

Ordinance No. 96-2023

**By Mayor Bibb and Council Members
Howse, Maurer, Spencer and Gray**

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 providing for various implementation costs under a pilot participatory budgeting program intended to engage historically underrepresented and marginalized communities in the further selection and funding of projects within and by the City, and authorizing contracts for such implementation expenditures to be encumbered March 3, 2021, and ending December 31, 2024.

WHEREAS, the City desires to create a pilot participatory budgeting program and intends for such program to inform and direct the expenditure of \$5,000,000 on resident project proposals; 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

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

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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 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 with respect to costs to improve the design and execution of programs responding to the COVID-19 pandemic 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

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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 provide for the Implementation Costs (as further defined herein) associated with a pilot participatory budgeting program for the further selection and funding of projects by the City, with said program to engage historically underrepresented and marginalized communities in such City decision-making (the “Program”). Implementation Costs with respect to the Program include costs to provide the following: (i) the employment of one person at the City for a duration of eighteen (18) months (“City Staff Costs”); (ii) the employment of one person for a duration of eighteen (18) months associated with implementing partner Greater Cleveland Neighborhood Centers Association, Inc. (“Implementing Partner Staff Costs”); (iii) twelve-month-stipends for members of the steering committee and budget delegates associated with the Program (“PB Personnel Costs”); (iv) mini-grants for community organizing, events, printing, and advertising during the twelve (12) month participatory budgeting process (“Outreach and Marketing Costs”); (v) voting software (“Technology Costs”); and (vi) third-party evaluation of the Program (“Evaluation Costs”). This Council’s decision that Implementation Costs associated with the Program are appropriate by virtue of charging to the City’s Fund Payment is based on the consideration that such costs are to generally improve the design and execution of programs responding to the COVID-19 pandemic or its negative economic impacts and that developing community-driven programs under the ARPA requires resources to hire and build staff capacity, adopt new processes and systems, and use new technology and

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tools in order to effectively develop, execute, and evaluate such programs. In addition, this Council finds that the following components of the Implementation Costs are specifically enumerated eligible uses of funds pursuant to the Guidance: (i) the City Staff, Implementing Partner Staff, and PB Personnel Costs as capacity building resources to support the design, execution, and evaluation of programs—including hiring public sector staff, contractors, consultants, and others with expertise in community engagement; (ii) the Outreach and Marketing Costs as community outreach and engagement resources to improve equity and effective implementation of eligible programs—including, but not limited to, surveys, focus groups, and human-centered design activities; (iii) the Technology Costs as technology infrastructure resources to improve access to, and the user-experience of, government and to increase public access, and improve public delivery, of government programs; and (iv) the Evaluation Costs as program evaluations and evidence resources to support building and using evidence to improve outcomes—specifically with respect to assessing Program impacts on historically underrepresented and marginalized communities.

Section 2. That the Director of Finance is authorized to enter into one or more agreements with Greater Cleveland Neighborhood Centers Association, Inc. for the Implementation Costs, excluding the City Staff Costs.

Section 3. 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 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 4. 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.

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Section 5. That the total cost of the agreements authorized by this ordinance by virtue of charging to the City's Fund Payment shall not exceed five hundred and ten thousand dollars and zero cents (\$510,000.00) and shall be paid from the Fund Payment, from the fund or funds to which are credited any gifts or grants accepted under this ordinance, and from any other funds that are appropriated 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 6. 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

1-9-2023

FOR: Mayor Bibb and Council Members Howse, Maurer, Spencer and Gray

