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COMMENTS OF THE WESTCHESTER COUNTY ASSOCIATION ON THE USE OF STATE AND LOCAL FISCAL RECOVERY FUNDS PURSUANT TO THE AMERICAN RESCUE PLAN ACT OF 2021

I. INTRODUCTION

The Westchester County Association (“WCA”) is the county’s professional roundtable -- comprising a diverse group of businesses and nonprofits that rely on us to advocate for programs and policies to foster economic growth and meet the needs of our communities. WCA’s members include hundreds of the region’s foremost organizations in industries as diverse as healthcare, real estate, finance, law, energy, technology, hospitality, higher education, and the nonprofit sector. Our members collectively employ hundreds of thousands of workers. For greater than 70 years, the WCA has served as the leading independent voice of the professional community and, on behalf of our membership, we appreciate the opportunity to submit these comments and recommendations.

Signed into law on March 11, 2021, the American Rescue Plan of 2021 (“ARPA”) established the state and local fiscal recovery funds (“FRFs”) to provide continuing support for local governments both to respond to the ongoing impact of COVID-19 and in their efforts to contain the negative economic impacts of COVID-19 on their communities, residents, and businesses. The funding follows prior financial support distributed pursuant to last year’s Coronavirus Relief Fund.¹

County government is receiving \$187.64 million directly. Together with its cities, towns, and villages, Westchester will receive a total of \$439.08 million. Although local authorities are granted significant discretion, the law provides some boundaries by directing that the funds be applied in four general categories.² Moreover, the funds are limited in scope and duration. Costs must be incurred between March 31, 2021 and December 31, 2024 and must be spent by the end of calendar 2026.

The WCA’s recommendations are tailored to fit comfortably between these legal guardrails. As such, the WCA herein focuses the County on a finite set of targeted and practical solutions with concrete and measurable results.

¹ See, Coronavirus State and Local Fiscal Recovery Funds, Department of Treasury Interim Final Rule, 86 Fed. Reg. 26786 at 26787 (May 17, 2021) (“Interim Final Rule”).

² The four categories are as follows: (1) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; (2) to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; (3) for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency; and (4) to make necessary investments in water, sewer, or broadband infrastructure.

Our recommendations follow from a series of working group sessions convened by the WCA which involved leaders in healthcare (including the heads of regional hospitals, medical groups, service providers and community health networks), real estate (including Westchester’s leading developers, builders, brokers, land use and urban design professionals, and banks), telecommunications and digital infrastructure (including the major providers of broadband, spectrum and mobile communications), as well as Westchester’s major institutions of higher education and other nonprofits.

II. SUPPORT FOR OUR REGIONAL HEALTHCARE SECTOR

The policy underpinning ARPA’s local fiscal recovery funds program is to respond to the public health emergency and its aftermath -- not only to assist in the economic recovery but to aid the healthcare community and to help prevent the negative impact of future emergencies by strengthening it where feasible. Accordingly, any conversation about the use of the funds must begin with our regional healthcare sector. The county has received community input from others concerning support for neighborhood health centers as well as behavioral health issues – all clearly a permissible and effective use of funds.³ The WCA specifically adds the following recommendations.

Recommendation: Use ARPA funds for grants to our hospitals, nursing homes, EMTs, and other healthcare providers to reimburse them for any expenditures that fit within the FRF’s permissible uses, including without limitation, PPE, COVID-19 testing and tracing, vaccine distribution and infection prevention measures.

The very first example of permissible uses for the FRFs contained in the Treasury Department’s Interim Final Rule is the continued funding of personal protective equipment, testing, contact tracing, vaccinations programs, ventilation systems, and related costs. Reimbursable expenses also include those incurred for isolation and other prevention or mitigation protocols such as ventilation improvements. Generally, any costs that were allowable under the Coronavirus Relief Fund are also allowable under ARPA.⁴

Our providers are reporting continuing exorbitant expenses associated with the pandemic. On personal protective equipment alone, regional hospitals are spending millions, with one hospital reporting directly associated expenses greater than \$5 million in the past 18 months. So too our independent medical practices. One major non-hospital healthcare provider places the costs of PPE at \$7 per patient visit and is spending greater than \$700,000 monthly on this equipment. These groups report further that the for-profit insurance carriers reimburse none of these COVID related expenses.

Recommendation: Use ARPA funds for grants targeting premium pay for essential workers in our hospitals, nursing homes, other care facilities and EMTs.

According to Guidance on the Interim Final Rule promulgated by the National Association of Counties, grants can be made available to third-party employers to compensate eligible workers which explicitly include staff at hospitals, nursing homes, home care settings, as well as a variety of other

³ See Interim Final Rule at 26789.

⁴ See id. at 26790. See also, Guidance of National Association of Counties on Interim Final Rule (“NACo ARPA Guidance”), available at <https://www.naco.org/resources/featured/us-treasury-interim-final-rule-guidance-state-and-local-fiscal>.

workplaces. Further, premium pay retroactive to the start of the announced public health emergency (January 27, 2020) can be covered.⁵

Our healthcare facilities report chronic understaffing across a spectrum of needs from clinical medical assistants, to certified nursing assistants, to nurse practitioners and others. Indeed.com lists over 4,400 healthcare related job openings reported in Westchester which is one-third of all listed job openings in the county. Pandemic induced staff burnout exacerbates an already serious situation. Our healthcare providers need assistance holding onto good employees and rewarding their work under extreme conditions.

Recommendation: Use ARPA funds for employment programs targeting in-demand jobs that are tailored to meet the needs of the healthcare sector and fund specifically WCA’s Healthcare Talent Pipeline Program.

ARPA funds may be used for workforce development where directly addressing negative economic impacts of the COVID-19 health emergency.⁶ Training unemployed workers clearly complies. So do workforce programs targeted to ensure that our healthcare system maintains the headcount and capacity to meet the unique staffing challenges made worse by the pandemic.

Our regional hospitals, medical groups and other healthcare providers need to fill jobs to continue to respond to the current crisis and provide our communities with top-flight care. Even before the pandemic, the sector was struggling to fill many positions, mostly nurses (RN), practical nurses (LPN), certified nursing assistants (CNA), clinical medical assistants (CMA) and medical administrative assistants (MAA). Furthermore, training providers are having difficulty recruiting and graduating students, mostly due to lack of resources and funding. With fewer students graduating these programs, it makes it harder to maintain a pipeline for LPN, RNs and other advanced training programs.

Accompanying this recommendation, the Westchester County Association proposes to partner with Westchester County, healthcare employers, training providers, nonprofits and workforce development organizations to administer a program called the Healthcare Talent Pipeline (HTPP). WCA’s HTPP program would recruit and train 100 job seekers and incumbent workers and place a minimum of 85 of the participants in high-demand healthcare jobs with good benefits and career advancement opportunities. It builds on the successful WCC/Montefiore program funded by Westchester Community Foundation and based on the highly regarded Phipps Neighborhoods Career Network as well as the successful Jobs Waiting program previously managed by WCA for the County. It will help the county address recent workforce problems magnified by recent state laws mandating nursing home staffing ratios and hospital staffing committees. The HTPP assists multiple county-wide industry sectors such as higher education, healthcare, and wrap-around nonprofit service providers. It is complete with measurable benchmarks for data collection and success and is estimated to return an economic benefit many times the requested funding.

⁵ See Interim Final Rule at 26790. See also, U.S. Treasury Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions (“Treasury FAQs”) at 26-27, available at <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>. Premium pay applies to a broad variety of industry and settings. While not specifically addressed here, the WCA supports a premium pay grant program for *all* applicable industry categories but with some funds preserved explicitly for the healthcare industry.

⁶ See Treasury FAQs at 6. Moreover, there is even broader eligibility if funded through a county’s “lost revenue” replacement allowance.

The WCA has collected letters of support for this initiative from the Westchester Putnam Workforce Development Board (which has agreed to contribute tag-along funding), Nonprofit Westchester, numerous hospitals and healthcare groups, nursing homes, long term care facilities, and our training partners at Westchester Community College and Southern Westchester BOCES. **A more complete submission is attached to these comments as Exhibit A.**

III. SUPPORT FOR REAL ESTATE AND FAIR HOUSING

The continued need for affordable and workforce housing across the county has been well documented and long championed by the WCA. Welcome then that ARPA specifically identifies economic impacts caused by housing insecurity and encourages expenditures aimed at improving access to safe and affordable housing including, *inter alia*, “affordable housing development to increase supply of affordable and high-quality living units.”⁷

Recommendation: Use ARPA funds to repurpose underutilized hospitality assets for affordable and workforce housing development.

The hotel and hospitality space remains under considerable strain. A number of Westchester’s iconic hospitality and conference centers are dramatically underperforming. Even prior to the full economic impacts of COVID, the county lost the Renaissance Hotel as well as Doral Arrowwood. Since the start of the pandemic, further closures have taken place at the Westchester (formerly “Rye Town”) Hilton and Tarrytown Conference Center. One of our major real estate brokerages identifies greater than three dozen more hotels potentially at risk.

A county-wide effort to repurpose some of these struggling assets for adaptive reuse which includes a robust affordable / workforce housing element can be embraced by stakeholders across the real estate, business and nonprofit spectrum while being simultaneously accretive to local tax rolls. Such use of funds is comfortably within ARPA’s explicitly permissible uses and helps to tackle an identified and critical regional economic necessity.

Recommendation: Use ARPA funds to encourage market rate developers to build beyond the applicable county and/or local affordable housing requirements.

One permissible method under ARPA is to share the cost impositions born by developers when building out water, sewer, and broadband infrastructure for a particular project in exchange for robust affordable housing commitments.

Recommendation: Use ARPA funds to provide rental assistance for residential and small commercial tenants impacted by COVID-19.

Rental assistance for households and small businesses and nonprofits is an explicitly permissible use of ARPA funds.⁸ Further, while commercial landlords weathered some financial protection earlier in the pandemic as their small business tenants utilized grants distributed under Paycheck Protection Program,

⁷ Interim Final Rule at 26796. See also Treasury FAQs at 7.

⁸ See Interim Final Rule at 26794.

those grants have largely run their course. Like the state Emergency Rental Assistance Program, the program should be designed to make payments directly to the landlord or property owner. The need for local rental assistance for our tenants and landlords is rendered even more acute following the recent extension of New York's eviction moratorium.

IV. SUPPORT FOR DIGITAL CONNECTIVITY AND BRIDGING THE DIGITAL DIVIDE

The WCA has been working on digital connectivity as a means of strengthening our regional economy for many years. Statistically, areas with strong digital service enjoy higher levels of GDP growth as more households actively participate in the local economy. That creates opportunity for businesses and workers alike.

Along with healthcare and housing, digital infrastructure and connectivity reaching unserved and underserved populations enjoys policy primacy under ARPA.⁹ With respect to expenditures for physical infrastructure, the use of funds are mostly limited in scope to “necessary investments in water, sewer, and *broadband infrastructure*.”¹⁰

According to the ARPA guidance documents, the focus is on households and businesses without any access or access that does not provide minimally acceptable speeds.¹¹ Although the guidance documents help define areas of need as those that do not currently have wireline connection meeting certain upload and download parameters, ARPA is purposely not solution specific. In fact, according to the guidance, when assessing individual projects, “the [Interim Final Rule] also provides recipients with significant discretion as to how they will assess whether the project itself has been designed to provide households and businesses with broadband services that meet, or even exceed, the speed thresholds provided in the rule,”¹² as well as “flexibility to identify the specific locations within their communities to be served and to otherwise design the project.”¹³

Data published in 2019 by the U.S. Census Bureau based upon information developed by the American Communities Survey identifies 40,000 households in Westchester County without an internet subscription. Further, these households are strongly concentrated in impoverished and/or minority neighborhoods. This same data shows a gap in device ownership, or reliance on smartphones only, affecting 20,000 households. An interactive mapping tool developed earlier this year by the U.S. National Telecommunications and Information Administration titled “Indicators of Broadband Need” provides a snapshot of Westchester County and specific census tracts. Unsurprisingly, the census tracts in red where 25% of the households are without internet are clustered in Yonkers, Mt. Vernon, New Rochelle and Peekskill. These are examples of places where targeted solutions on connectivity and digital equity are needed.¹⁴

⁹ See Interim Final Rule at 26804 *et seq.*

¹⁰ Interim Final Rule at 26804; Treasury FAQs at 20.

¹¹ See Coronavirus State and Local Fiscal Recovery Funds, U.S. Treasury Quick Reference Guide (emphasis added), available at: <https://home.treasury.gov/system/files/136/SLFRP-Quick-Reference-Guide-FINAL-508a.pdf>

¹² Treasury FAQs at 31.

¹³ Interim Final Rule at 26804.

¹⁴ See NTIA Interactive Map, available at:

<https://broadbandusa.maps.arcgis.com/apps/webappviewer/index.html?id=ba2dcd585f5e43cba41b7c1ebf2a43d0>

Recommendation: Use ARPA funds to produce a county-wide digital needs assessment that identifies both (a) pockets of need for lifeline type qualifying services and high-speed broadband; and (b) the hurdles to access whether they be physical infrastructure, adoptability, affordability, or digital literacy.

Although pockets of general need appear self-evident, the proper solutions will depend more specifically on what kind of needs exist and the individual hurdles to access. Moreover, because of Westchester’s geographic and socioeconomic diversity (with dense urban cores, suburban neighborhoods, and even ex-urban mostly rural communities) solutions may differ depending upon location. New York City has recently completed an internet master plan that may stand as a model – not necessarily for its recommended solutions but for its studied analytical approach.¹⁵

While undertaking the county-wide needs assessment, engage with telecom, internet service and broadband infrastructure companies to explore a variety of tailored technical solutions to digital connectivity and access (fiber, spectrum, small cell) for homes and businesses. ARPA moneys are expressly available to fund infrastructure projects that may be performed by these companies.¹⁶

Recommendation: Use ARPA funds to expand the “Y-Zone”, the *only* pilot study taking place in Westchester which seeks to identify the basic barriers to service in underserved communities in a real world and real time setting.

The WCA has already created a working group to explore the digital connectivity issues challenging Westchester which members include major broadband providers, telecom companies, and other local public and nonprofit institutions.

Made possible by a grant from the National Science Foundation, our active “Y-Zone” initiative is an existing, real-time study of a technical solution for internet access and adoption in Yonkers -- one of Westchester’s underserved urban cores. In partnership with the City of Yonkers, Westhab, Yonkers Partners in Education, Motorola, Crown Castle, Fordham University, and the STEM Alliance, the goal is to create a “digital opportunity zone” model which can be scaled and applied in other communities.

The Y-Zone provides a possible roadmap for replication in other parts of the county. It is a studied data analysis geared at developing a model deployment plan for digital access while simultaneously providing up to 500 homes with low or no cost connectivity. It is the perfect test case for the county, and it is already underway. But it is limited to a single year and has a highly truncated sign-up period. The WCA and its Y-Zone partners seek funding both to continue to pilot beyond the first year and to make connectivity available to additional homes in the study area. There are multiple stakeholders already involved, it has widespread community support, and it will provide an invaluable academic study (conducted by Fordham University) of analytical data and measurable results. **A more complete application for funding is attached to these comments as Exhibit B.**

¹⁵ See The New York City Internet Master Plan (Jan. 2020), available at:

https://www1.nyc.gov/assets/cto/downloads/internet-master-plan/NYC_IMP_1.7.20_FINAL-2.pdf

¹⁶ See Interim Final Rule at 26804.

Recommendation: Use ARPA funds to create a *Center for Digital Adoption* tasked with launching a county-wide digital education and adoption campaign with lessons learned from the Y-Zone pilot complete with community outreach, devices, training, and tech-support that is digital equity based.

Although ARPA provides short term funding by design, Westchester is not going to solve for broadband access and digital inclusion by the end of 2026. However, solutions can be piloted during the funding period. This ongoing work should be performed by a newly formed and county-seeded *Center for Digital Adoption*. The WCA has a deep reservoir of knowledge, experience and cross-disciplinary stakeholder outreach necessary to lead such an initiative.

Other communities are using ARPA funds in this manner. For example, Syracuse, NY is dedicating \$5 million of its ARPA moneys to launch a pilot program to connect at least 2,500 households to the internet. Like WCA's Y-Zone (above), Syracuse will rely upon CBRS technology and further invest in fiber optic infrastructure to support the network. Syracuse will also launch a "Digital Navigator" program to assist families and seniors with using the internet effectively, troubleshooting digital issues, and accessing affordable devices and service plans.¹⁷

Respectfully submitted,

Date: September 9, 2021

A handwritten signature in black ink, appearing to read "Michael N. Romita". The signature is stylized and cursive.

Michael N. Romita
President & CEO
Westchester County Association

¹⁷ See American Rescue Plan, Syracuse Strategy Overview at 4. Available at: https://ourcity.syr.gov.net/wp-content/uploads/2021/06/2021-06-11-OVERVIEW-Syracuse-American-Rescue-Plan-Strategy_Revised_.pdf