



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Wilcox

**SUBJECT: RESIDENTIAL UTILITY RELIEF
PROGRAMS**

DATE: May 28, 2021

Approved

Date: 6/1/2021

BACKGROUND

San José residents who have lost income due to illness, caregiving, job loss, or loss of work hours related to the COVID-19 pandemic have been struggling to pay for basic needs, including rent, food, and utility costs.

On March 23, the City Council approved the Mayor's March Budget Message for Fiscal Year 2021-2022, which included direction to the City Attorney "to return to Council to determine whether the City can use federal relief dollars to provide grants to offset utility costs increases on a needs-basis, in light of Proposition 218 and new federal regulations."

This memorandum, coordinated between the Administration and the City Attorney's Office, provides information about programs that the federal and state governments have funded to provide utility relief and the status of those programs.

It should be noted that the federal relief programs focus on providing residential utility relief. Utility payments for commercial properties fall under small-business relief programs.

ANALYSIS

Existing Utility Shutoff Moratoriums

Due to the pandemic emergency, the State of California has utility customer protections in place through June 30, 2021,¹ including requiring utility providers to:

- Suspend disconnections of customers who have not paid bills; and,
- Create additional bill payment plan options for customers and proactively communicate with customers to enroll in or sustain their enrollment in programs to manage their utility bills.

¹ CPUC press release: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M365/K316/365316626.PDF>.

It should be noted that the moratorium end date for voice telephony² services is July 15, 2021.

As of the date of this memorandum, the California Public Utilities Commission (CPUC) has been proceeding as though the moratorium will not be extended. The CPUC has required the investor-owned utilities it regulates to submit transition plans for communicating with customers and implementing payment plans. It also is requiring them to cooperate with the federally funded Emergency Rental Assistance program, which is discussed below.

In San José, an array of investor-owned and municipal utility companies and San José Clean Energy (SJCE), San José’s Community Choice Aggregator, provide water, electricity, natural gas, and telephone and internet services to our residents and businesses. In addition, the City of San José contracts with private companies to provide garbage and recycling services. Garbage service is mandatory under the San José Municipal Code and must be paid for by the property owner, even if the property is vacant or unoccupied. Residential homes with garbage carts are billed through their Santa Clara County property tax bill, and the County handles collection of missed payments. Properties with shared communal bin services are billed monthly to owners, property managers, or authorized third parties. Residents receiving these services may be billed directly by their property managers or landlords.

Table 1 below outlines which providers serve San José residents, and whether the service is municipal (city-owned) or investor-owned.

Table 1: Utilities Serving San José

Provider	Type
<i>Water Providers</i>	
San José Municipal Water	Municipal
San José Water Company	Investor-owned
Great Oaks Water Company	Investor-owned
<i>Natural Gas Providers</i>	
PG&E	Investor-owned
<i>Electricity</i>	
San José Clean Energy	Community Choice Aggregator
PG&E	Investor-owned
<i>Garbage and Recycling</i>	
San José Garbage and Recycling services	Municipal

While municipalities must comply with Proposition 218 and 26, which creates challenges in implementing traditional customer assistance programs, that concern is not at issue here. Propositions 218 and 26 apply to rate-payer fees used to subsidize rate assistance

² CPUC extension:

https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News_Room/NewsUpdates/2021/Executive%20Director%20Letter%20Extending%20Resolution%20M-4848%20to%20July%2015%202021.pdf

programs. This memorandum, however, describes relief programs paid by federal and State funds. Therefore, Proposition 218 and 26 do not pose additional limitations on the use of these federal funds.

Implementation guidance for the federal funds described as the Local Coronavirus Recovery Fund (commonly referred to in the City as the American Rescue Plan Fund) is outlined in the Department of the Treasury's Interim Final Rule, 31 CFR Part 35, published May 10, 2021. Reporting guidelines must be followed and violations in either reporting or use will result in recoupment of Funds. The Recovery Funds may be used to provide direct assistance to eligible households, small businesses, and nonprofits. This assistance includes, but is not limited to, food assistance, rent, mortgage, or utility assistance. The City cannot use the Recovery Funds to replace lost revenue from its utilities. The City would need to devise a program to gauge eligibility and distribute the assistance to the household or population. Prior to implementation, a review of any changes to that guidance would need to occur.

Federal Utility Assistance Programs

The December 2020 federal relief package and the American Rescue Plan approved in March 2021 contain funding for a variety of programs that can help with unpaid utility bills. Each is at a different stage of implementation and guidance, as outlined below.

Emergency Rental Assistance Program – Rental and Utility Assistance

The December 2020 federal relief package included \$25 billion for Emergency Rental Assistance for households earning less than 80 percent of the Area Median Income (AMI). These funds could be used to pay up to 12 months of back rent, three months at a time of forward rent, and utilities that are not paid for by the landlord and included in the cost of rent. These funds must be spent by September 30, 2022.

As a jurisdiction with more than 200,000 residents, San José received a direct allocation of \$30.4 million. Santa Clara County received \$26.9 million, which can serve residents throughout the County, including San José residents.

The local program is a partnership between the County, City, and the countywide Homelessness Prevention System. Sacred Heart Community Service and Destination: Home serve as lead agencies, coordinating the work of 47 nonprofit community and grassroots partners. The program serves extremely low-income residents, earning 30 percent of AMI or less. Those earning 30 percent to 80 percent of AMI can get help from the State program referenced below. The local program is not planning initially to pay for past due utilities given the high estimates of rental arrearages in the City and County. However, residents will be connected to other resources, such as the Low-Income Home Energy Assistance Program and other programs that are in process of development, as discussed below. As the program progresses, the need for utility assistance will be monitored.

In addition, the State of California directly received \$1.5 billion of Emergency Rental Assistance funding and has allocated \$33.1 million for San José residents and \$29.4 million for Santa Clara County (including San José). The State program launched on March 15, 2021 and will fund 100 percent of eligible past due utilities for renters.

The American Rescue Plan Act allocated an additional \$21.5 billion for Emergency Rental Assistance (ERA), plus \$2.5 billion for high-need areas. Treasury released initial guidance and updated Frequently Asked Questions for both ERA Round 1 and Round 2 on May 7, including increasing flexibility to better serve low-income renters.

On May 7, Treasury released the [funding allocations](#) for the second round of ERA funds made possible through the American Rescue Plan Act. The City of San José is eligible to receive \$24.0 million in ERA 2 funds and \$12.2 million in ERA 2 High Need funds. The City has received approximately \$14.5 million of this funding to date. Santa Clara County is eligible to receive \$21.3 million in ERA 2 funds and \$8.7 million in ERA 2 High Need funds. In addition to the direct allocations to cities and counties with populations over 200,000, the State of California is eligible to receive \$1.18 billion in ERA 2 funds and \$26.3 million in ERA 2 High Needs funds, but the allocations to San José and Santa Clara County are not yet known. The ERA Round 2 funds have a longer expenditure horizon than ERA Round 1, with funds required to be spent by September 30, 2025. A preliminary summary of ERA funding is provided below, which does not yet have the State funding allocations for ERA Round 2.

Preliminary Emergency Rental Assistance Program Funding Summary (\$ in millions)

Targeted Population	City-Administered		Administered by Others		Total
	ERA Round 1	ERA Round 2	ERA Round 1	ERA Round 2	
San José Only	\$30.4	\$36.2	\$33.1	TBD*	\$99.7*
Santa Clara County (including San José)	-	-	\$56.3	\$30.1*	\$86.4*
Total	\$30.4	\$36.2	\$89.4	\$30.1*	\$186.1

*These figures will increase once the State of California has determined the allocation for ERA Round 2 funding.

Utility Assistance for Homeowners

The American Rescue Plan also includes relief for vulnerable homeowners through the [Homeowner Assistance Fund, which aims](#) to prevent mortgage delinquencies and defaults, foreclosures, loss of utilities or home energy services, and displacement of homeowners experiencing financial hardship after January 21, 2020. Funds from the Homeowner Assistance Fund may be used for assistance with mortgage payments, homeowner’s insurance, utility payments, and other specified purposes. California will be receiving \$1,055,489,843, based on the funding formula. Guidance is online [here](#), however, the Administration has not yet heard how the State plans to implement this program.

Low-Income Household Water Assistance Program

The American Rescue Plan includes \$500 million for a new [Low-Income Household Water Assistance Program](#) to assist with payments for drinking water and wastewater expenses. An additional \$638 million also available from Dec. 2020 stimulus package (total available is \$1.1 billion). As described in Manager's Budget Addendum #20, Municipal Water System Rate Change, this program is still under development: a portion of the funds will be released to the states at the end of May, and guidance on program administration is still limited.

Low-Income Home Energy Assistance Program

The American Rescue Plan provides \$4.5 billion in additional funds for the Low-Income Home Energy Assistance Program. This program provides federally funded assistance in managing costs associated with home energy bills, energy crises, weatherization, and energy-related minor home repairs. Locally, Sacred Heart Community Service administers this federal program, but as of the date of this memorandum, the agency has not received word on how much funding will be available locally.

American Rescue Plan: Coronavirus State and Local Fiscal Recovery Funds

The American Rescue Plan includes \$45.57 billion for municipalities with populations of generally at least 50,000 using a modified Community Development Block Grant formula and sent directly from Treasury to a city. On May 10, the City was notified that it will receive \$212.3 million (in two tranches). The County of Santa Clara will receive approximately \$374.5 million (also over two tranches), and the State of California will receive approximately \$27 billion in a single tranche.

Interim Final Guidance on the use of these funds outlines the following funding objectives:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and
- Address systemic public health and economic challenges that have contributed to the inequal impact of the pandemic.

The Treasury Department's Interim Final Rule allows for these funds to be used to:

- Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

- Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

With this guidance, it appears that the City could use Coronavirus State and Local Fiscal Recovery Funds to provide direct assistance to eligible households and small businesses for utility arrearages, but the City would not be able to use these funds to replace lost revenue in the City's own municipal utilities or San José Clean Energy.

State Utility Assistance Programs

On May 14, 2021, Governor Newsom released a revised 2021-2022 state budget proposal. The Governor's "May Revise" featured a \$100 billion "California Comeback" plan bolstered by a projected \$75.7 billion surplus and over \$25 billion in anticipated federal relief. The Governor's proposal includes \$2 billion to help Californians pay their overdue water and utility bills. The deadline for the Legislature to pass a state budget is June 15, 2021.

State Energy Utility Programs

The CPUC, Pacific Gas & Electric Company and other investor-owned energy utilities are currently offering an arrearage management program to low-income customers. This program forgives past due arrearages for participants in return for on-time payment of current monthly bills. Eligible participants for the Arrearage Management Plans include customers enrolled in income-qualified assistance programs such as the California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) programs. The utilities will recover the costs of the forgiven arrearages through the Public Purpose Program Charge from all customers.

Additionally, the utilities will make remittance payments to Community Choice Aggregators (CCAs) for customers enrolled in Arrearage Management Plans to compensate CCAs, including San José Clean Energy, for the cost of forgiven arrearages by CCA customers.

State Water Utility Programs

Pending State legislation, [SB 222 \(Dodd\)](#) would establish the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would require the Department of Community Services and Development to develop and administer the Water Rate Assistance Program established by the bill, subject to appropriation in the State budget. This bill passed out of the Senate Appropriations Committee on May 20, 2021, was scheduled for a third reading on May 28, 2021, and is being discussed in conjunction with the state budget process.

CONCLUSION

Of the various federal and State programs described above targeting utility relief, only the Emergency Rental Assistance Program is currently active. One of the biggest lessons learned from the pandemic is that it is not enough to create a relief program and an application process. To reach families that are socially and economically disadvantaged, the program needs to partner with trusted resources such as grassroots, neighborhood, and faith-based organizations. To only have applications available online, without providing intermediaries who can help with applications, makes it difficult, if not impossible, for those who lack reliable internet services or digital devices to access the funding.

The 2020 COVID-19 partnership with the Santa Clara County Homelessness Prevention System, led by Destination: Home and Sacred Heart Community Service, was able to deploy more than \$36 million in rental and financial assistance to 15,000 households because it centered those who were most vulnerable, listened to residents, and shaped the programs to meet their needs, including working with a network of trusted partners. The 2021 program, funded with federal Emergency Rental Assistance dollars, will deploy a network of 47 grassroots and community partners for outreach and education, application assistance, and case management.

It will be critical to see how the utility-related relief programs that are coming online are designed to meet the needs of low-income residents. It may be that the best use of Coronavirus State and Local Fiscal Recovery Funds is not direct utility relief, but ensuring there is access to multi-lingual and culturally competent application assistance.

COORDINATION

This memorandum was coordinated with the Community Energy Department, Environmental Services Department, Finance Department, City Attorney's Office, City Manager's Budget Office and City Manager's Office of Administration, Policy, and Intergovernmental Relations.

/s/
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