

LEGISLATIVE SUMMARY SHEET

Tracking No. 0014-24

DATE: January 12, 2024

TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION COUNCIL RESOLUTION NO. CJN-29-22 TO INCLUDE ADDITIONAL U.S. DEPARTMENT OF TREASURY FISCAL RECOVERY FUNDS EXPENDITURE CATEGORIES; WAIVING NAVAJO NATION COUNCIL APPROVAL AND AUTHORIZING ADMINISTRATIVE APPROVAL OF AMENDMENTS TO THE NAVAJO NATION FISCAL RECOVERY FUND BATHROOM ADDITIONS EXPENDITURE PLAN TO INCLUDE ADDITIONAL EXPENDITURE CATEGORIES

PURPOSE: If adopted, this legislation will expand the eligible uses of the NNFRF Bathroom Additions Expenditure Plan to include bathroom renovations.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

Alfred Mike III
8:26 PM ; 01-12-24
01/17/24
01/18/24

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
25th NAVAJO NATION COUNCIL – Second Year, 2024

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0014-24

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION
COUNCIL; AMENDING NAVAJO NATION COUNCIL RESOLUTION NO. CJN-29-22
TO INCLUDE ADDITIONAL U.S. DEPARTMENT OF TREASURY FISCAL
RECOVERY FUNDS EXPENDITURE CATEGORIES; WAIVING NAVAJO NATION
COUNCIL APPROVAL AND AUTHORIZING ADMINISTRATIVE APPROVAL OF
AMENDMENTS TO THE NAVAJO NATION FISCAL RECOVERY FUND
BATHROOM ADDITIONS EXPENDITURE PLAN TO INCLUDE ADDITIONAL
EXPENDITURE CATEGORIES

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council with the delegated responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- C. Navajo Nation Council Resolution No. CJN-29-22, attached as **Exhibit 1** (exhibits not included), mandates that any amendments to CJN-29-22 be duly “adopted by a

1 two-thirds (2/3) vote of all members of the Navajo Nation Council and approved
2 by the President of the Navajo Nation pursuant to 2 N.N.C. § 164 (A) and 2
3 N.N.C. §§ 1005 (C) (10), (11), and (12).” CJN-29-22, Section Seventeen.
4

5 **SECTION TWO. FINDINGS**

- 6 A. The Navajo Nation’s acceptance of federal Fiscal Recovery Funds (“FRF”) obligates
7 the Navajo Nation to comply with federal laws and regulations, including the U.S.
8 Department of Treasury’s Compliance and Reporting Guidance for State and Local
9 Fiscal Recovery Funds. *See* CJN-29-22, Section Two (J).
- 10 B. The U.S. Department of Treasury has issued guidance requiring that the use and
11 expenditure of Fiscal Recovery Funds must fall under one of the four categories above
12 and that funding recipients must report each expenditure under one of the eighty-three
13 (83) “Expenditure Categories” set forth in Appendix 1 to the U.S. Department of
14 Treasury’s Compliance and Reporting Guidance for State and Local Fiscal Recovery
15 Funds which is incorporated herein by reference.
- 16 C. The Navajo Nation’s current Navajo Nation Fiscal Recovery Funds (“NNFRF”)
17 expenditure authorization and approval process for the allocation of funds from the
18 NNFRF as set forth in Navajo Nation Council Resolutions Nos. CJN-29-22, **Exhibit 1**,
19 (exhibits not included) and CJY-41-21, attached as **Exhibit 2** (exhibits not included),
20 mandates that NNFRF Expenditure Plans be adopted by a two-thirds (2/3) vote of all
21 members of the Navajo Nation Council and approved by the President of the Navajo
22 Nation pursuant to 2 N.N.C. § 164 (A) and 2 N.N.C. §§ 1005 (C) (10), (11), and (12).
23 CJN-29-22, Section One (B) and Section Seventeen.
- 24 D. The NNFRF Bathroom Additions Expenditure Plan approved by CJN-29-22, attached
25 herein as **Exhibit 3**, only authorizes Bathroom Addition projects falling under
26 Expenditure Category 1.14 (Other Public Health Services) which has limited or
27 restricted the extent of otherwise eligible FRF Bathroom Addition projects.
- 28 E. The expansion of the NNFRF Bathroom Additions Expenditure Plan to include
29 Expenditure Categories 5.3 and 5.5 shall authorize the use of NNFRF funding for
30 bathroom additions, as well as for bathroom renovations.

1 **SECTION THREE. AMENDING NAVAJO NATION COUNCIL RESOLUTION**
2 **CJN-29-22 TO ADD EXPENDITURE CATERGORIES 5.3 AND 5.5 TO THE NNFRF**
3 **BATHROOM ADDITIONS EXPENDITURE PLAN**

4 The Navajo Nation Council hereby amends Section Eleven, Subsection (B)(1) of Navajo
5 Nation Council Resolution CJN-29-22, as follows:

6 One hundred fifty million dollars (\$150,000,000) to the Division of Community
7 Development for Bathroom Additions, as Other Public Health Services
8 (Expenditure Category 1.14), Decentralized Wastewater (Expenditure Category
9 5.3), and/or Other Sewer Infrastructure (Expenditure Category 5.5) as set forth in
10 Exhibit M, with administrative oversight by the Navajo Nation Fiscal Recovery
11 Funds Office and legislative oversight by the Resources and Development
12 Committee.

13
14 **SECTION FOUR. WAIVING NAVAJO NATION COUNCIL APPROVAL OF**
15 **AMENDMENTS TO THE NNFRF BATHROOM ADDITIONS EXPENDITURE**
16 **PLAN TO INCORPORATE EXPENDITURE CATEGORIES 5.3 AND 5.5**

17 A. The Navajo Nation Council hereby waives any and all provisions of Navajo Nation
18 Council Resolution Nos. CJY-41-21 and CJN-29-22 that require amendments to the
19 NNFRF Bathroom Additions Expenditure Plan, CJY-41-21 Exhibits M and M-1, be
20 approved by the Navajo Nation Council and enacted pursuant to 2 N.N.C. § 164
21 (A)(17) and 2 N.N.C. §§ 1005 (C)(10), (11), and (12).

22 B. Amendments to the Bathroom Additions Expenditure Plan, CJY-41-21 Exhibits M and
23 M-1, to incorporate Decentralized Wastewater (Expenditure Category 5.3), and/or Other
24 Sewer Infrastructure (Expenditure Category 5.5) shall be approved administratively by the
25 President of the Navajo Nation.

26 C. The waiver of Navajo Nation Council approval of amendments to the Bathroom
27 Additions Expenditure Plan, CJY-41-21 Exhibits M and M-1, shall only extend to the
28 incorporation of Decentralized Wastewater (Expenditure Category 5.3), and/or Other
29 Sewer Infrastructure (Expenditure Category 5.5).
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1 **SECTION FIVE. SAVING CLAUSE**

2 Should any provision(s) of this Action be determined invalid by the Navajo Nation
3 Supreme Court or the District Courts of the Navajo Nation, without appeal to the
4 Navajo Nation Supreme Court, the remainder of the Action shall remain the law of the
5 Navajo Nation.
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7 **SECTION SIX. EFFECTIVE DATE**

8 The provisions of this Action shall become effective upon adoption by a two-thirds (2/3)
9 vote of all members of the Navajo Nation Council and approval of the President of the
10 Navajo Nation pursuant to 2 N.N.C. § 164 (A)(17) and 2 N.N.C. §§ 1005 (C)(10), (11),
11 and (12).
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13 **SECTION SEVEN. DIRECTIVES**

- 14 A. The Division of Community Development, Navajo Nation Fiscal Recovery Office, and
15 Department of Justice are to work collaboratively to revise the NNFRF Bathroom
16 Addition Expenditure Plan, CJN-29-22 Exhibits M and M-1, to add incorporate
17 Decentralized Wastewater (Expenditure Category 5.3), and Other Sewer Infrastructure
18 (Expenditure Category 5.5) and expeditiously submit the revised Bathroom Addition
19 Expenditure Plan to the Office of President and Vice-President for President approval.
- 20 B. Once the President has approved the revised Bathroom Addition Expenditure Plan, the
21 Division of Community and Navajo Nation Fiscal Recovery Office shall ensure that
22 the revised Bathroom Addition Expenditure Plan is appropriately published, including
23 posting on the NNFRF website and distribution to Navajo Nation Chapters and
24 Council Delegates.
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EXHIBIT

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RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL;
ALLOCATING \$1,070,298,867 OF NAVAJO NATION FISCAL RECOVERY FUNDS;
APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE PLANS
FOR: CHAPTER AND REGIONAL PROJECTS; PUBLIC SAFETY EMERGENCY
COMMUNICATIONS, E911, AND RURAL ADDRESSING PROJECTS; CYBER
SECURITY; PUBLIC HEALTH PROJECTS; HARDSHIP ASSISTANCE; WATER AND
WASTEWATER PROJECTS; BROADBAND PROJECTS; HOME ELECTRICITY
CONNECTION AND ELECTRIC CAPACITY PROJECTS; HOUSING PROJECTS AND
MANUFACTURED HOUSING FACILITIES; BATHROOM ADDITION PROJECTS;
CONSTRUCTION CONTINGENCY FUNDING; AND REDUCED ADMINISTRATIVE
FUNDING

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
- B. The Nation Council Resolution No. CJY-41-21, incorporated herein by reference, mandates that Navajo Nation Fiscal Recovery Fund ("NNFRF") Expenditure Plans be duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the delegated responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of International Concern related to the Coronavirus ("COVID-19"), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.

- B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. See Resolution No. CEM 20-03-11 which is incorporated herein by reference. The Navajo Nation Department of Health has subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2022-006 are incorporated herein by reference. These Public Health Emergency Orders are available at www.ndoh.navajo-nsn.gov.
- C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life throughout the world, the United States, and the Navajo Nation. As of April 13, 2022, the Navajo Nation Health Command Operations Center has confirmed 53,179 COVID-19 cases and 1,740 COVID-related deaths on the Navajo Nation. COVID-19 variants have recently emerged that threaten to increase these numbers and continue the pandemic's assault on the Navajo People.
- D. The devastating effects of COVID-19 continue throughout the Navajo Nation and extend beyond life and health devastation to wide scale negative financial impacts, such as employment losses, business closures, food and housing insecurity, and other economic disruptions.
- E. In response to the pandemic, United States President Joseph Biden signed the American Rescue Plan Act ("ARPA") into law on March 11, 2021. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which established the Coronavirus State Fiscal Recovery Fund, and section 603, which established the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds" or "FRF") and provided \$362 billion for state, local, and tribal governments, including \$20 billion specifically designated for tribal governments.
- F. As of April 12, 2022, the United States Department of Treasury has allocated two billion seventy-nine million four hundred sixty-one thousand four hundred sixty-four dollars (\$2,079,461,464) to the Navajo Nation under the Fiscal Recovery Funds provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief provided in the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (2020), and are intended to mitigate and contain the spread of COVID-19, as well as to respond to the health, social and economic impacts of COVID-19 suffered by residents and businesses.

- G. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds are specifically intended to:
1. respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;
 2. respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
 3. provide government services to the extent of the reduction in Navajo Nation revenue due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year prior to the COVID-19 public health emergency; and
 4. make necessary investments in water, sewer, and/or broadband infrastructure.
- H. The U.S. Department of Treasury has issued guidance requiring that the use and expenditure of Fiscal Recovery Funds must fall under one of the four categories above and that funding recipients must report each expenditure under one of the eighty-three (83) "Expenditure Categories" set forth in Appendix 1 to the U.S. Department of Treasury's Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds, attached as **Exhibit A**.
- I. Pursuant to ARPA:
1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the Navajo Nation must obligate FRF funds by that date. Treasury's Final Rule provides that "incurred" shall have the same meaning given to "financial obligation" under the Uniform Guidance at 2 CFR 200.1: "Financial obligations, when referencing a recipient's or sub-recipient's use of funds under a Federal award, means orders placed for property and services, contracts and sub-awards made, and similar transactions that require payment".
 2. The Fiscal Recovery Fund period of performance runs from March 3, 2021, until December 31, 2026, meaning that all FRF-funded projects must be completed and funds must be fully expended by December 31, 2026.

3. Costs incurred by the Navajo Nation prior to March 3, 2021 are not eligible.
 4. Any funds not obligated or expended for eligible uses by the dates set forth above in sections I (1) and (2) must be returned to U.S. Treasury, including any unobligated or unexpended funds that have been provided to sub-recipients and contractors as part of the award closeout process.
- J. While its acceptance of Fiscal Recovery Funds obligates the Navajo Nation to comply with ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these obligations while retaining and exercising its sovereignty in allocating and disbursing Fiscal Recovery Funds.
- K. On July 23, 2021, the Navajo Nation Council adopted Resolution No. CJY-41-21, incorporated herein by reference, establishing the Navajo Nation Fiscal Recovery Fund ("NNFRF") into which the Navajo Nation's allocation of \$2,079,461,464 has been deposited. Resolution CJY-41-21 also adopted an expenditure authorization and approval process for the allocation of funds from the NNFRF.
- L. The Navajo Nation Council mandated the Budget and Finance Committee to adopt application and review procedures, as well as an expenditure plan template, to be used by entities requesting Navajo Nation Fiscal Recovery Funds. Resolution CJY-41-21, Section Four. The Budget and Finance Committee approved Resolution No. BFS-31-21 which established mandatory Navajo Nation Fiscal Recovery Fund application procedures, forms, and an expenditure plan template. Resolution BFS-31-21 is incorporated herein by reference.
- M. To ensure the Navajo Nation's compliance with ARPA, Section Four of Resolution CJY-41-21 directed the Navajo Nation Department of Justice ("NNDOJ") to perform "an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures." Resolution BFS-31-21 incorporated NNDOJ's initial determination into the mandatory NNFRF application procedures, forms, and an expenditure plan template, which requires, among other things, identification of the entity with administrative oversight over the Funding Recipient. Administrative oversight means having the authority and responsibility to monitor the implementation of an approved FRF Expenditure Plan and the expenditure of awarded funds. The duties of the entity with administrative oversight are set forth in Section Seven of the FRF Procedures in Exhibits 1

through 5 of Resolution BFS-31-21.

- N. The Office of the President and Vice-President, in coordination with the Division of Community Development ("DCD"), presented ARPA and Fiscal Recovery Fund information at each of the five (5) Agency Council Meetings to hear from the Navajo People's elected Chapter and regional leadership concerning their needs and priorities for projects and/or services funded through the NNFRF. In addition, DCD has met with Navajo Nation Chapters, individually and collectively, on more than fifty (50) occasions to discuss NNFRF matters.
- O. The Navajo Nation Council hosted twenty-six (26) Naabik'íyáti' Committee Work Sessions, all open to the public, to hear from the regional and Agency leadership concerning their needs and priorities for projects and/or services funded through the Navajo Nation Fiscal Recovery Fund. In addition, Standing Committees of the Navajo Nation Council held more than forty (40) committee meetings, all open to the public, that have included NNFRF reports and infrastructure specific discussions.
- P. The health and financial devastation visited on the Navajo People by the COVID-19 pandemic has risen to emergency levels. Critical infrastructure needs to be built by and for the Navajo Nation government to provide necessary services and to allow the Navajo Nation to assist residents in coping with the on-going pandemic. The time for construction of such infrastructure and expenditure of the Fiscal Recovery Funds continues to lessen as the deadline to completely expend Fiscal Recovery Funds by December 31, 2026, quickly approaches, after which time unexpended funds must be returned to the United States Treasury. The Navajo Nation Council and Office of the President and Vice-President have determined that it is imperative that infrastructure and mitigation recovery services be provided to the Navajo People as soon as possible.
- Q. To lessen the financial devastation caused by the COVID-19 pandemic, the Navajo Nation Council adopted Resolution No. CD-62-21 providing \$557,000,000 in Hardship Assistance for Navajo members. The President signed CD-62-21 into law on January 4, 2022.
- R. The Navajo Nation Council and Office of the President and Vice-President concur that, based on their respective public consultation efforts, it is in the best interest of the Navajo people and Navajo communities to immediately enact comprehensive Navajo Nation Fiscal Recovery Fund Expenditure Plans for; Chapter and Regional Projects; Public Safety

Emergency Communication, E911, and Rural Addressing Projects; Cyber Security; Public Health Projects; Hardship Assistance; Water and Wastewater Projects; Broadband Projects; Home Electricity Connection and Electric Capacity Projects; Housing Projects and Manufactured Housing Facilities; Bathroom Addition Projects; and Construction Contingency Funding in the total amount of one billion seventy million two hundred ninety-eight thousand, eight hundred sixty-seven dollars (\$1,070,298,867), as set forth in **Exhibit B**.

SECTION THREE. APPROVAL OF THE CHAPTER AND REGIONAL PROJECTS EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Chapter and Regional Projects Assistance Expenditure Plan set forth herein and in **Exhibit C**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Chapter and Chapter Projects Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of two hundred eleven million two hundred fifty-six thousand one hundred forty-eight dollars (\$211,256,148) to be divided equally between the twenty-four (24) Delegate Regions in the amount of eight million eight hundred two thousand three hundred forty dollars (\$8,802,340) per Delegate Region, as set forth in **Exhibit C**, and allocated through Delegate Region Project Plans approved by Navajo Nation Council resolution and signed into law by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- C. For purposes of the NNFRF and the Chapter and Regional Projects Expenditure Plan, "Delegate Region" shall mean all the Navajo Nation chapters, both LGA Certified and non-LGA chapters, and Townships, represented by a Navajo Nation Council delegate.
- D. The 12 N.N.C. § 820(O) 50-50 Chapter Distribution Formula does not apply to the Chapter and Regional Projects Expenditure Plan and/or the Delegate Region Project Plans. The 50-50 Formula only applies to appropriate intended for distribution to all Chapters of the Navajo Nation. The Chapter and Regional Projects Expenditure Plan and Delegate Region Project Plan funding will be allocated to the Navajo Nation Central Government, specifically the Division of Community Development or other appropriation Navajo Nation Divisions or Departments, to implement the projects rather than directly to the Chapters.
- E. The Navajo Nation Central Government, specifically the Division of Community Development or other appropriate Navajo Nation Divisions or Departments, shall manage and administer

funds and Delegate Region Project Plans on behalf of Non-LGA-Certified Chapters. The Navajo Nation Central Government may award funding to LGA-Certified Chapters through sub-recipient agreements to implement and manage specific projects, but shall maintain Administrative Oversight over such funding and Delegate Region Project Plans.

1. LGA-Certified Chapters shall immediately return to the Office of the Controller all Chapter Project Plan funds that remain unobligated and unencumbered as of 5:00 p.m. on September 30, 2024.
 2. LGA-Certified Chapters shall immediately return to the Office of the Controller all Chapter Project Plan funds that remain unexpended as of 5:00 p.m. on September 30, 2026
- F. Each Navajo Nation Council delegate shall select Fiscal Recovery Fund eligible projects within their Delegate Region to be funded by the NNFRF Chapter and Regional Projects Expenditure Plan through a Delegate Region Projects Plan. The total cost of projects selected by each Delegate shall not exceed their Delegate Region distribution of eight million eight hundred two thousand three hundred forty dollars (\$8,802,340) as set forth in **Exhibit C**.
- G. The projects selected by each Navajo Nation Council delegate shall be compiled into a Delegate Region Projects Plan for their respective Delegate Region and approved by Navajo Nation Council resolution and signed into law by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- H. Delegates may select projects for their Delegate Region Projects Plan from the list of projects, attached as **Exhibit D**, that have already been submitted to NNDOJ for an initial eligibility determination and are not included in another enacted Expenditure Plan. Delegates may also add region specific funds to other previously enacted Project or Expenditure Plans. In addition, Delegates may select projects that have not previously been submitted to NNDOJ for an initial eligibility determination, including proposed FRF chapter projects submitted to the Division of Community Development, although such projects will have to have a NNDOJ eligibility determination before they can be approved by the Navajo Nation Council.
- I. The Executive Director of the NNFRF Office, with the assistance of the Division of Community Development and other necessary

Executive Branch Divisions and Departments, shall assist each Council Delegate in developing their respective Delegate Region Projects Plan, including the applicable BFS-31-21 Appendix A and Appendix B forms and supporting documents, for those projects that have not already received NNDOJ initial eligibility determinations.

J. The NNFRF Office shall, notwithstanding BFS-31-21, act and sign in the place of the respective Administrative Oversight Division and submit each project included on the respective Delegate Region Projects Plan to NNDOJ for an initial eligibility determination as required under CJY-41-21. NNDOJ shall be allowed five (5) work days, in addition to BFS-31-21's five (5) days, to complete required initial eligibility determinations for Delegate Region Projects.

1. The NNFRF Office shall not be required to submit projects to NNDOJ that already have an initial eligibility determination, unless there is a proposed change in the project scope of work, eligibility category, and/or the amount of funding requested for the project.

K. Each Delegate shall submit a comprehensive list of projects, including applicable BFS-31-21 Appendix A, Appendix B, and supporting documents for those projects that have not already received NNDOJ initial eligibility determinations, for their respective Delegate Region, totaling no more than their Delegate Region allocation of \$8,802,340 set forth in **Exhibit C**, to the NNFRF Office by no later than September 30, 2024.

1. If the NNFRF Office has not received a comprehensive list of projects for a Delegate Region, including Appendix A, Appendix B and supporting documents for each project by September 30, 2024; any unallocated amount for that Delegate Region shall automatically revert to the Navajo Nation Fiscal Recovery Fund. Navajo Nation Council and President of the Navajo Nation action shall not be required for the reversion.

L. All Delegate Region Project Plans shall be subject to the following requirements and restrictions:

1. Delegate Region Projects shall fall under one of the allowable U.S. Treasury Expenditure Eligibility Categories set forth in **Exhibit A**.

2. Delegate Region Projects Plans may include NNFRF-eligible projects for programs to provide government services to Chapter members; to provide basic PPE to Chapter members;

- to provide food, fuel, firewood assistance to Chapter members negatively impacted by COVID-19; to construct projects such as COVID-19 mitigation renovations to Chapter houses, housing renovations, and house wiring; to plan and design projects; to hire consultants to assist with NNFRF-eligible programs and projects; to hire PEP workers, student workers and other temporary employees, or regular status employees to assist the Chapter governments in carrying out NNFRF-eligible programs and projects. Delegate Region Project Plans shall not include COVID-19 testing and vaccinations, or any cash assistance for Chapter members such as a hardship assistance program.
3. All proposed Delegate Region projects shall be sufficiently developed such that funding for the project(s) can be obligated and encumbered in the Nation's Financial Management Information System ("FMIS") by 5:00 p.m. on September 30, 2024, and fully expended by 5:00 p.m. on September 30, 2026 or such earlier dates as may be determined by resolution of the Navajo Nation Council. This generally requires NEPA, ROW, and design work to be sufficiently advanced such that these pre-construction tasks can be completed in time to execute construction contracts and encumber funds by 5:00 p.m. on September 30, 2024.
 4. The Administrative Oversight entity for each project shall be responsible for making the determination whether the proposed Delegate Region project is "project-ready" or "construction-ready". If a proposed project is not deemed project-ready or construction-ready, the project shall not be eligible for inclusion in a Delegate Region Project Plan.
 5. Each Delegate Region Project shall be subject to CJY-41-21's NNDOJ initial eligibility determination.
 6. Each Delegate Region Project shall identify its Administrative Oversight entity and its Oversight Committee(s).
 7. Each Delegate Region shall be limited to a total of nine million one hundred fifty thousand dollars (\$9,150,000) of Revenue Replacement Projects (Expenditure Eligibility Categories 6.1: Provision of Government Services and 6.2 Non-federal Match for Other Federal Programs). The Office of the Controller may issue guidance that increases this amount in the next fiscal year.

8. Delegate Region Projects shall not include Sanitation Deficiency Systems Service ("SDS") Projects included on the Indian Health Service 2022 SDS List, attached as **Exhibit E**, or on any prior year Indian Health Services SDS List.
9. The Navajo Nation Council urges Delegate Region Project Expenditure Plans to include and prioritize Veteran Housing and other projects that will benefit Navajo veterans.

SECTION FOUR. APPROVAL OF THE PUBLIC SAFETY EMERGENCY COMMUNICATIONS, E911, RURAL ADDRESSING, AND CYBER SECURITY PROJECTS EXPENDITURE PLANS

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Public Safety Emergency Communications, E911, Rural Addressing, and Cyber Security Projects Expenditure Plans set forth in **Exhibits F** and **F-1** through **F-2**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Public Safety Emergency Communications, E911, Rural Addressing, and Cyber Security Projects Expenditure Plans from the Navajo Nation Fiscal Recovery Fund in the total amount of forty million dollars (\$40,000,000) and allocates the funding as follows:
 1. Thirty-five million dollars (\$35,000,000) to the Division of Public Safety for Emergency Communications projects, to include E911 and rural addressing, as Other Public Health Services (Expenditure Category 1.14), as set forth in **Exhibit F-1**, with administrative oversight by the Office of the President and Vice-President and joint legislative oversight by the Law and Order and Resources and Development Committees.
 2. Five million dollars (\$5,000,000) to the Department of Information Technology, Division of General Services, for Cyber Security project(s), as Other Public Health Services (Expenditure Category 1.14), as set forth in **Exhibit F-2**, with administrative oversight by the Division of General Services and joint legislative oversight by the Health Education Human Services and Resources and Development Committees.
- C. The Division of Public Safety and the Department of Information Technology, Division of General Services, are authorized to execute these Emergency Communications, E911, Rural Addressing, and Cyber Security Projects directly, or through

use of contractors and sub-recipients. The Division of General Services and the Division of Public Safety shall exercise administrative oversight over construction contracts and subawards to sub-recipients and shall ensure that costs are incurred only for FRF-eligible purposes, and that projects are completed on schedule, within the authorized budgets, and according to project specifications.

SECTION FIVE. APPROVAL OF PUBLIC HEALTH EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Public Health Expenditure Plan set forth in **Exhibits G** and **G-1** through **G-2**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Public Health Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of nineteen million two hundred forty-three thousand seven hundred fifty dollars (\$19,243,750) allocated as follows:
 - 1. Fifteen million two hundred forty-three thousand seven hundred fifty dollars (\$15,243,750) to the Division of Behavioral and Mental Health Services, Navajo Department of Health, for Detox and Residential Treatment Centers, as Substance Use Services (Expenditure Category 1.13) as set forth in **Exhibit G-1**, with administrative oversight by the Navajo Department of Health and legislative oversight by the Health Education Human Services Committee.
 - 2. Four million dollars (\$4,000,000) to the Division of Behavioral and Mental Health Services, for Transitional Housing, as Mental Health Services (Expenditure Category 1.12) as set forth in **Exhibit G-2**, with administrative oversight by the Navajo Department of Health and legislative oversight by the Health, Education, and Human Services Committee.
- C. The Department of Health is authorized to execute these Public Health Projects directly, or through the use of contractors and sub-recipients. The Department of Health shall exercise administrative oversight over construction contracts and subawards to sub-recipients and shall ensure that costs are incurred only for FRF-eligible purposes, and that projects are completed on schedule, within the authorized budgets, and according to project specifications.

SECTION SIX. APPROVAL OF ALLOCATION OF ADDITIONAL FUNDS TO THE HARDSHIP ASSISTANCE EXPENDITURE PLAN

- A. Through Council Resolution CD-62-21, the Navajo Nation approved and adopted the Navajo Nation Fiscal Recovery Fund Hardship Assistance Expenditure Plan, which included an allocation of five hundred fifty-seven million dollars (\$557,000,000).
- B. The Navajo Nation hereby approves an allocation of additional funding for the NNFRF Hardship Assistance Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of one hundred twenty million dollars (\$120,000,000) to the Office of the Controller, for Household Assistance - Cash Transfers (Expenditure Category 2.3), as set forth in **Exhibit H**, with administrative oversight by the Office of the President and Vice President and legislative oversight by the Budget and Finance Committee.

SECTION SEVEN. APPROVAL OF WATER AND WASTEWATER PROJECTS EXPENDITURE PLANS

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Water and Wastewater Projects Expenditure Plans set forth in **Exhibits I** and **I-1** through **I-7**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Water and Wastewater Projects Expenditure Plans from the Navajo Nation Fiscal Recovery Fund in the total amount of two hundred fifteen million dollars (\$215,000,000) to the Department of Water Resources with administrative oversight by the Division of Natural Resources and legislative oversight by the Resources and Development Committee, and allocates the funding as follows:
 - 1. Thirty-three million six hundred seventy-five thousand three hundred thirty-eight dollars (\$33,675,338) for Centralized Wastewater Treatment Projects (Expenditure Category 5.1) as set forth in **Exhibit I-1**.
 - 2. Six Million Eight Thousand Eight Hundred Seventy-Four dollars (\$6,008,874) for Centralized Wastewater Collection and Conveyance Projects (Expenditure Category 5.2) as set forth in **Exhibit I-2**.
 - 3. Ten million thirty thousand dollars (\$10,030,000) for Drinking Water Treatment Projects (Expenditure Category 5.10), as set forth in **Exhibit I-3**.
 - 4. Fifty-one million eight five thousand seven hundred eighty-eight dollars (\$51,085,788) for Drinking Water

Transmission and Distribution Projects (Expenditure Category 5.11), as set forth in **Exhibit I-4**.

5. Twenty-nine million two hundred thousand dollars (\$29,200,000) for Drinking Water Source Projects (Expenditure Category 5.13), as set forth in **Exhibit I-5**.
6. One million dollars (\$1,000,000) for Drinking Water Storage Projects (Expenditure Category 5.14), as set forth in **Exhibit I-6**.
7. Eighty-four million dollars (\$84,000,000) for Drinking Water Cistern Projects (Expenditure 5.15), as set forth in **Exhibit I-7**.

C. The Department of Water Resources, Division of Natural Resources, is authorized to execute these Water and Wastewater Projects directly, or through the use of contractors and sub-recipients. The Department of Water Resources shall exercise administrative oversight over construction contracts and subawards to sub-recipients and shall ensure that costs are incurred only for FRF-eligible purposes, and that projects are completed on schedule, within the authorized budgets, and according to project specifications.

SECTION EIGHT. APPROVAL OF BROADBAND PROJECTS EXPENDITURE PLANS

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Broadband Projects Expenditure Plan set forth in **Exhibits J and J-1 through J-3**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Broadband Projects Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of one hundred and twenty million (\$120,000,000) and allocates the funding as follows:
 1. Sixty million (\$60,000,000) to the NNFRF Broadband Office, for Broadband "Middle Mile" Projects Expenditure Plan (Expenditure Category 5.21), as set forth in **Exhibit J-1**, with administrative oversight by the Office of the President and Vice-President and joint legislative oversight by the Health Education Human Services and Resources and Development Committees;
 2. Forty million (\$40,000,000) to the NNFRF Broadband Office, for Broadband "Last Mile" Projects Expenditure Plan (Expenditure Category 5.19), as set forth in **Exhibit J-2**, with administrative oversight by the Office of the

President and Vice-President and joint legislative oversight by the Health Education Human Services and Resources and Development Committees;

3. Twenty million (\$20,000,000) to the Division of General Services for matching funds for the federal Infrastructure Investment Jobs Act (IIJA) match requirement, (Expenditure Category 5.20), as set forth in **Exhibit J-3**, with administrative oversight by the Office of the President and Vice-President and legislative oversight by the Resources and Development Committees.
- C. Funding can be transferred between "Middle Mile" Projects (**Exhibit J-1**) and "Last Mile" Projects (**Exhibits J-2**) with approval of Administrative Oversight and confirmation from NNDOJ that the funding is only used for Expenditure Categories 5.19 and/or 5.21.
- D. At least ten million dollars (\$10,000,000) of the NNFRF allocations for the "Middle Mile" and "Last Mile" Broadband Expenditure Plans shall be devoted to projects supporting the Navajo Nation's portion of Highway 191 included in Arizona's Smart Highway Corridor Initiative. See NABIAP-21-20.
- E. The NNFRF Broadband Office is authorized to execute these Broadband Projects directly, or through the use of qualified contractors and sub-recipients procured through an open competitive process consistent with Navajo procurement laws and regulations.
- F. The Office of the President and Vice-President shall exercise administrative oversight over construction contracts and subawards to sub-recipients and shall ensure that costs are incurred only for FRF-eligible purposes, and that projects are completed on schedule, within the authorized budgets, and according to project specifications and contract deliverables.
- G. If a permanent Broadband Office is established outside of the NNFRF Office through formal adoption of the necessary Plan of Operation, all funding and responsibilities allocated herein to the NNFRF Broadband Office shall be immediately transferred to the permanent Broadband Office.

SECTION NINE. APPROVAL OF HOME ELECTRICITY CONNECTION AND ELECTRIC CAPACITY PROJECTS EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Home Electricity Connection and Electric Capacity Projects Expenditure Plan set forth in **Exhibit K**.

- B. The Navajo Nation hereby approves total funding for the NNFRF Home Electricity Connection and Electric Capacity Projects Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of ninety-six million four hundred thousand dollars (\$96,400,000) as follows:
1. Ninety-six million four hundred thousand dollars (\$96,400,000) to the Division of Community Development for Connecting Homes to Electricity Projects as Housing Support: Other Housing Assistance (Expenditure Category 2.18), as set forth in **Exhibit K**, with administrative oversight by the NNFRF Office and legislative oversight by the Resources and Development Committee.
- C. The Division of Community Development is authorized to execute these Home Electricity Connection and Electric Capacity Projects directly, or through use of contractors and sub-recipients. The Division of Community Development shall exercise administrative oversight over construction contracts and subawards to sub-recipients and shall ensure that costs are incurred only for FRF-eligible purposes, and that projects are completed on schedule, within the authorized budgets, and according to project specifications.

SECTION TEN. APPROVAL OF HOUSING PROJECTS AND MANUFACTURED HOUSING FACILITIES EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Housing Projects and Manufactured Housing Facilities Expenditure Plan that includes Housing, Veterans Housing, Housing Manufacturing Facilities, and Housing for the Former Bennett Freeze Area and Navajo Partitioned Lands Projects, as set forth in **Exhibits L** and **L-1** through **L-4**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Housing Projects and Manufactured Housing Facilities Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of one hundred forty-five million five hundred fifty thousand dollars (\$145,550,000) as follows:
1. Fifty million dollars (\$50,000,000) to the Community Housing and Infrastructure Department ("CHID") for New Housing Projects, as Long-Term Housing Security: Services for Unhoused Persons (Expenditure Category 2.15), as set forth in **Exhibit L-1**, with administrative oversight by the Division of Community Development and legislative oversight by the Resources and Development Committee.

2. Fifty million dollars (\$50,000,000) to the Navajo Nation Veterans Administration Veterans Housing Program for New Housing Projects, as Long-Term Housing Security: Services for Unhoused Persons (Expenditure Category 2.16) as set forth in **Exhibit L-2**, with administrative oversight by the Navajo Nation Veterans Administration and legislative oversight by the Health, Education and Human Services Committee.
 3. Thirty million dollars (\$30,000,000) to the Community Housing and Infrastructure Department ("CHID") for the design and construction of up to three (3) Regional Housing Manufacturing Facilities with locations in Tuba City, Sanders, Chinle, Shiprock, or Gallup areas, as Long-Term Housing Security: Affordable Housing (Expenditure Category 2.15), as set forth in **Exhibit L-3**, with administrative oversight by the Division of Community Development and legislative oversight by the Resources and Development Committee.
 4. Fifteen million five hundred fifty thousand dollars (\$15,550,000) to the Navajo Hopi Land Commission Office for Housing for the Former Bennett Freeze Area and Navajo Partitioned Lands to purchase modular homes for people within the twenty-three (23) impacted Chapters and for planning of a manufactured housing plant in Nahata Dził Chapter, as Long-Term Housing Security: Affordable Housing (Expenditure Category 2.15), as set forth in **Exhibit L-4**, with administrative oversight by the Division of Community Development and legislative oversight by the Resources and Development Committee.
- C. The Housing Projects assigned to CHID, the Veterans Housing Program, and Navajo Hopi Land Commission Office are need-based.
- D. The eligibility criteria for receiving services under the Housing Projects assigned to CHID shall be approved by the Resources and Development Committee by resolution and shall include equal distribution by Delegate Region.
- E. The eligibility criteria for receiving services under the Veterans Housing Projects Expenditure Plan assigned to the Veterans Housing Program shall be approved by the Health, Education and Human Services Committee through resolution.
- F. The eligibility criteria for receiving services under the Housing for the Former Bennett Freeze Area and Navajo Partitioned Lands Expenditure Plan assigned to the Navajo Hopi

Land Commission Office shall be approved by the Navajo-Hopi Land Commission through resolution.

- G. To the fullest extent possible, all new housing shall be accessible to persons with physical disabilities and shall meet the standards and specifications within the Americans with Disabilities Act.

SECTION ELEVEN. APPROVAL OF THE BATHROOM ADDITIONS EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Bathroom Additions Expenditure Plan set forth in **Exhibits M and M-1**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Bathroom Additions Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of one hundred fifty million dollars (\$150,000,000) to be allocated as follows:
1. One hundred fifty million dollars (\$150,000,000) to the Division of Community Development for Bathroom Additions, as Other Public Health Services (Expenditure Category 1.14), as set forth in **Exhibit M-1**, with administrative oversight by the Navajo Nation Fiscal Recovery Funds Office and legislative oversight by the Resources and Development Committee.
 2. The allocation to the Division of Community shall be further allocated in the amount of six million two hundred fifty thousand dollars (\$6,250,000) per Delegate Region as set forth in **Exhibit M**.
- C. The Bathroom Additions Expenditure Plan is need-based. The application process and criteria are included in **Exhibit M-1**.
- D. The Division of Community Development is authorized to execute these Bathroom Additions Projects directly, or through the use of contractors and sub-recipients. The Division of Community Development shall exercise administrative oversight over construction contracts and subawards to sub-recipients and shall ensure that costs are incurred only for FRF-eligible purposes, and that projects are completed on schedule, within the authorized budgets, and according to project specifications.

SECTION TWELVE. ADMINISTRATION OF NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE PLANS

- A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through an immediate allocation under Resolution CJY-41-21 or subsequently approved NNFRF Expenditure Plan, shall comply with all Navajo Nation laws, policies, regulations, rules, and procedures, specifically including, but not limited to, those governing the NNFRF and the expenditure of such funds, and any additional terms set forth in a grant, sub-recipient, or similar agreement.
- B. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the Navajo Nation must obligate FRF funds by that date. Treasury guidance provides that "incurred" shall have the same meaning given to "financial obligation" under the Uniform Guidance at 2 CFR 200.1: "Financial obligations, when referencing a recipient's or sub-recipient's use of funds under a Federal award, means orders placed for property and services, contracts and sub-awards made, and similar transactions that require payment."
1. For internal Navajo Nation purposes, the terms "obligated" and "encumbered" are defined in Resolution BFS-31-21, Section Three on page 3 of Exhibits 1 through 5. BFS-31-21 provides that, "'Obligated' means that an order has been placed for the delivery of goods or property, or the performance of services, that will be paid for with Fiscal Recovery Funds; that a contract or subcontract has been executed promising payment with Fiscal Recovery Funds; or that a similar transaction has occurred requiring payment of Fiscal Recovery Funds. For internal Navajo Nation purposes, funds are obligated or encumbered upon completion of OOC's review and approval of contracts and purchase requisitions, and OOC's recording of an encumbrance in the FMIS, not upon execution of a contract."
 2. Any NNFRF funds not obligated and encumbered by the end of the third quarter of Fiscal Year 2024 shall be reported to the Naabik'iyáti' Committee and are subject to reversion to the NNFRF by resolution of the Naabik'iyáti' Committee. Reverted NNFRF funds will then be available for reallocation to other NNFRF Expenditure Plans pursuant to resolution(s) of the Navajo Nation Council enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- C. Projects and/or services funded with Navajo Nation Fiscal Recovery Funds must be completed and all NNFRF funds fully spent by June 30, 2026, unless an earlier date is determined through resolution of the Navajo Nation Council.

- D. After approval pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12), Navajo Nation Fiscal Recovery Fund Expenditure Plan funds shall be available for use by a funding recipient that is a branch, division, department, or other unit of the Navajo Nation central government as soon as a detailed budget has been administratively approved and the Office of Management and Budget has entered such budget into the Financial Management Information System (FMIS).
- E. The Office of the Controller shall release Navajo Nation Fiscal Recovery Fund Expenditure Plan funds to a funding recipient that is external to the Navajo Nation central government, including LGA-Certified chapters, Navajo Nation owned entities, and other external entities, pursuant to the fund distribution schedule recommended by the Navajo Nation government entity with administrative oversight and approved by the Office of the Controller and included in a fully executed sub-recipient, or similar agreement deemed legally sufficient by the Navajo Nation Department of Justice.
- F. Awarded Navajo Nation Fiscal Recovery Funds shall only be obligated and expended on projects and/or services, including need-based projects and services, that were included as an immediate allocation under Resolution CJY-41-21 or are included in a NNFRF Expenditure Plan approved and adopted by a Navajo Nation Council Resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- G. All proposed modifications to an approved NNFRF Expenditure Plan or an approved NNFRF Expenditure Plan budget shall comply with section 8 of Exhibits 1 through 5 of Resolution BFS-31-21.
 - 1. Any increase in funding for an approved NNFRF Expenditure Plan shall require approval by Navajo Nation Council Resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12), unless such increase in funding is due to an administratively approved budget transfer from the Construction Contingencies Expenditure Plan.
 - a. Proposed modifications of Expenditure Plans shall be submitted to the Navajo Nation Department of Justice ("NNDOJ") for an eligibility determination review to ensure the proposed modification will be an eligible use of FRF.
 - b. Modifications that change the purpose and intent of the Expenditure Plan or projects and services within the

approved Expenditure Plan or that substantially change the scope of work of the Expenditure Plan shall require approval by the Navajo Nation Council.

- c. As set forth in Resolution BFS-31-21, NNDOJ shall make the determination whether Navajo Nation Council approval of the modification is required.
 - d. After NNDOJ has reviewed the request for a modification of an approved Expenditure Plan and determined that legislative approval is not needed, or after the modification is approved by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12), the Administrative Oversight entity acting on behalf of the Funding Recipient shall submit a budget revision request to Office of Management & Budget ("OMB"), if needed. The Budget Instruction Manual provisions regarding budget revision requests shall apply.
- H. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, may be administratively moved between projects and/or services included within the same Expenditure Plan, as long as such projects or services share the same Treasury Expenditure Category for reporting purposes. NNDOJ shall verify that the projects and/or services share the same Expenditure Category before any NNFRF funding is moved between projects and/or services.
- I. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, cannot be moved between Expenditure Plans without approval by a Navajo Nation Council Resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12), unless such movement of funds is due to an administratively approved budget transfer from the Construction Contingencies Expenditure Plan to other NNFRF expenditure plans experiencing cost overruns due to construction contingencies.
- J. Approved Expenditure Plans for need-based projects and services, such as Bathroom Addition or Home Electricity Connection projects, may be administratively modified without Navajo Nation Council action as long as the total funding awarded for the Expenditure Plan is not increased and the new project or service is within the same Expenditure Category.
- K. To add projects or services to an approved Expenditure Plan when such projects and/or services are not need-based projects or services, shall require a NNDOJ initial eligibility

determination pursuant to Resolution BFS-31-21 and the addition must be approved through resolution by the Standing Committee(s) having oversight over the Expenditure Plan and the Budget and Finance Committee.

1. If the new project and/or service increases the total funding awarded for the Expenditure Plan or does not share the same Expenditure Category as the Expenditure Plan, Resolution BFS-31-21 must be fully complied with and the addition can only be added through Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- L. The Emergency Procurement provisions set forth in Resolution CJY-41-21, Section Ten, shall apply to all NNFRF Expenditure Plans enacted herein, as well as to the federal American Rescue Plan Act ("ARPA") and all Fiscal Recovery Fund procurements by the Navajo Nation, including its LGA-Certified Chapters, and Navajo Nation-owned entities.
 - M. Navajo Nation programs and offices receiving NNFRF allocations in Resolution CJY-41-21 for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services, and may also use such funding to administer projects that are funded from non-FRF sources provided that NNDOJ determines that all proposed expenditures of NNFRF administration funding are allowable under the Treasury Guidance.
 - N. The Office of the Auditor General's Plan of Operation at 12 N.N.C. § 9 provides for withholding certain funds from sanctioned chapters, divisions, and programs. Under 12 N.N.C. § 9(B), following the Budget and Finance Committee's approval of sanctions, OOC shall cause 10% of "monies payable from any Governmental Fund of the Navajo Nation as defined at 12 N.N.C. section 810" of the Appropriations Act. The Navajo Nation hereby determines that Navajo Nation Fiscal Recovery Funds are not a "Governmental Fund" for purposes of sanctions, and therefore direct allocations of NNFRF to sanctioned chapters, divisions, and programs are not subject to withholding.
 - O. All entities receiving Navajo Nation Fiscal Recovery Funds shall follow and apply Generally Accepted Accounting Principles (GAAP), as established by the Governmental Accounting Standards Board (GASB) for governmental entities and by the Financial Accounting Standards Board (FASB) for

public and private companies and non-profits, in reporting, recording, and accounting for such Funds.

- P. Fraud, misuse of funds, violation of applicable Navajo Nation or federal laws and regulations, non-compliance with FRF agreements governing grants or sub-awards, and false statements or claims by any individual or entity receiving or administering Navajo Nation Fiscal Recovery Funds may result in administrative, civil, or criminal sanctions and penalties, debarment and suspension, ineligibility for future Navajo Nation awards or business opportunities, and the Navajo Nation may pursue any other legal action or remedy available by law.

SECTION THIRTEEN. APPROVING FUTURE ALLOCATION OF UNALLOCATED NAVAJO NATION FISCAL RECOVERY FUNDS TO THE CONSTRUCTION CONTINGENCIES EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Construction Contingencies Expenditure Plan set forth in **Exhibit N**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Construction Contingencies Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of five hundred dollars (\$500) to establish a contingency fund for NNFRF construction projects:
1. Five hundred dollars (\$500) to the Fiscal Recovery Fund Office for the Construction Contingencies Expenditure Plan, as Revenue Replacement: Provision of Government Services (Expenditure Category 6.1), as set forth in **Exhibit N**, with administrative oversight by the Office of the President and Vice President and legislative oversight by the Resources and Development Committee.
- C. The purpose of the NNFRF Construction Contingencies Expenditure Plan is to use available, i.e., unallocated, unencumbered, cost savings, etc., funds from other NNFRF expenditure plans to fund the costs of construction contingencies on NNFRF-funded construction projects.
- D. Additional funds may be needed in the future for construction contingencies related to the inflationary costs of labor and building materials. The Navajo Nation may determine it is necessary and appropriate to allocate Navajo Nation funds from the Síhasin Fund or the General Fund to pay the costs of construction contingencies on NNFRF-funded construction projects.

- E. Notwithstanding procedures for budget transfers in the Budget Instructions Manual and the modification process established in BFC-31-21, the transfer of funds from the NNFRF Construction Contingencies Expenditure Plan business unit to other NNFRF expenditure plans business units shall be handled administratively and shall not require a resolution of the Navajo Nation Council or a Standing Committee.
- F. The Office of the President and Vice President, NNFRF Office, Office of Management and Budget, and Office of the Controller, with advice from the Department of Justice, shall develop a streamlined administrative process for approving requests for funding from the NNFRF Construction Contingencies Expenditure Plan, and to process budget transfers.
- G. All NNFRF funds that have not been allocated to an NNFRF Expenditure Plan through a Navajo Nation Council Resolution enacted pursuant to Resolution CJY-41-21 by the end of the second quarter of Fiscal Year 2024 may be allocated to the NNFRF Construction Contingencies Expenditure Plan through Navajo Nation Council Resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- H. All NNFRF funds that have been allocated to an NNFRF expenditure plan through a Navajo Nation Council Resolution enacted pursuant to Resolution CJY-41-21, but that have not been obligated and encumbered by 5:00 p.m. on June 30, 2024, shall automatically revert to the NNFRF and shall be reallocated to the NNFRF Construction Contingencies Expenditure Plan or other NNFRF expenditure plans through Navajo Nation Council Resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- I. All obligated and encumbered NNFRF funds that have not been expended by the Navajo Nation and its sub-recipients by 5:00 p.m. on June 30, 2026, shall automatically revert to the NNFRF and shall be reallocated to the NNFRF Construction Contingencies Expenditure Plan or other NNFRF expenditure plans through Navajo Nation Council Resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- J. Funding allocated to the Chapter Assistance Expenditure Plan that is not obligated and encumbered by DCD and/or the LGA-Certified Chapters by November 20, 2024 shall be automatically reallocated to the Construction Contingencies Expenditure Plan. Such reallocation shall not require a resolution by the Navajo Nation Council enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

- K. Funding allocated to the Chapter Assistance Expenditure Plan that is not expended by DCD and/or the LGA-Certified Chapters by November 20, 2026 shall be automatically reallocated to the Construction Contingencies Expenditure Plan and such reallocation shall not require a resolution by the Navajo Nation Council enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- L. The Division of Community Development, sub-recipient LGA-Certified Chapters, the Office of the Controller, and the Office of Management and Budget shall cooperate to ensure that such funds from the Chapter Assistance Expenditure Plan are automatically reallocated to the Construction Contingencies Expenditure Plan.
- M. The requirement in CJY-41-21, Section Three (F), to establish a contingency reserve for NNFRF construction projects shall first be satisfied by the Construction Contingencies Expenditure Plan. If a contingency(s) cannot be funded through the Construction Contingencies Expenditure Plan, the contingency(s) shall be implemented on a case-by-case basis through resolution(s) approved by the Navajo Nation Council and enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

SECTION FOURTEEN. REALLOCATION OF SURPLUS FUNDS PREVIOUSLY ALLOCATED UNDER SECTION 7 OF CJY-41-21

- A. Section 7 of Resolution CJY-41-21 allocated ten percent (10%) of the Fiscal Recovery Funds received by the Navajo Nation to fund administrative costs of central support service and regulatory offices. The Office of the President and Vice-President was responsible for apportioning ninety percent (90%) of the ten percent (10%). The Speaker of the Navajo Nation Council, after consultation with the Naabik'iyáti' Committee, is responsible apportioning the remaining ten percent (10%).
- B. Section 7, Paragraph F, of Resolution CY-41-21 provides that any funding unspent or unencumbered at the end of the second quarter of Fiscal Year 2024 shall be reallocated to the NNFRF and be available for allocation to other NNFRF projects and services.
- C. The Office of the President and the Vice-President has determined that forty-two million one hundred fifty-one thousand five hundred and thirty-one dollars (\$42,151,531)

should be reallocated to the NNFRF and be available for allocation to other NNFRF expenditure plans.

- D. The Speaker of the Navajo Nation Council has determined that five million (\$5,000,000) should be reallocated to the NNFRF and be available for allocation to other NNFRF expenditure plans.

SECTION FIFTEEN. REPORTING

- A. All entities receiving Navajo Nation Fiscal Recovery Funds shall keep and maintain accurate and complete financial data and records sufficient to demonstrate that the Fiscal Recovery Funds appropriated to the Navajo Nation have been used by the reporting entity in accordance with the provisions of ARPA and timely relay such reports and records to the Administrative Oversight entity, Office of the Controller, Office of Management and Budget, NNFRF Office, and legislative oversight as directed in the grant or sub-recipient agreements if any, and when requested. Such reports and records shall be maintained for at least seven (7) years after the project and/or service has been completed. The Office of the Controller shall be responsible for compiling and providing any and all records and financial reports required by the U.S. Treasury.
- B. All entities receiving Navajo Nation Fiscal Recovery Funds through an approved Expenditure Plan shall report the status of their NNFRF allocations to their respective legislative oversight committees at the end of each Fiscal Year quarter. The entity with administrative oversight over the Expenditure Plan shall review the quarterly report prior to its presentation and shall participate in the presentation to the oversight committee(s).
- C. The Executive Director of the NNFRF Office, with the assistance of the Office of the Controller and Office of Management and Budget, shall report the status of all allocated Navajo Nation Fiscal Recovery Funds and NNFRF Expenditure Plans to the Budget and Finance Committee and Naabik'íyáti' Committee at the end of each Fiscal Year quarter.

SECTION SIXTEEN. EFFECTIVE DATE

This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 221(B), 2 N.N.C. § 164(A)(17), and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

SECTION SEVENTEEN. AMENDMENTS

Amendments to this legislation shall only be adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approval of the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

SECTION EIGHTEEN. SAVING CLAUSE

If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court, or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, those provisions of this legislation not determined invalid shall remain the law of the Navajo Nation.

SECTION NINETEEN. DIRECTIVES

- A. All Navajo Nation government programs, offices, and divisions, as well as Navajo Nation-owned entities, specifically including those programs, offices, divisions, and Navajo Nation-owned entities receiving Navajo Nation Fiscal Recovery Funds, shall prioritize the implementation and completion of NNFRF projects and/or services.
- B. Navajo Nation regulatory offices participating in the One Stop Shop shall assess federal and state requirements, procedures, and processing times that pose challenges to the rapid implementation of NNFRF Expenditure Plans. Within thirty (30) days following the enactment of this legislation, the One Stop Shop shall submit written recommendations to the Office of the President and Vice President and the Office of the Speaker regarding how the Nation can work with its federal and state partners to address these external challenges.
- C. Navajo Nation regulatory offices participating in the One Stop Shop, and central support service offices such as the Fiscal Recovery Funds Office, Office of the Controller, Office of Management and Budget, and NNDOJ, shall assess the internal Navajo Nation structural and procedural issues that pose challenges to the rapid implementation of NNFRF Expenditure Plans. These Executive Branch divisions, departments, and offices shall develop strategic responses to increase government efficiency and recommend enhanced and streamlined Executive Branch procedures to expedite NNFRF projects.
- D. Within ten (10) days after the enactment of this legislation, the Navajo Nation Department of Justice shall inform Delegates, Chapters, and the Division of Community Development, in writing, whether septic tank cleaning is an eligible FRF

expenditure and whether septic tank clean outs can be included in Delegate Region Project Plans.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 20 in Favor, and 02 Opposed, on this 30th day of June 2022.


Honorable Seth Damon, Speaker
24th Navajo Nation Council


July 8, 2022
DATE

Motion: Honorable Edmund Yazzie
Second: Honorable Wilson Stewart, Jr.

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 15th day of July, 2022.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2022 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this _____ day of _____, 2022.

Jonathan Nez, President
Navajo Nation

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - THIRD YEAR, 2021

EXHIBIT

2

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION FISCAL RECOVERY FUND AND THE EXPENDITURE AUTHORIZATION PROCESS THEREUNDER; WAIVING CERTAIN PROVISIONS OF THE NAVAJO NATION APPROPRIATIONS ACT; AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS; AUTHORIZING REIMBURSEMENT OF THE SÍHASIN FUND AND UNDESIGNATED, UNRESERVED FUND BALANCE; AUTHORIZING CENTRAL SUPPORT AND REGULATORY COST FUNDING; AUTHORIZING FUNDING TO COMPLETE DEFUNDED NAVAJO NATION CARES FUND EXPENDITURE PLANS; AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

BE IT ENACTED

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A) (9).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated powers to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds and to promulgate rules and regulations relative to contracting and financial matters. 2 N.N.C. §§ 300(B) (1) and (2).

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of International Concern related to the outbreak of coronavirus ("COVID-19"), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.
- B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared

a Public Health State of Emergency on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. See Resolution No. CEM 20-03-11 incorporated herein by reference. The Navajo Nation Department of Health has subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2021-014 are incorporated by reference. These Public Health Emergency Orders are available at www.ndoh.navajonnsn.gov.

- C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life throughout the world, the United States and the Navajo Nation. As of July 7, 2021, the Navajo Nation Health Command Operations Center has confirmed 31,043 COVID-19 cases and 1,374 COVID-related deaths on the Navajo Nation. COVID-19 variants have emerged that threaten to increase these numbers and continue the pandemic's assault on the Navajo People.
- D. The devastating effects of COVID-19 continue throughout the Navajo Nation, including employment losses, business closures, food and housing insecurity, and other economic disruptions.
- E. On March 11, 2021, President Biden signed the American Rescue Plan Act ("ARPA") into law. Section 9901 of ARPA established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds") by amending Title VI of the Social Security Act, which provided \$362 billion for state, local, and tribal governments, including \$20 billion designated for tribal governments.
- F. As of May 29, 2021, the United States Department of Treasury ("U.S. Treasury") allocated \$1,861,554,458.43 to the Navajo Nation under the Fiscal Recovery Funds provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief provided in the Coronavirus Aid, Relief, and Economic Security Act or CARES Act.
- G. The Fiscal Recovery Funds are intended to support governmental efforts to mitigate and contain the spread of COVID-19, as well as to respond to the health, social and economic impacts of COVID-19 suffered by residents and businesses.
- H. As set forth in Central Agency Council Resolution No. CAC 07/21-11, attached as Exhibit A, the Central Agency Council of the Navajo Nation supports the establishment of a Navajo Nation Fiscal Recovery Fund and the expenditure authorization process set forth herein.

I. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were specifically intended to:

1. Respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;
2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the tribal government. Under this category, the Navajo Nation can provide premium pay to government workers performing essential work, and can provide grants to eligible employers that have eligible workers who perform essential work;
3. Provide government services to the extent of the reduction in Navajo Nation 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
4. Make necessary investments in water, sewer, or broadband infrastructure.

J. Pursuant to ARPA:

1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning the Navajo Nation must obligate funds by that date; and
2. The Fiscal Recovery Fund period of performance runs until December 31, 2026, meaning funded projects must be completed by that date.

K. While its acceptance of the Fiscal Recovery Funds obligates the Navajo Nation to comply with ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these obligations while retaining and exercising its tribal sovereignty.

SECTION THREE. ESTABLISHMENT OF THE NAVAJO NATION FISCAL RECOVERY FUND

- A. There is hereby established the "Navajo Nation Fiscal Recovery Fund" ("NNFRF").
- B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the Navajo Nation as of May 29, 2021 from the U.S.

Treasury under the Fiscal Recovery Funds provisions of ARPA, as well as any additional funds that the Navajo Nation may later receive from the United States under the Fiscal Recovery Funds provisions, shall be deposited into the NNFRF.

- C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery Funds and investment earnings therein are deposited, and from which the Navajo Nation shall disburse funds for approved Expenditure Plans which comply with the criteria set forth in the Fiscal Recovery Funds provisions of ARPA.
- D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds provided by the federal government and are not subject to the annual set-aside provisions set forth in the Navajo Nation Code.
- E. The Navajo Nation Office of the Controller ("OOC"), acting upon the recommendation of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury regulations and guidance, and applicable Navajo Nation Investment Policies; investment earnings, when realized, shall be deposited into the NNFRF.
- F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly adopted procedures and agreements between the Navajo Nation and the federal government regarding the use of the Fiscal Recovery Funds.
- G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF shall only be authorized through Expenditure Plan(s) duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).
- H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have been used in accordance with the provisions of ARPA. The NNFRF shall be subject to an annual audit by the Navajo Nation's independent auditor. Either the Navajo Nation Council or the Navajo Nation President may require an audit at any time. The Controller shall be responsible for providing any and all records and financial reports required by the U.S. Treasury.

- I. Within thirty (30) days of the effective date of this legislation, OOC shall set up an online accountability platform on the NNOOC website that will enable the public to observe the financial transactions conducted with NNFRF funds. To the maximum extent possible and consistent with applicable Navajo Nation and federal laws pertaining to confidential or proprietary information and documents, all checks, electronic deposits, funds transfers, contracts and contract amendments, and other documents supporting NNFRF expenditures shall be displayed on the platform and made available for public view.

SECTION FOUR. NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE PLAN ELIGIBILITY DETERMINATIONS AND APPLICATION REQUIREMENTS

- A. The Office of Management and Budget ("OMB"), in consultation with OOC and Navajo Nation Department of Justice ("NNDOJ"), shall develop NNFRF application and review procedures, which shall include an NNFRF Expenditure Plan template, for adoption by the Budget and Finance Committee. OMB and OOC shall post the approved NNFRF application procedures, including an NNFRF Expenditure Plan template, and instructions on their respective websites.
- B. The NNDOJ shall do an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures.
- C. Navajo Nation Divisions and Offices, non-LGA-certified Chapters, LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and external entities seeking NNFRF funds shall comply with the requirements set forth in this legislation and with the requirements set forth in the NNFRF application procedures adopted by resolution of the Budget and Finance Committee ("BFC").
- D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible Entity who shall be held accountable for the compliance, implementation, monitoring, and accounting of the proposed projects, proposals, services and/or related assistance.
- E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and President, the Navajo Nation, with the assistance of NNDOJ, shall enter into a binding agreement, such as a, grant or sub-recipient agreement, with each Responsible Entity, other than Navajo Nation divisions and offices and non-

LGA-certified chapters, to ensure that all Navajo Nation laws and regulations are followed and complied with at all times.

- F. NNFRF Expenditure Plans involving construction activities shall include a contingency reserve consistent with industry standards adequate to cover projected inflation-based cost increases. The contingency reserve shall only be released by OOC to the Responsible Entity upon receipt of documented justification for the cost increase. After Expenditure Plan completion, any unused contingency funds shall be returned to the NNFRF.
- G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo Nation government program or office, including Navajo Nation-owned enterprises/authorities/corporations, may include an allocation for administrative costs at a rate not to exceed two percent (2%) of service or project cost to defray the costs of implementing, administering and monitoring said Expenditure Plan and its underlying services and projects.
- H. Until the third quarter of 2024, NNFRF Expenditure Plans for direct financial assistance to enrolled Navajo Nation members, not including business economic relief or similar programs, shall be limited to ten percent (10%) of the total Fiscal Recovery Funds received by the Navajo Nation. After the second quarter of 2024, unallocated or unexpended NNFRF funds can be allocated for direct financial assistance to enrolled members through resolution of the Navajo Nation Council and approval of the President pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).

SECTION FIVE. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO REIMBURSE SÍHASIN FUND ALLOCATIONS AND UNRESERVED, UNDESIGNATED FUND BALANCE APPROPRIATIONS

OOC, in consultation with OMB, shall immediately reimburse the Síhasin Fund and Unreserved, Undesignated Fund Balance ("UUFb") from the NNFRF for any allocations or appropriations wherein the approving Navajo Nation Council resolution authorized such reimbursement and NNDOJ deems such reimbursement(s) legally defensible under the Fiscal Recovery Funds provisions of ARPA. OMB shall report the amount and status of such reimbursements to the Naabik'íyáti' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

SECTION SIX. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO DEFUNDED NAVAJO NATION CARES FUND PROJECTS

The Navajo Nation hereby immediately allocates NNFRF funds to replace the Navajo Nation CARES Fund funds that were reallocated to the Navajo Nation Hardship Assistance Expenditure Plan pursuant to Navajo Nation Council Resolution No. CJY-67-20 and Naabik'íyáti' Committee Resolutions No. NABIO-49-20 and NABID-63-20, as well as any CARES Fund funding that was voluntarily returned to the Nation because the project approved by the Navajo Nation Council could not be completed by the federal CARES Act deadline(s). OMB, with the assistance of OOC, shall report the amount and status of such allocations to the Naabik'íyáti' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

SECTION SEVEN. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO FUND CENTRAL SUPPORT AND REGULATORY SERVICES

- A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal Recovery Funds received by the Navajo Nation to fund central support service and regulatory costs.
- B. The Office of the President and Vice-President shall be responsible for apportioning ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch programs and offices providing central support and regulatory services, including, the Office of the President and Vice-President, Office of the Controller, Office of Management and Budget, Department of Justice, Navajo Nation Washington Office, Division of Human Resources, Division of Community Development, and other Divisions and offices providing central support and/or regulatory services.
- C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'íyáti' Committee, shall be responsible for apportioning ten percent (10%) of the ten percent (10%) amount amongst Legislative Branch programs and offices providing central support services, including the Office of Legislative Services, Office of Legislative Counsel, Office of the Speaker, and Navajo Nation Council.
- D. The programs and offices receiving NNFRF for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services.
- E. The detailed budgets for the NNFRF funding allocated here for central support and regulatory services shall be processed through the executive or administrative review process

applicable to each Branch and shall not require further legislative action.

- F. Any central support and/or regulatory services funding unspent or unencumbered at the end of the second quarter of Fiscal Year 2024 shall be reallocated to the NNFRF and be available for allocation to other NNFRF projects and services.

SECTION EIGHT. AUTHORIZING THE OFFICE OF THE CONTROLLER TO DISTRIBUTE FUNDS FROM THE NAVAJO NATION FISCAL RECOVERY FUND

- A. After reimbursement of the Síhasin Fund and UUFB, allocations to the defunded Navajo Nation CARES Fund projects, and the release of the immediate disbursements provided for in this legislation, OOC shall only release and distribute NNFRF funds in conformance with duly adopted Expenditure Plans enacted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).
- B. Expenditure Plan funds shall not be released to LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and/or external entities until a binding agreement, e.g., grant or sub-recipient agreement, has been executed between the Navajo Nation and the respective Responsible Entity.
- C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds are timed to balance Expenditure Plan needs with maximum investment earnings.
- D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all applicable Navajo Nation and federal financial, accounting, and reporting laws and regulations are adhered to and strictly followed.
- E. OOC and the respective Responsible Entity shall provide a written and oral report to the Naabik'íyáti' Committee and the Office of President and Vice-President on or about thirty (30) days after the end of each fiscal year quarter; such report will present an overview and status of all NNFRF funded projects, recommended modifications or adjustments to projects, and compliance challenges, if any.

SECTION NINE. APPLICABILITY AND WAIVER OF NAVAJO NATION APPROPRIATIONS ACT PROVISIONS TO NAVAJO NATION FISCAL RECOVERY FUNDS

- A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly, only those provisions of the Appropriations Act, 12 N.N.C. § 800 et seq., that are expressly applicable to externally restricted funds, and any future provisions in the Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s) funded thereunder.
- B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal Year Comprehensive Budget and the Navajo Nation hereby waives the application of 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation], § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation, Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded thereunder.

SECTION TEN. AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS FOR NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURES

- A. Until such time as Navajo Nation procurement laws and regulations are amended to specifically support NNFRF procurements, the Navajo Nation hereby amends 12 N.N.C. § 334 as set forth below.

Title Twelve
Fiscal Matters
Chapter 3. Navajo Nation Procurement Act
Subchapter 1. General Provisions

§ 334. Emergency Procurement

- A. Notwithstanding any other provision of law, the Director, Division of Finance, Purchasing Department, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations promulgated by the Budget and Finance Committee; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of emergency shall be made by the executive director of the affected division, in concert with the Director, Division of Finance, Purchasing Department or authorized designee, and a

representative of the Attorney General's Office (or the Office of Legislative Counsel for emergency procurements by the Legislative Branch). To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., shall receive preference in emergency procurement. The written determination and the selection of the particular contractor shall be included in the contract file. No oversight committee approval shall be required for these contracts.

- B. Notwithstanding any other provision of law, procurements using Navajo Nation Fiscal Recovery Funds may be authorized and executed as Emergency Procurements at the discretion of the Procuring Party without further justification; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., that are able to complete the good or service within the Fiscal Recovery Fund's strict deadlines shall receive preference in emergency procurement. No oversight committee approval shall be required for these contracts.

- B. Until such time as the Budget and Finance Committee amends the Navajo Nation Procurement Rules and Regulations ("Procurement Regulations") adopted by BFD-192-03, procurements using NNFRF funds shall be deemed to satisfy the definition of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement Regulations without further justification; and the written application and concurrence requirements set forth at Section VII (C) of the Procurement Regulations shall not apply to such procurements.
- C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and responsible Priority One or Priority Two vendors responding to the Nation's solicitation for NNFRF funded goods, services, or construction and construction related services, who are qualified and able to meet the requirements of the procurement, including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the Procuring Party may contract with companies not included on the Business Source List maintained by the Business Regulatory Department, as long as such companies agree to comply with Navajo Nation laws, regulations, and policies, including the Navajo Preference in Employment Act and Navajo Business Opportunity Act.

- D. Navajo citizens, Navajo-owned businesses and non-profits, Navajo business-support organizations, such as the Dineh Chamber of Commerce, and Navajo Nation-owned enterprises/authorities/corporations shall be provided a meaningful opportunity to comment before amendments are made to Navajo Nation procurement laws and regulations.

SECTION ELEVEN. AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

- A. The Office of the President and Vice-President ("OPVP") is authorized to establish a temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§ 1005(A) and (C) (14).
- B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF eligibility determinations and other NNFRF matters by Executive Branch programs and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the completion and implementation of NNFRF authorized projects and services; and assist/support OOC in monitoring the expenditure of NNFRF funds and submitting timely and accurate ARPA reports to the federal government.
- C. Prior to its opening, OPVP shall present a plan of operation or similar structural document for the NNFRF Office to the Naabik'íyáti' Committee. On or about thirty (30) days after the end of each fiscal year quarter, OPVP shall present a report to the Naabik'íyáti' Committee on overall NNFRF Office operations, accomplishments, and challenges, along with recommended modifications or adjustments to projects and processes.
- D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the implementation, management, and monitoring of NNFRF funds.
- E. In order to support the purposes and intent of the Navajo Nation Business Opportunity Act and Navajo Nation Preference in Employment Act, within fifty (50) days after the enactment of this legislation, the NNFRF Office shall present a plan to the Budget and Finance and Naabik'íyáti' Committees to provide

bonding, insurance, and other needed support to grow the Navajo Nation economy through private sector contracting, using ARPA, NNFRF, and/or other Navajo Nation or external funding.

SECTION ELEVEN. EFFECTIVE DATE

This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 221(B).

SECTION TWELVE. SAVING CLAUSE


Should any provision of this legislation be determined invalid by the Navajo Nation Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those provisions of the legislation which are not determined invalid shall remain the law of the Navajo Nation.

SECTION THIRTEEN. DIRECTIVES

- A. OMB, in consultation with OOC and DOJ, shall present proposed NNFRF application and review procedures, including an NNFRF Expenditure Plan template, to the Budget and Finance Committee within twenty (20) days after the effective date of this legislation.
- B. The Division of Natural Resources and General Land Development Department shall present a proposed Plan of Operation for a "One-Stop Shop" to facilitate, review, and approval of rights-of-ways, temporary construction permits, mission site permits, leases, etc., to the Resources and Development Committee within forty-five (45) days after the effective date of this legislation.
- C. The Division of Human Resources and Department of Personnel Management shall present proposed amendments to the Navajo Nation Personnel Policies Manual to, at a minimum, facilitate the expeditious hiring of personnel with NNFRF funds to the Health, Education, and Human Services Committee within sixty (60) days after the effective date of this legislation.
- D. OPVP, with the assistance of the Business Regulatory Department and OOC Purchasing Section, shall present proposed amendments to the Navajo Nation's procurement and business opportunity laws and regulations to, at a minimum, expedite NNFRF procurements, to the Budget and Finance Committee within sixty (60) days after the effective date of this legislation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 01 Opposed, on this 22nd day of July 2021.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

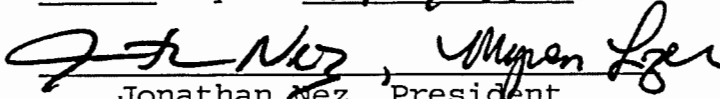
July 23, 2021
DATE

Motion: Honorable Paul Begay, Jr.
Second: Honorable Edison J. Wauneka

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 02 day of August, 2021.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2021 for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

NNFRF BATHROOM ADDITIONS EXPENDITURE PLAN

BATHROOM ADDITIONS (EXPENDITURE CATEGORY 1.14) TOTAL: \$150,000,000

BATHROOM ADDITIONS PER DELEGATE REGION (\$150,000,000/24): \$6,250,000



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DOREEN N. MCPAUL
Attorney General

KIMBERLY A. DUTCHER
Deputy Attorney General

DEPARTMENT OF JUSTICE
INITIAL ELIGIBILITY DETERMINATION
FOR NAVAJO NATION FISCAL RECOVERY FUNDS

RFS/HK Review #: HK0190

Date & Time Received: 14 April, 2022; 8:22 am

Date & Time of Response: 14 April, 2022; 2:04 pm

Entity Requesting FRF: Division of Community Development

Title of Project: Bathroom Additions

Administrative Oversight: Division of Community Development

Amount of Funding Requested: \$150,000,000

Eligibility Determination:

- ☒ FRF eligible
☐ FRF ineligible
☐ Additional information requested

FRF Eligibility Category:

- ☒ (1) Public Health and Economic Impact
☐ (2) Premium Pay
☐ (3) Government Services/Lost Revenue
☐ (4) Water, Sewer, Broadband Infrastructure

U.S. Department of Treasury Reporting Expenditure Category: 1:14 (Other Public Health Services)

Returned for the following reasons (Ineligibility Reasons / Paragraphs 5. E. (1) - (10) of FRF Procedures):

- | | |
|--|--|
| <input type="checkbox"/> Missing Form | <input type="checkbox"/> Expenditure Plan incomplete |
| <input type="checkbox"/> Supporting documentation missing | <input type="checkbox"/> Funds will not be obligated by 12/31/2024 |
| <input type="checkbox"/> Project will not be completed by 12/31/2026 | <input type="checkbox"/> Incorrect Signatory |
| <input type="checkbox"/> Ineligible purpose | <input type="checkbox"/> Inconsistent with applicable NN or federal laws |
| <input type="checkbox"/> Submitter failed to timely submit CARES reports | |
| <input type="checkbox"/> Additional information submitted is insufficient to make a proper determination | |

Name of DOJ Reviewer: Adjua Adjei-Danso



Signature of DOJ Reviewer: _____

Disclaimers: An NNDOJ Initial Eligibility Determination will be based on the documents provided, which NNDOJ will assume are true, correct, and complete. Should the Project or Program change in any material way after the initial determination, the requestor must seek the advice of NNDOJ. An initial determination is limited to review of the Project or Program as it relates to whether the Project or Program is a legally allowable use – it does not serve as an opinion as to whether or not the Project or Program should be funded, nor does it serve as an opinion as to whether or not the amount requested is reasonable or accurate.

**THE NAVAJO NATION
FISCAL RECOVERY FUNDS REQUEST FORM & EXPENDITURE PLAN
FOR NAVAJO NATION GOVERNMENT UNITS**

Part 1. Identification of parties.

NN Government Unit requesting FRF: Division of Community Development Date prepared: 04/13/2022
Indicate Department, Program, Office, Division, or Branch

NN Government Unit's mailing address: P.O. Box 1904 phone/email: 928.871.7172
Window Rock, Arizona 86515 website (if any): _____

Form prepared by: Pearl Yellowman phone/email: pyellowman@nndcd.org
Division Director
CONTACT PERSON'S name, title and Department, Program, Office, etc. CONTACT PERSON'S info

Title & type of Project: 1.14: Public Health Other for Bathroom Additions

NN Government Unit's Director or Manager: Pearl Yellowman phone & email: 928.871.7172

Division Director (if any): _____ phone & email: _____

Branch Chief: Jonathan Nez, President phone & email: 928.871.7000

Funding Recipient will be working with: _____ on the Project and
Indicate Branch and/or Division
the same will be submitting the Funding Request Package for Initial Eligibility Determination Review, and will have Administrative Oversight over this FRF Expenditure Plan.

List names or types of Subcontractors or Subrecipients that will be paid with FRF (if known):

Sub-recipient Agreement with NTUA, Contracts with NECA and Other General Contracts ☐ document attached

Amount of FRF requested: \$150 Million FRF funding period: September 2022 - December 2026
Indicate Project starting and ending/deadline date

Part 2. Expenditure Plan details.

(a) Describe the Program(s) and/or Project(s) to be funded, including how the funds will be used, for what purposes, the location(s) to be served, and what COVID-related needs will be addressed:

Bathroom Additions program will use the funds to build ADA compliant bathrooms, connect the home to electricity, provide the home with drinking water through a water cistern or connection to a waterline, and provide the home with a septic tank or connect to a sewer system. Homes will also be provided with a water heater, wall heater, toilet, bathroom sink, and utility sink. Homes across the Navajo Nation will receive the services. This program addresses public health challenges that partly caused the unequal impact of the impact on the Navajo Nation.

☐ document attached

(b) Explain how the Program or Project will benefit the Navajo Nation, Navajo Communities, or the Navajo People:

A shockingly high number of homes on the Navajo Nation lack access to one or more of the following utilities: electricity, water, wastewater, and broadband. ARPA Bathroom Additions projects will provide one or more utilities to a home that lacks them and will assist in promoting public health and economic stimulus. The Navajo people receiving the utilities will directly benefit from the program.

☐ document attached

APPENDIX A

- (c) Provide a prospective timeline showing the estimated date of completion of the Project and/or each phase of the Project. Disclose any challenges that may prevent you from incurring costs for all funding by December 31, 2024 and/or fully expending funds and completing the Program(s) or Project(s) by December 31, 2026:

This project estimates the successful completion of approximately 30 bathroom additions a month and will obligate the funds no later than December 31, 2024 and will fully expend the funds no later than December 31, 2026.

☐ document attached

- (d) Identify who will be responsible for implementing the Program or Project:

DCD will be the oversight of the sub-recipient agreement with NTUA and NECA as well as any other general contractors that are hired to complete the construction of the services needed to facilitate the bathroom additions.

☐ document attached

- (e) Explain who will be responsible for operations and maintenance costs for the Project once completed, and how such costs will be funded prospectively:

The maintenance of the bathroom additions, septic systems, and cisterns system will be the responsibility of the bathroom addition recipient(s) after the 1-year construction warranty.

☐ document attached

- (f) State which of the 66 Fiscal Recovery Fund expenditure categories in the attached U.S. Department of the Treasury Appendix 1 listing the proposed Program or Project falls under, and explain the reason why:

1.14 Other Public Health Services. The Interim Final Rule states that "[g]iven 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... 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: housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness." Bathroom additions addresses the conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor housing quality. The program will build healthier environments.

☐ document attached

Part 3. Additional documents.

List here all additional supporting documents attached to this FRF Expenditure Plan (or indicate N/A):

Estimated Cost Per Unit Attached.
Eligibility Criteria for Recipients Attached.

APPENDIX A

Part 4. Affirmation by Funding Recipient.

Funding Recipient affirms that its receipt of Fiscal Recovery Funds and the implementation of this FRF Expenditure Plan shall be in accordance with Resolution No. CJY-41-21, the ARPA, ARPA Regulations, and with all applicable federal and Navajo Nation laws, regulations, and policies:

NN Government Unit
Preparer


signature of Preparer CONTACT PERSON

Approved by:


signature of NN Government Unit's Dept/Program/Office Director or Manager

Approved to submit
for Review


signature of Branch Chief or Division Director
4.13.22

Print Name, Title,
Branch or Division:

Paulson Chaco, Chief of Staff

print name and indicate title or position

Executive, OPVP

Indicate Branch or Division

THE NAVAJO NATION PROGRAM BUDGET SUMMARY

FY

[illegible]

Bathroom Addition Cost / Cistern Option

Structure - ADA Compliant	\$	58,000.00
Cistern	\$	16,000.00
Septic	\$	26,000.00
House Wiring Contingency (50% of Homes)	\$	7,000.00
NTUA ROW	\$	7,500.00
NTUA Evaluations / Design Work	\$	16,000.00
Total	\$	133,110.00

ARP Funding Available	\$	75,000,000.00
-----------------------	----	---------------

Possible Number of Bathroom Additions with Cisterns	563
---	-----

Bathroom Addition Cost / Waterline Option

Structure - ADA Compliant	\$	58,000.00
Waterline up to 2,500'	\$	53,500.00
Septic	\$	26,000.00
House Wiring Contingency (50% of Homes)	\$	7,000.00
NTUA ROW	\$	7,500.00
NTUA Evaluations / Design Work	\$	16,000.00
Total	\$	171,360.00

ARP Funding Available	\$	75,000,000.00
-----------------------	----	---------------

Possible Number of Bathroom Additions with Waterline	438
--	-----

Total Units to Complete To Include Water & Cistern	1001
--	------

Eligibility Criteria: 1.12 Public Health: Bathroom Additions

In order for an applicant to request ARPA funds for a bathroom addition under this legislation they must provide the following information:

1. Complete the NTUA Bathroom Addition with Waterline or Cistern System and Septic/Wastewater Service application.
2. The applicant will have to provide their name, reliable phone number(s), email address, mailing and physical address, the latitude and longitude, and chapter affiliation.
3. They must submit a valid homesite lease or residential lease.
4. Proof of primary residency required.

The criteria to determine eligibility for applicants is based on successful submission of aforementioned documents request. NTUA will perform a feasibility study which includes the following criteria:

1. The home must be found to be physically feasible to lived in.
2. Whether the home is on a permanent foundation and is a sound structure (livable).
3. Home needs to have access to a power source (electric or solar).
4. Applicant is willing and able to pay for monthly services.
5. Applicant must have no outstanding balance on existing utility accounts.
6. If a home is located within ½ mile of a community water system they will be considered for a waterline connection.
7. If the home is located over ½ mile they will be considered a water cistern system.
8. If the applicant is to receive a cistern system, the applicant must be willing and able to own, operate and maintain the system (which includes hauling water to refill).
9. For either a waterline connection or a water cistern system, the applicant must be willing and able to own, operate and maintain the septic system.

Homes that meet the criteria above will enter the right-of-way process where NTUA will obtain the Biological Resources Clearance Form (BRCF), Cultural Resources Compliance Form (CRCF), Traditional Cultural Proper Record (TCP), Tribal Authorization Access (TAA), and Service Line Agreement (SLA), if applicable. If the applicant's home can get through this process, then it can be approved for construction.

The priority can be described as "first to complete the process will be first served" meaning, if an applicant is able to complete the application, has a valid homesite lease, the home passes a physical inspection, and obtain all the applicable land clearance requirements, then that applicant will be served. Homes will continue to receive services until all the funding is expended or the imposed time limit runs.

Part 4. Affirmation by Funding Recipient.

Funding Recipient affirms that its receipt of Fiscal Recovery Funds and the implementation of this FRF Expenditure Plan shall be in accordance with Resolution No. CJY-41-21, the ARPA, ARPA Regulations, and with all applicable federal and Navajo Nation laws, regulations, and policies:

NN Government Unit
Preparer. _____

signature of Property/CONTACT PERSON

Approved by:

signature of NN Government Unit's Dept./Program/Office Director or Manager

Approved to submit
for Review: _____

signature of Branch Chief or Division Director

Print Name, Title,
Branch or Division:

print name and indicate title or position

Indicate Branch or Division

APPENDIX A

- (c) Provide a prospective timeline showing the estimated date of completion of the Project and/or each phase of the Project. Disclose any challenges that may prevent you from incurring costs for all funding by December 31, 2024 and/or fully expending funds and completing the Program(s) or Project(s) by December 31, 2026:

All funding reallocated to the Construction Contingency budget must be expended no later than December 31, 2026.

☐ document attached

- (d) Identify who will be responsible for implementing the Program or Project:

The Office of the President and Vice President in coordination with the Navajo Nation Fiscal Recovery Fund Office.

☐ document attached

- (e) Explain who will be responsible for operations and maintenance costs for the Project once completed, and how such costs will be funded prospectively:

Maintenance does not apply to the contingency funds directly; however, will apply to the specific project(s) that contingency funds may get redistributed based on the O&M outlined in a previously approved expenditure plan.

☐ document attached

- (f) State which of the 66 Fiscal Recovery Fund expenditure categories in the attached U.S. Department of the Treasury Appendix 1 listing the proposed Program or Project falls under, and explain the reason why:

Due to contingency funds being reserved until such time a project is identified for the use of these funds, the default expenditure plan category for construction contingency will be 6.1: Provision of Government Services. Once construction contingency funds are administratively approved through a budget transfer, the funds may get reclassified under the previously approved expenditure plan funding category.

☐ document attached

Part 3. Additional documents.

List here all additional supporting documents attached to this FRF Expenditure Plan (or indicate N/A):

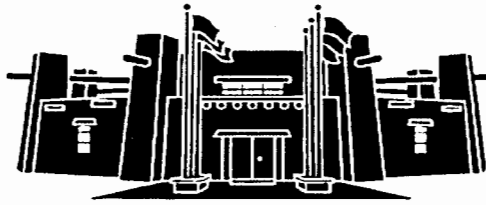
None Applicable

THE NAVAJO NATION PROGRAM BUDGET SUMMARY

人

PART I: Business Unit No.: K - [New]				6.1: Provisions of Government Services for		Division/Branch: OP/P	
Program Title: Contingency				Phone No.: 928.871.7000		Email Address: paulsonchaco@navajo-hsn.gov	
Prepared By: Paulson Chaco							
PART II. FUNDING SOURCE(S)		Fiscal Year /Term	Amount	% of Total	PART III. BUDGET SUMMARY		
NN Fiscal Recovery Funds			500.00	100%	Fund Type Code	NNC Approved Original Budget	(B) Proposed Budget
							(C) Difference or Total
					2001 Personnel Expenses		
					3000 Travel Expenses		
					3500 Meeting Expenses		
					4000 Supplies		
					5000 Lease and Rental		
					5500 Communications and Utilities		
					6000 Repairs and Maintenance		
					6500 Contractual Services		
					7000 Special Transactions		
					8000 Public Assistance		
					9000 Capital Outlay	500.00	
					TOTAL	\$0.00	500.00
							0
					PART IV. POSITIONS AND VEHICLES		
					(E)		
					Total # of Positions Budgeted:		
					Total # of Vehicles Budgeted:		
PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.							
SUBMITTED BY: Paulson Chaco, Chief of Staff				APPROVED BY: Paulson Chaco, Chief of Staff			
Program Manager's Printed Name				Division Director / Branch Chief's Printed Name			
Program Manager's Signature and Date				Division Director / Branch Chief's Signature and Date			

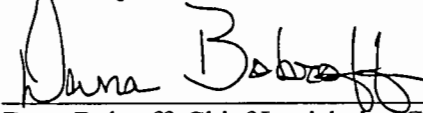
Office of Legislative Counsel
Telephone: (928) 871-7166
Fax #: (928) 871-7576



Honorable Crystalyne Curley
Speaker
25th Navajo Nation Council

MEMORANDUM

TO: Hon. Shaandiin Parrish, Council Delegate
25th Navajo Nation Council

FROM: 
Dana Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

DATE: January 12, 2024

SUBJECT: **AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION COUNCIL RESOLUTION NO. CJN-29-22 TO INCLUDE ADDITIONAL U.S. DEPARTMENT OF TREASURY FISCAL RECOVERY FUNDS EXPENDITURE CATEGORIES; WAIVING THE NAVAJO NATION COUNCIL APPROVAL AND AUTHORIZING ADMINISTRATIVE APPROVAL OF AMENDMENTS TO THE NAVAJO NATION FISCAL RECOVERY FUND BATHROOM ADDITIONS EXPENDITURE PLAN TO INCLUDE ADDITIONAL EXPENDITURE CATEGORIES**

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, although, as with all legislation, challenges are possible in the courts. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0014-24_

SPONSOR: Shaandiin Parrish

TITLE: An Action Relating to Naabik'íyáti' Committee and Navajo Nation Council; Amending Navajo Nation Council Resolution No. CJN-29-22 to Include additional U.S. Department of Treasury Fiscal Recovery Funds Expenditure Categories; Waiving Navajo Nation Council Approval and Authorizing Administrative Approval of Amendments to the Navajo Nation Fiscal Recovery Fund Bathroom Additions Expenditure Plan to Include Additional Expenditure Categories

Date posted: January 12, 2024 at 8:26PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0014-24

SPONSOR: Honorable Shaandiin Parrish

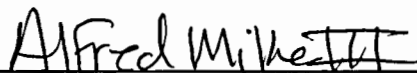
TITLE: An Action Relating to Naabik'iyáti' Committee and Navajo Nation Council; Amending Navajo Nation Council Resolution No. CJN-29-22 to Include additional U.S. Department of Treasury Fiscal Recovery Funds Expenditure Categories; Waiving Navajo Nation Council Approval and Authorizing Administrative Approval of Amendments to the Navajo Nation Fiscal Recovery Fund Bathroom Additions Expenditure Plan to Include Additional Expenditure Categories

Posted: January 12, 2024 at 8:26 PM

5 DAY Comment Period Ended: January 17, 2024

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Comments/Recommendations	<i>None</i>



**Legislative Secretary II
Office of Legislative Services**

January 18, 2024 8:05AM

Date/Time

25th NAVAJO NATION COUNCIL NAABIK'ÍYÁTI' COMMITTEE REPORT Second Year 2024

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL # 0014-24

An Action Relating to Naabik'íyáti' Committee and Navajo Nation Council; Amending Navajo Nation Council Resolution No. CJN-29-22 to Include additional U.S. Department of Treasury Fiscal Recovery Funds Expenditure Categories; Waiving Navajo Nation Council Approval and Authorizing Administrative Approval of Amendments to the Navajo Nation Fiscal Recovery Fund Bathroom Additions Expenditure Plan to Include Additional Expenditure Categories

Sponsored by: Honorable Shaandiin Parrish

Co-Sponsored by: Honorable Crystalyne Curley

Co-Sponsored by: Honorable Seth Damon

Has had it under consideration and reports the same that the legislation **WAS PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL.**

Respectfully Submitted,



*Honorable Seth Damon, Chair Pro Tem
NAABIK'ÍYÁTI' COMMITTEE*

18 January 2024

MAIN MOTION

Motioned by: Honorable Casey Allen Johnson

Seconded by: Honorable Norman M. Begay

Vote: 13 in Favor, 03 Opposed (Chair Pro Tem Damon Not Voting)

NAVAJO NATION

299

1/18/2024

Naa'bik'iyati' Committee Special Meeting

Amd# to Amd#	New Business: Item C. (MAIN)	PASSED
MOT Johnson, C	#0014-24	
SEC Begay, N		

Yeas : 13

Nays : 3

Excused : 4

Not Voting : 3

Yea : 13

Arviso, S
Begay, H
Begay, N
Charles-Newton, E

Claw, S
Curley, C
Daniels, H

James, V
Johnson, C
Nez, A

Parrish, S
Simonson, G
Yanito, C

Nay : 3

Yazzie, C

Slater, C

Crotty, A

Excused : 4

Simpson, D

Aseret, L

Nez, R

Notah, N

Not Voting : 3

Jesus, B

Tolth, G

Tso, O

Presiding Speaker: Damon, S

25th NAVAJO NATION COUNCIL ACTION REPORT Second Year 2024

The **NAVAJO NATION COUNCIL** to whom has been assigned:

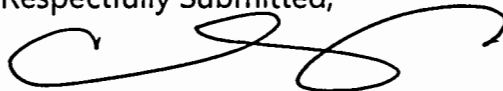
NAVAJO LEGISLATIVE BILL #0014-24

An Action Relating to Naabik'íyáti' Committee and Navajo Nation Council; Amending Navajo Nation Council Resolution No. CJN-29-22 to Include additional U.S. Department of Treasury Fiscal Recovery Funds Expenditure Categories; Waiving Navajo Nation Council Approval and Authorizing Administrative Approval of Amendments to the Navajo Nation Fiscal Recovery Fund Bathroom Additions Expenditure Plan to Include Additional Expenditure Categories

*Sponsored by: Honorable Shaandiin Parrish
Co-Sponsored by: Honorable Crystalyne Curley*

Has had it under consideration and reports the same that the legislation **WAS TABLED WITH ONE (1) AMENDMENT.**

Respectfully Submitted,



*Honorable Crystalyne Curley, Speaker
25th NAVAJO NATION COUNCIL*

23 January 2024

TABLING MOTION

Motion to Table Legislation 0014-24 and bring back no later than the end of New Business for the Winter Session 2024.

Motioned by: Honorable Vince R. James

Seconded by: Honorable George H. Tolth

Vote: 14 In Favor, 01 Opposed (Speaker Curley Not Voting)

AMENDMENT #1

1. On page 1, Line 15, delete the following:

~~**TO INCLUDE ADDITIONAL U.S. DEPARTMENT OF TREASURY FISCAL RECOVERY FUNDS
EXPENDITURE CATAGORIES**~~

And replace with

**SECTION 11 APPROVAL OF THE BATHROOM ADDITIONS EXPENDITURE PLAN TO
INCLUDE RENOVATIONS OF EXISTING BATHROOMS**

2. On page 1, line 18, delete the following:
~~TO INCLUDE ADDITIONAL EXPENDITURE CATEGORIES~~
3. On page 2, from line 12, delete "~~eighty-three (83)~~" and replace with "one hundred twenty-five (125)".
4. On page 2, paragraph D. starting at line 25, delete and replace as follows:
D. The NNFRF Bathroom Additions Expenditure Plan approved by CJN-29-22, attached herein as **Exhibit 3**, only authorizes ~~Bathroom Addition projects falling under Expenditure Category 1.14 (Other Public Health Services) which has limited or restricted the extent of otherwise eligible FRF Bathroom Addition projects.~~
New D. The NNFRF Bathroom Additions Expenditure Plan approved by CJN-29-22, attached herein as **Exhibit 3**, only authorizes "new Bathroom Addition projects, including building new ADA compliant bathrooms, connecting the home to electricity, providing the home with drinking water through a water cistern or connection to a waterline, providing the home with a septic tank or connecting to a sewer system. The approved expenditure plan also includes a water heater, wall heater, toilet, bathroom sink, and utility sink for the bathroom addition." "The approved CJN-29-22 Section 11 Bathroom Addition Expenditure Plan did not include renovation of existing bathrooms, which has restricted the extent of otherwise FRF-eligible bathroom renovation projects."
5. On page 2, paragraph E. starting at line 28, delete and replace as follows:
E. The expansion of the NNFRF Bathroom Additions Expenditure Plan ~~to include Expenditure Categories 5.3 and 5.5 shall authorize the use of NNFRF funding for bathroom additions, as well as for bathroom renovations.~~
E. The expansion of the NNFRF Bathroom Additions Expenditure Plan shall authorize the use of Section 11 NNFRF funding for bathroom additions, as well as for bathroom renovations. This amendment expanding the Section 11 expenditure plan to include bathroom renovations is in the best interest of the Nation. It will address the needs of several Navajo Nation Chapters and Delegate Regions in which fewer residents need new bathroom additions but many residents could benefit from renovations to their existing bathrooms to make them ADA accessible and/or to repair or replace existing structures or fixtures as necessary to make the existing bathroom safe, sanitary, and compliant with industry standards.
6. On page 3, line 2, delete "~~EXPENDITURE CATEGORIES 5.3 AND 5.5~~" and replace with "BATHROOM RENOVATIONS".
7. On page 3, line 7, after "Bathroom Additions" add "and Bathroom Renovations".
8. On page 3, line 8, delete the following: ~~Decentralized Wastewater (Expenditure Category 5.3); and/or Other Sewer Infrastructure (Expenditure Category 5.5);~~
9. On page 3, line 8, after "(Expenditure Category 1.14" add "or other Expenditure Category assigned by NNDOJ".
10. On page 3, line 16, delete the following "~~INCORPORATE EXPENDITURE CATEGORIES 5.3 AND 5.5~~" and replace with "INCLUDE BATHROOM RENOVATIONS".
11. On page 3, line 23, delete the following "~~incorporate Decentralized Wastewater (Expenditure Category 5.3); and/or Other Sewer Infrastructure (Expenditure Category 5.5)~~" and replace with the following "include Bathroom Renovation projects".

12. On page 3, line 28, delete the following "~~incorporation of Decentralized Wastewater (Expenditure Category 5.3), and/or Other Sewer Infrastructure (Expenditure Category 5.5).~~" and replace with the following "inclusion of Bathroom Renovation projects."
13. On page 3, line 30, add new paragraph D. as follow:
D. Bathroom Renovation projects shall include: renovations, repairs, and improvements to existing bathroom facilities; making existing bathrooms ADA compliant and accessible for elderly and disabled individuals, as needed; connecting the home to electricity; providing the home with drinking water through a water cistern or connection to a waterline, or repairs to or replacement of existing cistern or waterline connections; providing the home with a septic tank or connecting to a sewer system, or repairs to or replacement of existing septic tank or sewer connections; repairs to or replacement of a water heater, wall heater, toilet, bathroom sink, and utility sink; and other repairs to, or replacement of, other structures or fixtures as necessary to make the renovation of the existing bathroom compliant with industry standards and of the same quality as Bathroom Additions being built under the same expenditure plan.
14. On page 4, line 16, delete "~~incorporate Decentralized Wastewater (Expenditure Category 5.3), and Other Sewer Infrastructure (Expenditure Category 5.5)~~" and replace with "Bathroom Renovation projects".
15. On page 4, line 19, add "and Bathroom Renovation" before "Expenditure Plan to Office of President...."
16. On page 4, line 20, after "Bathroom Addition" add "and Bathroom Renovation".
17. On page 4, line 22, after "Bathroom Addition" add "and Bathroom Renovation".
18. Renumber or re-letter succeeding paragraphs, sections, and exhibits, as necessary and appropriate. The Council and Committee hereby authorize Office of Legislative Services and Office of Legislative Counsel to correct grammatical and other technical errors, including adjustment of comprehensive dollar amounts, consistent with the intent of this amendment. This Amendment supersedes all inconsistent language in any other Committee or Council amendment.

Motioned by: Honorable Amber Kanazbah Crotty

Seconded by: Honorable Brenda Jesus

Vote: 15 In Favor, 01 Opposed (Speaker Curley Not Voting)

MAIN MOTION

Motioned by: Honorable Danny Simpson

Seconded by: Honorable Cherilyn Yazzie

Vote: VOTE PENDING

NAVAJO NATION

Navajo Nation Council 2024 Winter Session

1/23/2024
03:40:07 PM

Amd#1 to Amd# Amendment #1 > #0014-24

PASSED

MOT Crotty, A

SEC Jesus, B

Yeas : 15

Nays : 1

Excused : 5

Not Voting : 1

Yea : 15

Arviso, S

Begay, H

Begay, N

Claw, S

Crotty, A

Jesus, B

Nez, A

Nez, R

Notah, N

Parrish, S

Simonson, G

Simpson, D

Slater, C

Tolth, G

Yazzie, C

Nay : 1

James, V

Excused : 5

Charles-Newton, E

Daniels, H

Johnson, C

Tso, O

Yanito, C

Not Voting : 1

Aseret, L

Presiding Speaker: Curley, C

NAVAJO NATION

Navajo Nation Council 2024 Winter Session

1/23/2024
05:53:23 PM

Amd# to Amd#

TABLE > #0014-24

PASSED

MOT James, V

Until the End of New Business

SEC Tolth, G

(& no later than) the End of
Winter Session 2024

Yeas : 14

Nays : 1

Excused : 5

Not Voting : 2

Yea : 14

Arviso, S
Begay, H
Begay, N
James, VJesus, B
Nez, A
Nez, R
Notah, NParrish, S
Simonson, G
Simpson, DSlater, C
Tolth, G
Yazzie, C

Nay : 1

Claw, S

Excused : 5

Charles-Newton, E
Daniels, H

Johnson, C

Tso, O

Yanito, C

Not Voting : 2

Crotty, A

Aseret, L

Presiding Speaker: Curley, C