

Ordinance No. 332-2023 AS AMENDED

By Mayor Bibb

AN EMERGENCY ORDINANCE

Directing a portion of the City's Coronavirus Local Fiscal Recovery Fund payment to respond to the public health emergency or its negative economic impacts by engaging Ernst & Young, LLP to provide professional services to develop a strategic plan modernizing City Hall operations in furtherance of improving the design and execution of programs responding to the public health emergency or its negative impacts, and authorizing agreements for same, for an amount not to exceed \$1,550,000, to be encumbered March 3, 2021, and ending December 31, 2024.

WHEREAS, under Ordinance No. 983-2022, passed October 3, 2022, the Director of Finance is authorized to accept a grant in the amount of \$500,000 from The George Gund Foundation for Mayor Justin Bibb's Strategic Plans ("Grant"); and

WHEREAS, the City has issued a Request for Proposal ("RFP") for a strategic plan; and

WHEREAS, the City desires to engage Ernst & Young, LLP to provide professional services to develop a strategic plan modernizing City Hall operations in furtherance of delivering improved constituent services, which such costs for professional services are in support of public sector capacity and workforce, to wit: improving the design and execution of programs addressing the public health emergency or its negative economic impacts, and intends for such programming to inform and direct the expenditure of up to \$1,050,000 from the Fund described below and \$500,000 from the Grant on said project; and

WHEREAS, Title IX, Subtitle M, Section 9901 of the American Rescue Plan Act, Pub. L. 117-2 [H.R. 1319], signed into law March 11, 2021 ("ARPA"), appropriated Coronavirus Local Fiscal Recovery Fund ("Fund") payments from the U.S. Treasury Secretary to metropolitan cities, nonentitlement units of local government, and counties; and

WHEREAS, the ARPA continues many of the programs started by the CARES Act (2020) and Consolidated Appropriations Act (2021) by adding new phases, new allocations, and new guidance to address issues related to the continuation of the COVID-19 pandemic; and

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WHEREAS, pursuant to the ARPA’s Fund methodology, the City has been allocated the amount of \$511,721,590.00 (“Fund Payment”) to “mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID-19)”; and

WHEREAS, in response to this economic crisis, the Department of the Treasury (“Treasury Department”) is providing such relief to state, local, and Tribal governments to enable them to continue to support the public health response and lay the foundation for a strong and equitable economic recovery; and

WHEREAS, the ARPA and its supporting guidance issued by the Treasury Department provide that the Fund Payment may only be used by the City to finance costs that (a) respond to the COVID-19 public health emergency or its negative economic impacts; (b) respond to workers performing essential work; (c) provide government services to the extent of reduction in revenue; and (d) make necessary investments in water, sewer, or broadband infrastructure (collectively, “Criteria”); and

WHEREAS, so long as the City duly directs its Fund Payment to finance those costs in compliance with the Criteria, the City may use the Fund Payment to offset the City’s various fiscal effects from COVID-19 during the period beginning March 3, 2021, and ending December 31, 2024 (“Covered Period”); and

WHEREAS, the City received some or all of the Fund Payment directly from the Treasury Department under the authority of Ordinance No. 303-2021, passed by this Council on May 10, 2021 and which affirms said Fund Payment is to cover only those expenditures consistent with ARPA, including the Criteria, and applicable regulations, and such Fund Payment has been or will be deposited into an appropriate special revenue fund created and maintained by the City; and

WHEREAS, the Treasury Department has published an Interim Final Rule and a Final Rule with an effective date of April 1, 2022 (collectively, 31 CFR 35.1 et seq.), its

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regularly updated Coronavirus State and Local Fiscal Recovery Funds’ Frequently Asked Questions, and its Coronavirus State and Local Fiscal Recovery Funds: Overview of the Final Rule (collectively, “Guidance”), further explaining the Criteria and the proper use of the Fund Payment during the Covered Period; and

WHEREAS, the Criteria and Guidance describe such eligible uses of the Fund Payment to include responding to the public health emergency or its negative economic impacts by supporting public sector capacity and workforce, via expenditures to improve the design and execution of programs responding to the COVID-19 pandemic and to administer or improve the efficacy of programs addressing the public health emergency or its negative economic impacts, pursuant to 31 CFR 35.6(b)(3)(ii)(E)(3); and

WHEREAS, this Council intends to take action and use the Fund Payment as described herein in a manner consistent with the Final Rule released by the Treasury Department on January 6, 2022, as authorized under said Department’s Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department and constitutes an emergency measure providing for the immediate preservation of the public peace, property, health and safety in the timely authorization and the signing of the necessary agreements and documents to expend the Fund Payment; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council hereby declares that it is a response to the public health emergency or its negative economic impacts to engage Ernst & Young, LLP for professional services to develop a strategic plan to modernize City Hall operations in order to deliver improved constituent services (the “Project”).

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Section 2. That this Council's decision that costs under the Project are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that such costs satisfy the Two-Part Framework required by Guidance such that (i) the City has identified a negative public health or economic impact resulting from or exacerbated by COVID-19 and (ii) the City's response is designed to address the identified health or economic impact in a reasonably proportional manner (the "Two-Part Framework"). In addition, this Council finds that the Project meets the Two-Part Framework required by the Guidance with respect to the following: (i) supporting public sector capacity and workforce to improve the design, efficacy, and execution of programs responding to the COVID-19 pandemic or its negative economic impacts, pursuant to 31 CFR 35.6(b)(3)(ii)(E)(3); and (ii) the City's reasonably proportional response may include Project costs to hire and build the capacity of staff, adopt new processes and systems, and use new technology and tools to effectively develop, execute, and evaluate programs. This Council further finds that such reasonably proportional response incorporates specifically enumerated eligible uses of the Fund Payment, as identified by the Guidance to include: (i) using evidence to improve outcomes and undertake program evaluations assessing program impact, (ii) gathering, assessing, and using data for real-time tracking of program performance, (iii) making improvements to public-facing websites or to data management systems to increase public access, (iv) gathering and sharing information, and (v) engaging contractors and consultants to build public sector capacity.

Section 3. That the Director of Finance is authorized to enter into one or more agreements with Ernst & Young, LLP, or one of its affiliates, based on its proposal dated December 15, 2022 and its revised cost proposal dated March 1, 2023, for the reasonably proportional response, defined herein, or to be paid from City funding than the City's Fund Payment, for the Project.

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Section 4. That the Director of Finance is authorized to apply for and accept any gifts or grants to implement this ordinance from any public or private entity; and that the Director of Finance is authorized to file all papers and execute all documents necessary to receive such funds; and that the funds are appropriated for the purposes described in this ordinance.

Section 5. That all agreements authorized by this ordinance shall be approved by the Director of Law and contain such terms and conditions as necessary to protect the public interest consistent with the purposes of this ordinance.

Section 6. That the total cost of the agreements authorized by this ordinance shall not exceed One Million Five Hundred and Fifty Thousand Dollars (\$1,550,000.00) and shall be paid from the Fund Payment, from the funds or funds to which are credited from the grant accepted under Ordinance No. 983-2022 or any gifts or grants accepted under this ordinance, and from any other funds that are appropriate for this purpose as determined by the Director of Finance. The agreements authorized and to be paid from the Fund Payment shall be fully executed, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024, and shall be fully expended no later than December 31, 2026. (RQS 0117 RL 2021*79)

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SM:nl
3-13-2023
FOR: Mayor Bibb

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READ FIRST TIME on MARCH 13, 2023
and referred to DIRECTORS of Finance, Law;
COMMITTEE on Finance Diversity Equity and Inclusion

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

REPORT
after second Reading

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION

FILED WITH COMMITTEE

