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## CITY OF CAMBRIDGE

Office of the City Solicitor  
795 Massachusetts Avenue  
Cambridge, Massachusetts 02139

April 4, 2022

Louis A. DePasquale  
City Manager  
City Hall  
Cambridge, MA 02139

***Re: Response to Awaiting Report No. 21-63 Re: Using Only Locally Sourced Produce, Farmers, and Resident Gardeners to Study the Feasibility of Spending Coronavirus Local Fiscal Recovery Through American Rescue Plan Act (ARPA) Funds to Address Food Insecurity by Installing Raised Garden Beds Throughout Cambridge and Providing Free, Fresh, Locally Grown Food for Residents in Need***

Dear Mr. DePasquale:

This is in response to Awaiting Report 21-63 which arises from Policy Order No. 0-9 of September 13, 2021, in which the City Council requested guidance on whether Coronavirus State and Local Fiscal Recovery Funds (through ARPA, the American Rescue Plan Act) could be used to address food insecurity by installing raised garden beds throughout Cambridge and providing free, fresh locally grown food for residents in need. In my opinion, if it is the will of the City Council, the Coronavirus State and Local Fiscal Recovery Funds can be used to install raised garden beds to address food insecurity in Cambridge. The funds are intended to provide state and local municipalities with resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. The U.S. Department of Treasury has provided that recipients of funds could use the funds to:

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

87 Fed. Reg. 4438, 4338-39 (Jan. 27, 2022).

The Treasury issued a Final Rule and Overview of the Final Rule that provide guidelines and principles for determining the types of programs and services that this funding can support, as well as examples of allowable uses that recipients may consider. The Final Rule will take effect on April 1, 2022.

The City Council's suggestion to use only locally sourced produce, farmers, and resident gardeners to study the feasibility of spending Coronavirus Local Fiscal Recovery Funds to address food insecurity by installing raised garden beds throughout Cambridge and providing free, fresh, locally grown food for residents in need, likely falls under Category a above (respond to the public health emergency or its negative economic impacts, including assistance to households). This includes delivering assistance to workers and families, which includes aid to households facing food, housing, or other financial insecurity.

The Overview and the Final Rule outline guidelines for what the Treasury presumes are households and communities impacted by the pandemic. If the City Council decides to follow through with this suggested use of funds, the City will need to confirm that those who would have access to the food, qualify for the resources.

The Treasury notes that recipients have considerable flexibility to use these funds to address the diverse needs of their communities, but also recognizes certain projects as eligible to respond to impacts of the pandemic on households and communities. These include food assistance and food banks. (Overview pg. 18).

“Recipients have broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations.”

(Overview pg. 32).

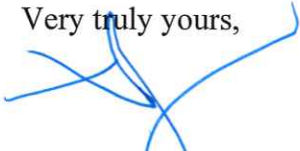
Even if the raised garden beds do not fall under the enumerated uses, which it appears they would, Recipients can undergo the following steps to decide whether their project is eligible: 1) Identify Covid-19 public health or economic impact; and 2) design a response that addresses or responds to the impact. For Step 1, the analysis includes: 1) can identify impact to a specific household, business or nonprofit or to a class of households, businesses or nonprofits (i.e., group); and 2) can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class. The analysis for Step 2, includes: 1) types of responses can include a program, service, or capital expenditure; 2) response should be related and reasonably proportional to the harm; and 3) response should also be reasonably designed to benefit impacted individual or class.

The Treasury states that “Recipients may, as was the case under the interim final rule, administer programs through a wide range of entities, including nonprofit and for-profit entities, to carry out eligible uses on behalf of the recipient government.” (Final Rule pg.22). The Treasury clarified that capital expenditures related to food banks and other facilities primarily dedicated to addressing food insecurity are eligible; recipients seeking to use funds for capital expenditures

should review the Treasury’s section on Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

For the reasons stated above, in general, the Coronavirus State and Local Fiscal Recovery Funds can be used to install raised garden beds to address food insecurity in Cambridge. However, the specifics of reporting requirements will need to be developed to ensure compliance with the rules of APRA funding based on the actual program implemented.

Very truly yours,



Nancy E. Glowa  
City Solicitor