers/w26947>.

⁵⁸ U.S. Bureau of Labor Statistics, Labor Force Participation Rate - 20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300032> (last visited May 8, 2021).

⁵⁹ U.S. Bureau of Labor Statistics, Labor Force Participation Rate - 20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300031> (last visited May 8, 2021).

⁶⁰ U.S. Bureau of Labor Statistics, Labor Force Participation Rate - 20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300029> (last visited May 8, 2021).

⁶¹ *See, e.g.*, Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), <https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/>.

market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores⁶² and reduced familial and childhood wellbeing.⁶³ These potential long-term economic consequences underscore the continued need for robust policy support.

Impacts on Businesses. The pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment⁶⁴ and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.⁶⁵ Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.⁶⁶ Sectors with a large share of small business employment have been among those with the most drastic drops in employment.⁶⁷ The negative outlook for small businesses has continued: as of April 2021, approximately 70 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.⁶⁸

⁶² Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.

⁶³ Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., *Children of the Great Recession*, Russell Sage Foundation (Aug. 2016), available at <https://www.russellsage.org/publications/children-great-recession>.

⁶⁴ Board of Governors of the Federal Reserve System, *supra* note 5.

⁶⁵ U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), <https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/>.

⁶⁶ Biden, *supra* note 6.

⁶⁷ Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID-19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), available at <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf>.

⁶⁸ U.S. Census Bureau, Small Business Pulse Survey, <https://portal.census.gov/pulse/data/> (last visited May 8, 2021).

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.⁶⁹ In general, small businesses can face greater hurdles in accessing credit,⁷⁰ and many small businesses were already financially fragile at the outset of the pandemic.⁷¹ Non-profits, which provide vital services to communities, have similarly faced economic and financial challenges due to the pandemic.⁷²

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.⁷³ These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID-19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID-19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial

⁶⁹ Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID-19 Pandemic (Nov. 2020), <https://www.nber.org/papers/w28151>.

⁷⁰ See e.g., Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), available at <https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm>.

⁷¹ Alexander W. Bartik et al., The Impact of COVID-19 on small business outcomes and expectations, PNAS 117(30): 17656-66 (July 28, 2020), available at <https://www.pnas.org/content/117/30/17656>.

⁷² Federal Reserve Bank of San Francisco, Impacts of COVID-19 on Nonprofits in the Western United States (May 2020), <https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf>.

⁷³ Bureau of Labor Statistics, *supra* note 8; Elijah Moreno & Heather Sobrepna, Tribal entities remain resilient as COVID-19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), <https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances>.

portion of both total pandemic job losses,⁷⁴ and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID-19.⁷⁵ Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,⁷⁶ raise a substantial risk that the effects of the COVID-19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007-2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor neighborhoods more than doubling by 2010-2014 relative to 2000.⁷⁷ Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.⁷⁸ Given the disproportionate impact of COVID-19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID-19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all

⁷⁴ Kim Parker et al., Economic Fallout from COVID-19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), <https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/>; Gould, *supra* note 55.

⁷⁵ See *infra* Section II.B of this Supplementary Information.

⁷⁶ Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), <https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/>.

⁷⁷ Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), <https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/>.

⁷⁸ David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), available at https://www.frbsf.org/community-development/files/cp_fullreport.pdf.

of which contribute to long-term economic outcomes.⁷⁹ Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.⁸⁰ Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,⁸¹ an effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.⁸² Evidence suggests that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.⁸³

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal

⁷⁹ Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. *See, e.g.,* Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, PLoS ONE 13(7) (2018), *available at* <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144>; Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, <https://opportunityinsights.org/education/> (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education> (last visited Apr. 26, 2021).

⁸⁰ *See, e.g.,* Bacher-Hicks, *supra* note 14.

⁸¹ A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. *See* Institute of Education Sciences, Monthly School Survey Dashboard, <https://ies.ed.gov/schoolsurvey/> (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only. *See* Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), <https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07> (last visited May 4, 2021).

⁸² HHS, *supra* note 79.

⁸³ Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease – 2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, *J. of Pediatrics* Vol. 223:188-93 (Aug. 1, 2020), *available at* [https://www.jpeds.com/article/S0022-3476\(20\)30606-5/abstract](https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract).

lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.⁸⁴ Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.⁸⁵

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID-19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm.⁸⁶ A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID-19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

⁸⁴ Based on calculations conducted by the Minneapolis Fed’s Center for Indian Country Development using Flood et al. (2020)’s Current Population Survey.” Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. <https://doi.org/10.18128/D030.V8.0>; *see also* Donna Feir & Charles Golding, Native Employment During COVID-19: Hard hit in April but Starting to Rebound? (Aug. 5, 2020), <https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound>.

⁸⁵ Moreno & Sobrepena, *supra* note 73.

⁸⁶ In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

In addition, the eligible use must “respond to” the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic.
- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and [INSERT DATE OF PUBLICATION IN THE

FEDERAL REGISTER], given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.

- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID-19 is also an eligible use. This includes: food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. For example, a cash transfer program may focus on

unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency, State, local and Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID-19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor's benefits to surviving family members of COVID-19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID-19 victims.

- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
- *Small Businesses and Non-profits.* As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather

periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency, including:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID-19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.⁸⁷

⁸⁷ See Federal Reserve Bank of Cleveland, *An Uphill Battle: COVID-19's Outsized Toll on Minority-Owned Firms* (Oct. 8, 2020), <https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx> (discussing the impact of COVID-19 on minority owned businesses).

- *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower in April 2021 than prior to the pandemic.⁸⁸ Employment losses decrease a state or local government's ability to effectively administer services. Thus, the interim final rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.
- *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID-19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal

⁸⁸ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited May 8, 2021).

development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID-19 public health emergency.⁸⁹ Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the interim final rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving

⁸⁹ From February 2020 to April 2021, employment in “Leisure and hospitality” has fallen by approximately 17 percent. *See* U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/USLAH> (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (e.g. revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. *See* Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf.

assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID-19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the interim final rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID-19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.⁹⁰ Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The interim final rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID-19 public health emergency, including:

- *Building Stronger Communities through Investments in Housing and Neighborhoods.* The economic impacts of COVID-19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic

⁹⁰ HUD, *supra* note 48.

opportunity, and housing insecurity.⁹¹ Services in this category alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.⁹² Eligible services include:

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
 - Affordable housing development to increase supply of affordable and high-quality living units; and
 - Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.⁹³
- *Addressing Educational Disparities.* As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children’s educational and economic

⁹¹ Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), <https://www.brookings.edu/blog/up-front/2020/11/16/tackling-the-legacy-of-persistent-urban-inequality-and-concentrated-poverty/>.

⁹² U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11> (last visited Apr. 26, 2021).

⁹³ The Opportunity Atlas, <https://www.opportunityatlas.org/> (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, *Quarterly J. of Econ.* 133(3):1107-162 (2018), available at <https://opportunityinsights.org/paper/neighborhoodsi/>.

prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
 - Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
 - Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and
 - Evidence-based practices to address the social, emotional, and mental health needs of students;
- *Promoting Healthy Childhood Environments.* Children’s economic and family circumstances have a long-term impact on their future economic outcomes.⁹⁴ Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today’s children due to the pandemic. Eligible services to address this challenge include:
- New or expanded high-quality childcare to provide safe and supportive care for children;
 - Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and

⁹⁴ See supra notes 52 and 84.

- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (e.g., affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is “necessary” and in water, sewer, or broadband. *See* Section II.D of this Supplementary Information. State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide “government services” broadly to the extent of their reduction in revenue. *See* Section II.C of this Supplementary Information.

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the interim final rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID-19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID-19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID-19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs, as described above.

In addition, as described in Section V.III of this SUPPLEMENTARY INFORMATION, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 2: The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID-19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The interim final rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries" affected by the COVID-19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID-19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID-19 on low-income populations and communities? Describe how these respond to the COVID-19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.⁹⁵ These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

⁹⁵ Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

Since the start of the COVID-19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have contracted or died of COVID-19.⁹⁶ Several examples reflect the severity of the health impacts for essential workers. Meat processing plants became “hotspots” for transmission, with 700 new cases reported at a single plant on a single day in May 2020.⁹⁷ In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID-19 by mid-May 2020, with nearly 4,000 testing positive for the virus.⁹⁸ Furthermore, many essential workers are people of color or low-wage workers.⁹⁹ These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;

⁹⁶ See, e.g., Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, <https://covid.cdc.gov/covid-data-tracker/#health-care-personnel> (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID-19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week – United States, <https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff> (last visited May 4, 2021).

⁹⁷ See, e.g., The Lancet, The plight of essential workers during the COVID-19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), available at <https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext>.

⁹⁸ *Id.*

⁹⁹ Joanna Gaitens et al., Covid-19 and essential workers: A narrative review of health outcomes and moral injury, *Int'l J. of Env'tl. Research and Pub. Health* 18(4):1446 (Feb. 4, 2021), available at <https://pubmed.ncbi.nlm.nih.gov/33557075/>; Tiana N. Rogers et al., Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States, *World Med. & Health policy* 12(3):311-27 (Aug. 5, 2020), available at <https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358> (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID-19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.¹⁰⁰ Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.¹⁰¹ A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.¹⁰² The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID-19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the interim final rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

¹⁰⁰ Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), <https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/>.

¹⁰¹ McCormack, *supra* note 37.

¹⁰² *Id.*

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government.”¹⁰³ The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.¹⁰⁴ These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would “respond to” to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

¹⁰³ Sections 602(g)(2), 603(g)(2) of the Act.

¹⁰⁴ The list of critical infrastructure sectors provided in the interim final rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, or their residing county's average annual wage, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.¹⁰⁵

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the interim final rule.¹⁰⁶ For these occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between

¹⁰⁵ County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. See U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, <https://www.bls.gov/oes/current/oescrest.htm> (last visited May 1, 2021); U.S. Bureau of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, https://www.bls.gov/oes/current/county_links.htm (last visited May 1, 2021).

¹⁰⁶ Treasury performed this analysis with data from the U.S. Census Bureau's 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.¹⁰⁷ Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many months. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. *See* Section VIII of this SUPPLEMENTARY INFORMATION, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed

¹⁰⁷ However, such compensation must be "in addition to" remuneration or wages already received. That is, employers may not reduce such workers' current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.¹⁰⁸ Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same period 2019.¹⁰⁹ At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in

¹⁰⁸ ARPA, *supra* note 16.

¹⁰⁹ Major sources include personal income tax, corporate income tax, sales tax, and property tax. See Lucy Dadayan., States Reported Revenue Growth in July - September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf

general fund revenues in their fiscal year 2021.¹¹⁰ Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.¹¹¹ These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID-19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007-2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.¹¹² Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,¹¹³ while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019 – just a few months before the COVID-19 public health emergency began.¹¹⁴

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services

¹¹⁰ National League of Cities, *City Fiscal Conditions (2020)*, available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf

¹¹¹ Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. See Moreno & Sobrepena, *supra* note 73.

¹¹² See, e.g., Fitzpatrick, Haughwout & Setren, *Fiscal Drag from the State and Local Sector?*, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, *Great Recession and Fiscal Squeeze at U.S. Subnational Government Level*, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

¹¹³ State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, *Annual Survey of State Government Finances* and U.S. Bureau of Economic Analysis, *National Income and Product Accounts*,

¹¹⁴ U.S. Bureau of Labor Statistics, *All Employees, State Government* [CES9092000001] and *All Employees, Local Government* [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited Apr. 27, 2021).

and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The interim final rule implements these provisions by establishing a definition of “general revenue” for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID-19 public health emergency.

General Revenue. The interim final rule adopts a definition of “general revenue” based largely on the components reported under “General Revenue from Own Sources” in the Census Bureau’s Annual Survey of State and Local Government Finances, and for purposes of this interim final rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.¹¹⁵ By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The interim final rule defines the term “general revenue” to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.¹¹⁶ In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of the COVID-19 public health emergency on a recipient’s revenue, rather than relying

¹¹⁵ U.S. Census Bureau, Annual Survey of State and Local Government Finances, <https://www.census.gov/programs-surveys/gov-finances.html> (last visited Apr. 30, 2021).

¹¹⁶ The interim final rule would define tax revenue in a manner consistent with the Census Bureau’s definition of tax revenue, with certain changes (i.e., inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as “charges imposed for providing current services or for the sale of products in connection with general government activities.” It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (i.e., other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.¹¹⁷

Consistent with the Census Bureau’s definition of “general revenue from own sources,” the definition of general revenue in the interim final rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.¹¹⁸ For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility’s continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal governments that enable Tribal governments to provide a range of services, including elder care, health clinics, wastewater management, and forestry.

¹¹⁷ Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. *See* Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287-B (Feb. 2009).

¹¹⁸ *Supra* note 116.

Finally, the term “general revenue” includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal Government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. States and local governments often share or collect revenue on behalf of one another, which results in intergovernmental transfers. When attributing revenue to a unit of government, the Census Bureau’s methodology considers which unit of government imposes, collects, and retains the revenue and assigns the revenue to the unit of government that meets at least two of those three factors.¹¹⁹ For purposes of measuring loss in general revenue due to the COVID-19 public health emergency and to better allow continued provision of government services, the retention and ability to use the revenue is a more critical factor. Accordingly, and to better measure the funds available for the provision of government services, the definition of general revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program. This formulation recognizes the importance of State transfers for local government revenue.¹²⁰

Calculation of Loss. In general, recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID-19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. In other words, the counterfactual trend starts with the last full fiscal year prior to the COVID-19 public health emergency and then assumes growth at a constant rate in the subsequent years. Because recipients can estimate the revenue shortfall at

¹¹⁹ U.S. Census Bureau, Government Finance and Employment Classification Manual (Dec. 2000), <https://www2.census.gov/govs/class/classfull.pdf>

¹²⁰ For example, in 2018, state transfers to localities accounted for approximately 27 percent of local revenues. U.S. Census Bureau, Annual Survey of State and Local Government Finances, Table 1 (2018), <https://www.census.gov/data/datasets/2018/econ/local/public-use-datasets.html>.

multiple points in time throughout the covered period as revenue is collected, this approach accounts for variation across recipients in the timing of pandemic impacts.¹²¹ Although revenue may decline for reasons unrelated to the COVID-19 public health emergency, to minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID-19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID-19 public health emergency.

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a *growth adjustment* of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency, whichever is higher. The option of 4.1 percent represents the average annual growth across all State and local government "General Revenue from Own Sources" in the most recent three years of available data.¹²² This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID-19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

¹²¹ For example, following the 2007-09 recession, local government property tax collections did not begin to decline until 2011, suggesting that property tax collection declines can lag downturns. *See* U.S. Bureau of Economic Analysis, Personal current taxes: State and local: Property taxes [S210401A027NBEA], retrieved from Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/graph/?g=r3YI> (last visited Apr. 22, 2021). Estimating the reduction in revenue at points throughout the covered period will allow for this type of lagged effect to be taken into account during the covered period.

¹²² Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015 – 2018 represents the most recent available data. *See* U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), <https://www.census.gov/programs-surveys/gov-finances/data/datasets.html>.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023.

To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

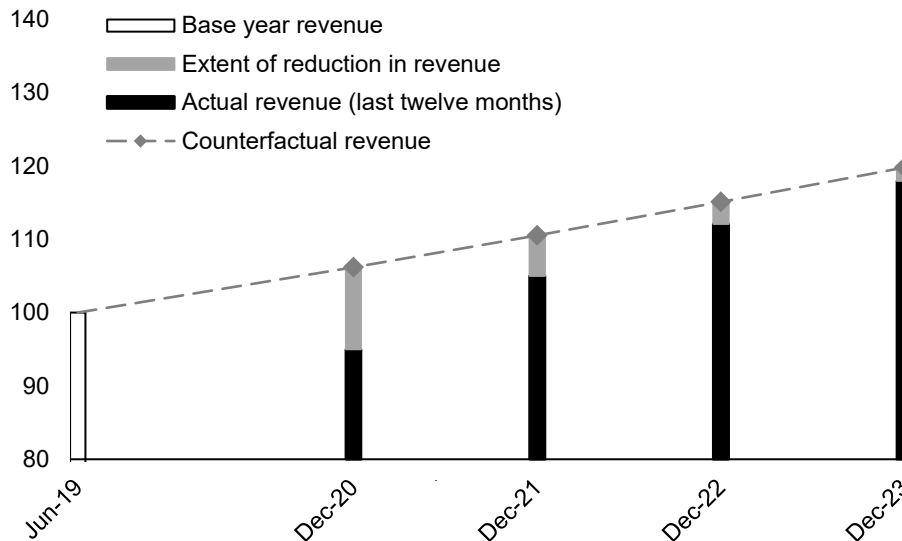
- Step 1: Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue*.
- Step 2: Estimate *counterfactual revenue*, which is equal to *base year revenue* * $[(1 + \textit{growth adjustment})^{(n/12)}]$, where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient’s average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency.
- Step 3: Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.
- Step 4: The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue*. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1 percent is greater than the recipient’s average annual revenue growth in the three full fiscal years prior to the public health emergency.

Furthermore, this recipient’s base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
<i>n</i> (months elapsed)	18	30	42	54
<i>Counterfactual revenue</i> :	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



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

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building¹²³ of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for

¹²³ Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (e.g., rainy day or other reserve funds) would not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID-19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID-19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID-19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury do to support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.¹²⁴

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure

¹²⁴ Treasury notes that using funds to support or oppose collective bargaining would not be included as part of “necessary investments in water, sewer, or broadband infrastructure.”

projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.¹²⁵ By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).¹²⁶

¹²⁵ Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

¹²⁶ Environmental Protection Agency, Drinking Water State Revolving fund, <https://www.epa.gov/dwsrf> (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf> (last visited Apr. 30, 2021).

Established by the 1987 amendments¹²⁷ to the Clean Water Act (CWA),¹²⁸ the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.¹²⁹ Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.¹³⁰

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),¹³¹ with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with

¹²⁷ Water Quality Act of 1987, Pub. L. 100-4.

¹²⁸ Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Pub. L. 111-5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Pub. L. 113-121. The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Pub. L. 115-270.

¹²⁹ See Environmental Protection Agency, *The Drinking Water State Revolving Funds: Financing America's Drinking Water*, EPA-816-R-00-023 (Nov. 2000), <https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF>; See also Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021).

¹³⁰ 33 U.S.C. 1383(c). See also Environmental Protection Agency, *Overview of Clean Water State Revolving Fund Eligibilities* (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, *Clean Water Act: A Summary of the Law*, Congressional Research Service (Oct. 18, 2016), <https://fas.org/sgp/crs/misc/RL30030.pdf>; Jonathan L. Ramseur, *Wastewater Infrastructure: Overview, Funding, and Legislative Developments*, Congressional Research Service (May 22, 2018), <https://fas.org/sgp/crs/misc/R44963.pdf>.

¹³¹ 42 U.S.C. 300j-12.

drinking water regulations.¹³² Like the CWSRF, the DWSRF provides States with the flexibility to meet the needs of their populations.¹³³ The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.¹³⁴ In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.¹³⁵

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.¹³⁶ The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that

¹³² Environmental Protection Agency, Drinking Water State Revolving Fund Eligibility Handbook, (June 2017), https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf; Environmental Protection Agency, Drinking Water Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ 42 U.S.C. 300j-12(b)(3)(A).

¹³⁶ Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021); 42 U.S.C. 300j-12.

needed relief for the people and communities most affected by the pandemic can be deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID-19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.¹³⁷ Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to “assist systems most in need on a per household basis according to state affordability criteria” would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.¹³⁸

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

¹³⁷ House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), <https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief>.

¹³⁸ Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf; Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, <https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations> (last visited Apr. 30, 2020).

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer

project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, underserved, or rural communities? How do these projects differ from DWSRF and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure.

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband Internet access service for every facet of

daily life including work, study, and healthcare.¹³⁹ With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.¹⁴⁰ By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).¹⁴¹ There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.¹⁴² Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon

¹³⁹ See, e.g., <https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show>; <https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show>; and generally, <https://www.ntia.gov/data/digital-nation-data-explorer>.

¹⁴⁰ As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, <https://broadbandmap.fcc.gov/#/> (last visited May 9, 2021).

¹⁴¹ How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, *available at* <https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide>.

¹⁴² See, e.g., Federal Communications Commission, Fourteenth Broadband Deployment Report, *available at* <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>.

acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.¹⁴³

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.¹⁴⁴ In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household

¹⁴³ See, e.g., Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), <https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx>; Kansas Office of Broadband Development, Broadband Acceleration Grant, <https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf> (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), [https://www.nysac.org/files/BroadbandUpdateReport2017\(1\).pdf](https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf).

¹⁴⁴ This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.¹⁴⁵ In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017¹⁴⁶ and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,¹⁴⁷ attributable, in part to a shift to using broadband and the internet by individuals and businesses to create and share content using video sharing, video conferencing, and other applications.¹⁴⁸

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater

¹⁴⁵ Federal Communications Commission, Broadband Speed Guide, <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited Apr. 30, 2021).

¹⁴⁶ Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19-126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, available at <https://ecfsapi.fcc.gov/file/101030085118517/FCC%20RDOF%20Jan%20203%20Ex%20Parte.pdf>.

Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide*, Apr. 29, 2021.

¹⁴⁷ *Id.* See also United States's Mobile and Broadband Internet Speeds - Speedtest Global Index, available at <https://www.speedtest.net/global-index/united-states#fixed>.

¹⁴⁸ *Id.*

internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.¹⁴⁹ As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.¹⁵⁰ For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others.¹⁵¹ These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of 383.8 gigabytes.¹⁵² OpenVault also noted significant increases in upstream usage among the data

¹⁴⁹ One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

¹⁵⁰ See, e.g., Zoom, System Requirements for Windows, macOS, and Linux, https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c (last visited May 8, 2021).

¹⁵¹ By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. Reviews.org: What is Symmetrical Internet? (March 2020).

¹⁵² OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), available at <https://openvault.com/ovbi-covid-19-drove-51-increase-in->

users it observed, with upstream data usage growing 63 percent – from 19 gigabytes to 31 gigabytes – between December, 2019 and December, 2020.¹⁵³ According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.¹⁵⁴

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and 20 Mbps upload being included in the “above baseline” performance tier set by the FCC.¹⁵⁵ The Broadband Infrastructure Program (BBIP)¹⁵⁶ of the Department of Commerce, which provides Federal funding to deploy broadband infrastructure to eligible service areas of the country also

broadband-traffic-in-2020; See OpenVault’s data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4*, Quarterly Advisory (Feb. 10, 2021), available at <https://openvault.com/complimentary-report-4q20/>.

¹⁵³ OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 2021), available at <https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/>; Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity*, available at <https://openvault.com/upstream-whitepaper/>.

¹⁵⁴ Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), <https://www.oecd.org/sti/broadband/5.1-FixedBB-SpeedTiers-2020-06.xls> www.oecd.org/sti/broadband/broadband-statistics.

¹⁵⁵ *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0>.

¹⁵⁶ The BIPP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020).

prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.¹⁵⁷

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the interim final rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the interim final rule, eligible projects are expected to focus on locations that are unserved or underserved. The interim final rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC's benchmark for an "advanced telecommunications capability."¹⁵⁸ This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC's RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing

¹⁵⁷ Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

¹⁵⁸ *Deployment Report*, *supra* note 142.

25 Mbps download and 3 Mbps upload speeds.¹⁵⁹ The Department of Commerce’s BBIP also considers households to be “unserved” generally if they lack access to broadband service with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID-19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

¹⁵⁹ *Rural Digital Opportunity Fund*, *supra* note 156.

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not "use the funds ... to either directly or

indirectly offset a reduction in ... net tax revenue ... resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax ... or delays the imposition of any tax or tax increase.” In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress’s clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments’ revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These four eligible uses reflect Congress’s judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID-19 public health emergency. The further restrictions reflect Congress’s judgment that tax cuts and pension deposits do not fall within these eligible uses. The interim final rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this SUPPLEMENTARY INFORMATION, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for “deposit into any pension fund.” For the reasons discussed below, Treasury interprets “deposit” in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued,

unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. the payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and
2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID-19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of "deposit" to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a “deposit” and a “payroll contribution,” are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments¹⁶⁰), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation¹⁶¹ during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. *See* Section IV of this SUPPLEMENTARY INFORMATION. As discussed below Section IV of this SUPPLEMENTARY INFORMATION, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The interim final rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—i.e., cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than the Fiscal

¹⁶⁰ In this sub-section, “recipient governments” refers only to States and territories. In other sections, “recipient governments” refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

¹⁶¹ For brevity, referred to as “changes in law, regulation, or interpretation” for the remainder of this preamble.

Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (e.g., an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the interim final rule’s approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State’s or territory’s covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the State’s or territory’s funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax

revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the interim final rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to “pay for” with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).
- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government’s actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.
- Fourth, if the recipient government’s actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any

sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:

- State or territory tax changes that would increase any source of general fund revenue, such as a change that would increase a tax rate; and
- Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government’s actual tax revenue shortfall relative to the baseline (i.e., fiscal year 2019 tax revenue adjusted for inflation). This “revenue reduction cap,” together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

- Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this SUPPLEMENTARY INFORMATION.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute’s defined eligible uses and the offset provision’s limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The interim final rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of

recoupment, and clarification regarding amounts excluded from recoupment. *See* Section IV of this SUPPLEMENTARY INFORMATION.

The interim final rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from “a change in law, regulation, or administrative interpretation.” A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal Government’s expansion of the EITC in the ARPA.¹⁶² This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes

¹⁶² *See, e.g.*, Tax Policy Center, How do state earned income tax credits work?, <https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/> (last visited May 9, 2021).

in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.¹⁶³

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID-19 public health emergency.¹⁶⁴ This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the “most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency” as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,¹⁶⁵ suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The interim final rule defines “reporting year” as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered

¹⁶³ U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, <https://www.bea.gov/data/prices-inflation/gdp-price-deflator> (last visited May 9, 2021).

¹⁶⁴ Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. See section 602(c)(1)(C).

¹⁶⁵ Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), available at <https://www.cbo.gov/publication/56965>.

period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases (“in-year” value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term “reporting year” refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The interim final rule’s definition of “tax revenue” is based on the Census Bureau’s definition of taxes, used for its Annual Survey of State Government Finances.¹⁶⁶ It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this SUPPLEMENTARY INFORMATION describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this SUPPLEMENTARY INFORMATION, tax revenue does not include revenue taxed and collected by a different unit of government (e.g., revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The interim final rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State’s or territory’s use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government’s existing approach for measuring the

¹⁶⁶ U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, <https://www.census.gov/programs-surveys/state/about/glossary.html> (last visited Apr. 30, 2021).

effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States and territories already consider tax changes.¹⁶⁷

(2) *In excess of the de minimis.* The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de

¹⁶⁷ See, e.g., Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), available at https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.

minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.¹⁶⁸ The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to

¹⁶⁸ Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004-2017.

covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the interim final rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting

process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant

State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to “indirectly” offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.¹⁶⁹ In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by \$1 billion, makes no other changes, and

¹⁶⁹ This cap is applied in § 35.8(c) of the interim final rule, calculating the amount of funds used in violation of the tax offset provision.

experiences revenue growth driven by organic economic growth worth \$500 million, it need only pay for the remaining \$500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this SUPPLEMENTARY INFORMATION, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the interim final rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The interim final rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the interim final rule take into consideration differences in approaches? Please discuss the use of practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the interim final rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the interim final rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the interim final rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.¹⁷⁰

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.¹⁷¹ The definition of “incurred” does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID-19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband

¹⁷⁰ See 42 CFR 433.51 and 45 CFR 75.306.

¹⁷¹ Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The interim final rule adopts a definition of “obligation” that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID-19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).¹⁷² As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to “respond to” the COVID-19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (e.g., average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (e.g., replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID-19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in

¹⁷² Sections 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The interim final rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.¹⁷³

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

¹⁷³ Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, *i.e.*, those incurred prior to March 3, 2021.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.¹⁷⁴ The interim final rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the recipient. As discussed further in Sections III.B and VIII of this SUPPLEMENTARY INFORMATION, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the interim final rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The interim final rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's

¹⁷⁴ Sections 602(e) and 603(e) of the Act.

review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the interim final rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.¹⁷⁵ This process will allow the Secretary to respond to the issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the interim final rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the interim final rule. What, if any, challenges does this timeline present?

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary.

¹⁷⁵ The interim final rule also provides that Treasury may extend any deadlines.

Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (i.e., February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this interim final rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches.¹⁷⁶ Splitting payments to States into two tranches will help encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.¹⁷⁷ For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For

¹⁷⁶ With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

¹⁷⁷ The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID-19 pandemic, *J. of Public Econ.* (Nov. 2020), *available at* <https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389>

example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the interim final rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.¹⁷⁸ Each of these increases can

¹⁷⁸ Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and

therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021¹⁷⁹) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Contractions, <https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions> (last visited Apr. 27, 2021). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/UNRATE> (last visited Apr. 27, 2021).

¹⁷⁹ U.S. Bureau of Labor Statistics, Economic News Release – Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, <https://www.bls.gov/news.release/laus.t01.htm> (last visited Apr. 30, 2021).

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a “private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.”¹⁸⁰ Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The interim final rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive. The interim final rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (e.g., a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are “recipients.” A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient’s Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient’s use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients’ use of payments from the Fiscal Recovery Funds for the duration of the award.

¹⁸⁰ Section 602(c)(3) of the Act.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID-19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining “special-purpose unit of State or local government” and “public benefit corporation” that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for \$19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal Government during the COVID-19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The interim final rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury’s implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU’s use of Fiscal Recovery Funds based on the NEU’s proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU’s distribution. Further, States and territories may not provide funding on a reimbursement basis—e.g., requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Funds payments—because this funding model would not

comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU's most recent budget. The most recent budget is defined as the NEU's most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the interim final rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on distributions to such units of general local government, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (e.g., a city-county consolidated government) to receive payments under each

allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government's NEU allocation under section 603(b)(2) but not to the consolidated government's county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient's expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The reports will include the same general data (e.g., on obligations, expenditures, contracts, grants, and sub-awards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as

programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As discussed below, the requirements of advance notice and public comment do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.”¹⁸¹ The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁸² This

¹⁸¹ 5 U.S.C. 553(a)(2).

¹⁸² 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”).

good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID-19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID-19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory action as an action likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as “economically significant” regulations);
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

- (3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

- (1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);
- (2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;
- (3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);
- (4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and
- (5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OMB's Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may

include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the \$350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID-19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress’ mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: it transfers \$350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional

mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined \$350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID-19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.¹⁸³ Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007-09 recession.¹⁸⁴

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: strengthening the response to the COVID-19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel

¹⁸³ Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, *American Econ. J.: Econ. Policy*, 4:3 118-45 (Aug. 2012), *available at* <https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118>

¹⁸⁴ *See, e.g.*, Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at* <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury's approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- Revenue Loss: Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury's approach provides a more accurate representation of the effect of the pandemic on overall revenues.

- Premium Pay: Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold. To set this threshold, Treasury analyzed data from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.
- Withholding of Payments to Recipients: Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment.

Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.

- Hiring Public Sector Employees: The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID-19 crisis. Targeting relief is in line with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which laid out an Administration-wide priority to support “equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”¹⁸⁵ To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state

¹⁸⁵ Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> (last visited May 9, 2021).

and local workforces, where women and people of color are disproportionately represented;¹⁸⁶ and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments,

¹⁸⁶ David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, *The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments*, <https://www.epi.org/publication/bp339-public-sector-jobs-crisis> (last visited May 9, 2021).

but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq., generally requires public notice and an opportunity for comment before a rule becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.” The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus “both clearly and directly related to a federal grant program.” *National Wildlife Federation v. Snow*, 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the “process necessary to maintain state . . . eligibility for federal funds,” *id.*, as well as the “method[s] by which states can

. . . qualify for federal aid,” and other “integral part[s] of the grant program,” *Center for Auto Safety v. Tiemann*, 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553’s requirements. The ARPA is a law responding to a historic economic and public health emergency; it is “extraordinary” legislation about which “both Congress and the President articulated a profound sense of ‘urgency.’” *Petry v. Block*, 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to “respond to the public health emergency,” and the urgency is further exemplified by Congress’s command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, “[t]o the extent practicable,” funds must be provided to Tribes and cities “not later than 60 days after the date of enactment.” *See Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been “virtually impossible”). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA “covered period” began on March 3, 2021. The statutory

urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the Federal Register. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (e.g., payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA) emergency processing procedures and assigned control number 1505-0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	# Respondents (Estimated)	# Responses Per Respondent	Total Responses	Hours per response	Total Burden in Hours	Cost to Respondent (\$48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes)	1,262.5	\$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes)	1,262.5	\$61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes)	2,525	\$123,220
Quarterly Project and Expenditure Report	5,050	4 per year after first year	20,200	25	505,000	\$24,644,000
Annual Project and Expenditure Report from NEUs	TBD	1 per year	20,000-40,000 (Estimate only)	15	300,000 – 600,000	\$14,640,000 - \$29,280,000
Annual Recovery Plan Performance report	418	1 per year	418	100	41,800	\$2,039,840
Total	5,050 – TBD	N/A	55,768 - 75,768	141	851,850 - 1,151,850	\$41,570,280 - \$56,210,280

* Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the Internet at <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm> (visited March 28, 2020). Base wage of \$33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of \$48.80.

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this SUPPLEMENTARY INFORMATION, recipients of Fiscal Recovery Funds will be required to submit one interim report and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August 31, 2021. The quarterly Project and Expenditure reports

will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the www.regulations.gov docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to oir_submission@omb.eop.gov.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the Federal Register. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35 - PANDEMIC RELIEF PROGRAMS

1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116-260, 134 Stat. 1182; Section 104A, Pub. L. 103-325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117-2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

2. Revise the part heading to read as set forth above.

3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

35.1 Purpose.

35.2 Applicability.

35.3 Definitions.

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- 35.5 Use of funds.
- 35.6 Eligible uses.
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- 35.10 Recoupment.
- 35.11 Payments to States.
- 35.12 Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Public Law 117-2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID-19 means the Coronavirus Disease 2019.

COVID-19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID-19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living;

family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID-19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

(1) Is not performed while teleworking from a residence; and

(2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed \$25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to \$13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to \$13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U-3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this

subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID-19 response and prevention.* Expenditures for the mitigation and prevention of COVID-19, including:

(i) Expenses related to COVID-19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

- (ii) COVID-19-related expenses of public hospitals, clinics, and similar facilities;
- (iii) COVID-19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;
- (iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;
- (v) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;
- (vi) Costs of providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;
- (vii) Emergency medical response expenses, including emergency medical transportation, related to COVID-19;
- (viii) Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment;
- (ix) Expenses for communication related to COVID-19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID-19;
- (x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;
- (xi) Expenses for disinfection of public areas and other facilities in response to the COVID-19 public health emergency;
- (xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;
- (xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.* Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(8) *Assistance to households.* Assistance programs, including cash assistance programs, that respond to the COVID-19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID-19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID-19 public health emergency assistance programs, including services responding to the COVID-19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID-19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, such as:

- (i) Programs or services that facilitate access to health and social services, including:
 - (A) Assistance accessing or applying for public benefits or services;
 - (B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

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

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency;

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

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

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

Subscript t denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds;
or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations—(1) In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

- (i) The amount set forth in § 35.8(c); and,
- (ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

- (1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and
- (2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.



Coronavirus State and Local Fiscal Recovery Funds

The American Rescue Plan will deliver \$350 billion for state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs.

The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.

Funding Objectives

- **Support urgent COVID-19 response efforts** to continue to decrease spread of the virus and bring the pandemic under control
- **Replace lost public sector revenue** to strengthen support for vital public services and help retain jobs
- **Support immediate economic stabilization** for households and businesses
- **Address systemic public health and economic challenges** that have contributed to the inequal impact of the pandemic

Eligible Jurisdictions & Allocations

Direct Recipients

- States and District of Columbia (\$195.3 billion)
- Counties (\$65.1 billion)
- Metropolitan cities (\$45.6 billion)
- Tribal governments (\$20.0 billion)
- Territories (\$4.5 billion)

Indirect Recipients

- Non-entitlement units (\$19.5 billion)



Support Public Health Response

Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff



Address Negative Economic Impacts

Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector



Replace Public Sector Revenue Loss

Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic



Premium Pay for Essential Workers

Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors



Water and Sewer Infrastructure

Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure



Broadband Infrastructure

Make necessary investments to provide unserved or underserved locations with new or expanded broadband access



For More Information: Please visit www.treasury.gov/SLFRP

For Media Inquiries: Please contact the U.S. Treasury Press Office at (202) 622-2960

For General Inquiries: Please email SLFRP@treasury.gov for additional information



Example Uses of Funds

Support Public Health Response

- **Services to contain and mitigate the spread of COVID-19**, including vaccination, medical expenses, testing, contact tracing, quarantine costs, capacity enhancements, and many related activities
- **Behavioral healthcare services**, including mental health or substance misuse treatment, crisis intervention, and related services
- **Payroll and covered benefits** for public health, healthcare, human services, and public safety staff to the extent that they work on the COVID-19 response

Replace Public Sector Revenue Loss

- **Ensure continuity of vital government services** by filling budget shortfalls
- **Revenue loss is calculated** relative to the expected trend, beginning with the last full fiscal year pre-pandemic and adjusted annually for growth
- **Recipients may re-calculate revenue loss** at multiple points during the program, supporting those entities that experience revenue loss with a lag

Water & Sewer Infrastructure

- **Includes improvements to infrastructure**, such as building or upgrading facilities and transmission, distribution, and storage systems
- **Eligible uses aligned to Environmental Protection Agency project categories** for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund

Equity-Focused Services

- **Additional flexibility for the hardest-hit communities and families** to address health disparities, invest in housing, address educational disparities, and promote healthy childhood environments
- **Broadly applicable** to Qualified Census Tracts, other disproportionately impacted areas, and when provided by Tribal governments

Address Negative Economic Impacts

- **Deliver assistance to workers and families**, including support for unemployed workers, aid to households, and survivor's benefits for families of COVID-19 victims
- **Support small businesses** with loans, grants, in-kind assistance, and counseling programs
- **Speed the recovery of impacted industries**, including the tourism, travel, and hospitality sectors
- **Rebuild public sector capacity** by rehiring staff, replenishing state unemployment insurance funds, and implementing economic relief programs

Premium Pay for Essential Workers

- **Provide premium pay to essential workers**, both directly and through grants to third-party employers
- **Prioritize low- and moderate-income workers**, who face the greatest mismatch between employment-related health risks and compensation
- **Key sectors include** healthcare, grocery and food services, education, childcare, sanitation, and transit
- **Must be fully additive** to a worker's wages

Broadband Infrastructure

- **Focus on households and businesses** without access to broadband and those with connections that do not provide minimally acceptable speeds
- **Fund projects that deliver reliable service** with minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable
- **Complement broadband investments** made through the Capital Projects Fund

Ineligible Uses

- **Changes that reduce net tax revenue** must not be offset with American Rescue Plan funds
- **Extraordinary payments into a pension fund** are a prohibited use of this funding
- **Other restrictions apply** to eligible uses

The examples listed in this document are non-exhaustive, do not describe all terms and conditions associated with the use of this funding, and do not describe all the restrictions on use that may apply. The U.S. Department of the Treasury provides this document, the State and Local contact channels, and other resources for informational purposes. Although efforts have been made to ensure the accuracy of the information provided, the information is subject to change or correction. Any Coronavirus State and Local Fiscal Recovery Funds received will be subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which shall incorporate the provisions of the Interim Final Rule and/or Final Rule that implements this program.

Coronavirus State and Local Fiscal Recovery Funds

Frequently Asked Questions

AS OF MAY 10, 2021

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

- For overall information about the program, including information on requesting funding, please see <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments>
- For general questions about CSFRF / CLFRF, please email SLFRP@treasury.gov
- Upon publication of the Interim Final Rule in the Federal Register, Treasury encourages stakeholders to submit public comments on the Interim Final Rule at [regulations.gov](https://www.regulations.gov)

Eligibility and Allocations

1. Which governments are eligible for funds?

The following governments are eligible:

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

2. Which governments receive funds directly from Treasury?

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

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

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

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

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

There will be two payments to Tribal governments. Each Tribal government's first payment will include (i) an amount in respect of the \$1 billion allocation that is to be divided equally among eligible Tribal governments and (ii) each Tribal government's pro rata share of the Enrollment Allocation. Tribal governments will be notified of their allocation amount and delivery of payment 4-5 days after completing request for funds in the Treasury Submission Portal. The deadline to make the initial request for funds is May 24, 2021.

In mid-May or shortly after completing the initial request for funds, Tribal governments will receive an email notification to re-enter the Treasury Submission Portal to confirm or amend their 2019 employment numbers that were submitted to the Department of the Treasury for the CARES Act's Coronavirus Relief Fund. The deadline to confirm employment numbers is June 7, 2021. Treasury will calculate each Tribal government's pro rata share of the Employment Allocation for those Tribal governments that confirmed or submitted amended employment numbers. In mid-June, Treasury will communicate to Tribal governments the amount of their portion of the Employment Allocation and the anticipated date for the second payment.

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

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

A broad range of services are needed to contain COVID-19 and are eligible uses, including vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools; ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses. Capital investments in public facilities to meet pandemic operational needs are also eligible, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics.

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

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

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

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

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

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

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

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

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

Assistance to small business and non-profits includes, but is not limited to:

- loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- Technical assistance, counseling, or other services to assist with business planning needs

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

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

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

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

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

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

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

Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic. For example, a recipient may provide aid to support

safe reopening of businesses in the tourism, travel and hospitality industries and to districts that were closed during the COVID-19 public health emergency, as well as aid a planned expansion or upgrade of tourism, travel and hospitality facilities delayed due to the pandemic.

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

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

Yes, provided that recipients consider the extent of the impact in such industries as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, nationwide the leisure and hospitality industry has experienced an approximately 17 percent decline in employment and 24 percent decline in revenue, on net, due to the COVID-19 public health emergency. Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

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

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

In recognition of the disproportionate impacts of the COVID-19 virus on health and economic outcomes in low-income and Native American communities, the Interim Final Rule identifies a broader range of services and programs that are considered to be in response to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services are eligible uses when provided in a Qualified Census Tract (QCT), to families living in QCTs, or when these services are provided by Tribal governments.

Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination for how the pandemic disproportionately impacted the populations, households, or geographic areas to be served.

Eligible services include:

- Addressing health disparities and the social determinants of health, including: community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;

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

Eligible Uses – Revenue Loss

16. How is revenue defined for the purpose of this provision?

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

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

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

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

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

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

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

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

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

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

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

A reduction in a recipient’s General Revenue equals:

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

Where:

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

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

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

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

Subscript *t* denotes the calculation date.

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

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

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

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

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

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

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

Eligible Uses – General

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

No. Funds made available to respond to the public health emergency and its negative economic impacts are intended to help meet pandemic response needs and provide immediate stabilization for households and businesses. Contributions to rainy day funds and similar reserves funds would not address these needs or respond to the COVID-19 public health emergency, but would rather be savings for future spending needs.

Similarly, funds made available for the provision of governmental services (to the extent of reduction in revenue) are intended to support direct provision of services to citizens. Contributions to rainy day funds are not considered provision of government services, since such expenses do not directly relate to the provision of government services.

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

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

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

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

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

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

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

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

Eligible Uses – Premium Pay

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

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

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

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

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

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

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

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

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

Eligible Uses – Water, Sewer, and Broadband Infrastructure

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

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

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

Under the CWSRF, categories of [eligible projects](#) include: construction of publicly-owned treatment works, nonpoint source pollution management, national estuary program projects, decentralized wastewater treatment systems, stormwater systems, water conservation, efficiency, and reuse measures, watershed pilot projects, energy efficiency measures for publicly-owned treatment works, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act.

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

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

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

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

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

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

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

35. What types of broadband projects are eligible?

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

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

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

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

Non-Entitlement Units (NEUs)

37. Can states impose requirements or conditions on the transfer of funds to NEUs?

As the statute requires states to make distributions based on population, states may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

For example, states may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU's use of Fiscal Recovery Funds based on the NEU's proposed spending plan or other policies, nor permitted to offset any debt owed by the NEU against its payment. Further, states may not provide funding on a reimbursement basis (e.g., requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Fund payments), because this approach would not comport with the statutory requirement that states make distributions to NEUs within the statutory timeframe.

38. Can states transfer additional funds to local governments beyond amount allocated to NEUs?

Yes. The Interim Final Rule permits states, territories, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute, as long as the transferee abides by the transferor's eligible use and other requirements. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (e.g., a county is able to transfer Fiscal Recovery Funds to a city, town or school district within it).

39. What is the definition of "budget" for the purpose of the 75 percent cap on NEU payments, and who is responsible for enforcing this cap?

States are responsible for enforcing the "75 percent cap" on NEU payments, which is a statutory requirement that distributions to NEUs not exceed 75 percent of the NEU's

most recent budget. Treasury interprets the most recent budget as the NEU's most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. States may rely for this determination on a certified top-line budget total from the NEU. Funding amounts in excess of such cap must be returned to Treasury.

40. May states use funds to pay for the administrative costs of allocating and distributing money to the NEUs?

Yes. If necessary, states may use Fiscal Recovery Funds to support the administrative costs of allocating and distributing money to NEUs, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts.

41. When will states get their payments for NEUs? When will NEUs get their payments?

States can find their state-level allocations for NEUs on the Treasury website. Treasury plans to issue further guidance on distributions and payments to NEUs in the coming days.

State governments that request their own funds under the Coronavirus State Fiscal Recovery Fund through Treasury's Submission Portal will be considered by Treasury to have requested funding for their non-entitlement units as well.

42. When will NEUs know if they are eligible for payment?

Treasury plans to provide further guidance on distributions and payments to NEUs in the coming days.

Ineligible Uses

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

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

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries. In general, if an employee's wages and salaries are an eligible use of Fiscal

Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds.

Reporting

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

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

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

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

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

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

Nonentitlement units of local government will be required to submit the project and expenditure report annually. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to

September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

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

Treasury will provide further guidance and instructions on the reporting requirements for program at a later date.

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

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

Miscellaneous

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

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

48. Can recipients use funds for administrative purposes?

Recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts. This includes, but is not

limited to, costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds.

Operational Questions

49. How does an eligible entity request payment?

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

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

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

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

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

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

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

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

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

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

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

The ARP statute lays out which governments are eligible for payments. The list of entities within the Treasury Submission Portal includes entities eligible to receive a direct

payment of funds from Treasury, which include states (defined to include the District of Columbia), territories, Tribal governments, counties, and metropolitan cities.

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

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

54. What is an Authorized Representative?

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

55. How does a Tribal government determine their allocation?

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

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

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

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

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

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

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

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

59. When will entities get their money?

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

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

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

FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver \$350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of \$350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

Type	Amount (\$ billions)
States & District of Columbia	\$195.3
Counties	\$65.1
Metropolitan Cites	\$45.6
Tribal Governments	\$20.0
Territories	\$4.5
Non-Entitlement Units of Local Government	\$19.5

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury’s Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. Supporting the public health response

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
 - ✓ Vaccination programs
 - ✓ Medical expenses
 - ✓ Testing
 - ✓ Contact tracing
 - ✓ Isolation or quarantine
 - ✓ PPE purchases
 - ✓ Support for vulnerable populations to access medical or public health services
 - ✓ Public health surveillance (e.g., monitoring for variants)
 - ✓ Enforcement of public health orders
 - ✓ Public communication efforts
 - ✓ Enhancement of healthcare capacity, including alternative care facilities
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
 - ✓ Enhancement of public health data systems
 - ✓ Capital investments in public facilities to meet pandemic operational needs
 - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
 - ✓ Mental health treatment
 - ✓ Substance misuse treatment
 - ✓ Other behavioral health services
 - ✓ Hotlines or warmlines
 - ✓ Crisis intervention
 - ✓ Services or outreach to promote access to health and social services
- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. Addressing the negative economic impacts caused by the public health emergency

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor’s benefits for family members of COVID-19 victims.
- **Supporting small businesses**, helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- **Rebuilding public sector capacity**, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. **Serving the hardest-hit communities and families**

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health**, through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments**, including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. **Replacing lost public sector revenue**

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. Providing premium pay for essential workers

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- ✓ Staff at nursing homes, hospitals, and home-care settings
- ✓ Workers at farms, food production facilities, grocery stores, and restaurants
- ✓ Janitors and sanitation workers
- ✓ Public health and safety staff
- ✓ Truck drivers, transit staff, and warehouse workers
- ✓ Childcare workers, educators, and school staff
- ✓ Social service and human services staff

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

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. Investing in water and sewer infrastructure

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

7. Investing in broadband infrastructure

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. Ineligible Uses

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.