

LEGISLATIVE REQUEST
DEPARTMENT OF COMMUNITY DEVELOPMENT

INTRODUCTION ONLY

PASSAGE UNDER SUSPENSION

ORD. # TBD

RES. # _____

DATE: 9/12/2022 INITIATOR: Jeff Kucharski COUNCIL APPROVAL: _____

DIVISION: Department of Community Development PROJECT # AMEND 1123-2021 – 9410 Hough. ARPA Funds; Loan Agreement for \$8,000,000.

PHONE: (216) 664-2472

FUNDING SOURCE: _____ CDBG YEAR: N/A OTHER _____

AMOUNT REQUESTED: \$8,000,000

FUND NUMBER: N/A SUB-FUND N/A RL N/A

THIS REQUEST AUTHORIZES THE DIRECTOR OF COMMUNITY DEVELOPMENT TO:

Authorizing the Director of Community Development to enter into a loan agreement with an eligible private nonprofit organization to finance the development of affordable housing at 9410 Hough Avenue, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024. Enter into a loan agreement with 9410 Hough GP, LLC, or its designee for the purpose of improving affordable housing in the City of Cleveland. AMEND 1123-2021

ORIGINAL AMOUNT	<u>\$8,000,000</u>	ORD. #	<u>=</u>	PASSAGE DATE	_____
1 ST AMENDMENT	_____		_____		_____
2 ND AMENDMENT	_____		_____		_____
3 RD AMENDMENT	_____		_____		_____
4 TH AMENDMENT	_____		_____		_____
TOTAL Apply & Accept	<u>\$8,000,000</u>				

COMPREHENSIVE PROJECT SUMMARY:

9410 Hough is a proposed redevelopment of a condemned affordable housing development. The developer, 9410 Hough GP, LLC, recently purchased the building with the intention to restore it as affordable housing. Located in Ward 7, the developer has retained SLSCO, LTD as general contractor and RDL Architects as architect on the project. The redevelopment of 9410 Hough would provide 116 units of affordable rental housing along with other amenities and services. The building is 97,570 square feet and will cost approximately \$34.4M to redevelop at a square foot cost of \$345.72. The project has a funding gap of \$8M.

Jeff Kucharski
 MANAGER 9.27.22
 DATE

Allyson
 DIRECTOR OF COMMUNITY DEVELOPMENT 9/29/22
 DATE

 COMMISSIONER DATE

 EEO OFFICER DATE

 LEGISLATIVE COORDINATOR DATE

 ENVIRONMENTAL OFFICER DATE

 FISCAL OFFICER DATE

 DIRECTOR OF FINANCE DATE

Ordinance No. 1037-2022

By Council Members: Hairston and Griffin (by departmental request)

An emergency ordinance to amend the tenth whereas clause, the title and Sections 1 and 3 of Ordinance No. 1123-2021, passed December 6, 2021; and to supplement the ordinance by adding new Sections 1a, 1b, and 1c relating to the development of 9410 Hough Avenue.

WHEREAS, Ordinance No. 1123-2021, passed December 6, 2021, was authorized under the Interim Final Rule and the Treasury Department has published the Final Rule; and

WHEREAS, the Criteria and Guidance describe such eligible uses of the Fund Payment to include alleviating the immediate economic impacts of the COVID-19 pandemic on housing security by increasing the supply of affordable and high-quality living units in projects that qualify for the HOME Investment Partnerships Act program; and

WHEREAS, under the Final Rule, the Treasury Department has provided certain flexibilities and requirements for long-term loans for affordable housing so that the City may use the Fund Payment to make loans to finance affordable housing projects, funding the full principal amount of the loan, if the loan and project meet the following requirements:

1. The loan has a term of not less than 20 years;
2. The affordable housing project being financed has an affordability period of not less than 20 years after the project or assisted units are available for occupancy after having received the SLFRF investment; and
3. To protect affordability, the project owners of any properties receiving SLFRF loans which also receive LIHTC financing must agree to waive their right to request a qualified contract as defined in Section 42(h)(6)(F) of the Internal Revenue Code and repay any loaned funds if the property becomes noncompliant; and

WHEREAS, the City has prepared a Written Justification in accordance with the Guidance for capital expenditures and the Written Justification is approved; 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 the tenth whereas clause, the title and Sections 1 and 3 of Ordinance No. 1123-2021, passed December 6, 2021, are amended to read as follows:

WHEREAS, the City desires to provide to ~~a private nonprofit organization, formed in satisfaction of certain federal requirements, approximately~~ 9410 Hough GP, LLC, up to \$8,000,000 for the Affordable Housing Project; and

An Emergency Ordinance directing a portion of the City's Coronavirus Local Fiscal Recovery Fund payment to the City's COVID-19 response by authorizing the Director of Community Development to enter into an agreement with ~~an eligible private nonprofit organization~~ 9410 Hough GP, LLC to finance the development of affordable housing at 9410 Hough Avenue, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024.

Section 1. That this Council hereby declares that its COVID-19 Response, defined herein, duly authorizes the Director of Community Development to enter into a loan agreement with ~~an eligible private nonprofit organization~~ 9410 Hough GP, LLC, or its designee, for a total amount of ~~approximately up to~~ \$8,000,000 to finance ARPA-eligible acquisition, construction, and other associated costs of the Affordable Housing Project. This Council's decision that such expenditures are appropriate by virtue of charging the City's Fund Payment is based on the consideration that the development programming addresses the negative economic impact of COVID-19 by investing in housing and neighborhoods, ~~particularly as such programming is provided in a Qualified Census Tract to expand the number of affordable housing units in the City ("COVID-19 Response"). The private nonprofit organization to enter into the agreement shall be determined by the Board of Control on the nomination of the Director of Economic who shall first determine that the organization meets the federal requirements.~~

Section 3. That the cost of the agreement shall not exceed \$8,000,000 and shall be paid from the Fund Payment appropriated under this ordinance, from the fund or funds to which are credited the proceeds of any existing or future bond issue that includes these purposes, and from any other funds that are appropriated for this purpose as determined by the Director of Finance. (RQS 0117, RL 2021-79)

Section 2. That the existing tenth whereas clause, the title and Sections 1 and 3 of Ordinance No. 1123-2021, passed December 6, 2021, are repealed.

Section 3. That Ordinance No. 1123-2021, passed December 6, 2021, is supplemented by adding new Sections 1a, 1b, and 1c to read as follows:

Section 1a. That the Director of Community Development is authorized to accept a promissory note, naming the City of Cleveland as payee, an Open-End Leasehold Mortgage, naming the City of Cleveland as mortgagee, and a Restrictive Covenant to secure repayment of the loan and the affordable units in the Affordable Housing Project.

Section 1b. That the Director of Community Development is authorized to accept monies in repayment of the loan and to deposit the monies in the fund or funds approved by the Director of Finance.

Section 1c. That the Director of Community Development is authorized to charge and accept fees to cover costs incurred in the preparation of loan documents, closing, and servicing of the loan. The fees shall be deposited to and expended from the fund or funds approved by the Director of Finance.

Section 4. 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.

Referred to Directors of Community Development; Finance; and Law; Committees on Development Planning and Sustainability; and Finance, Diversity, Equity and Inclusion.

CITY OF CLEVELAND

DEPARTMENT OF COMMUNITY DEVELOPMENT

9410 Hough – [AMEND 1123-2022] American Rescue Plan (ARPA)

LEGISLATIVE REQUEST - EXECUTIVE SUMMARY

ORDINANCE NO. XXX-2022

Purpose:

Directing a portion of the City's Coronavirus Local Fiscal Recovery Fund payment to the City's COVID-19 response by authorizing the Director of Community Development to enter into a loan agreement with an eligible private nonprofit organization to finance the development of affordable housing at 9410 Hough Avenue, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024. Further authorizing the Director of Community Development to enter into agreements to transfer three City-owned parcels to the developer, or their designee, that adjacent to the project:

1. PPN 119-13-013 (9310 Hough)
2. PPN 119-13-011 (9302 Hough)
3. PPN 119-13-098 (Vacant Land AMESBURY AVE).

This legislative request is to amend 1123-2021 to allow the Director of Community Development to enter into a loan agreement with 9410 Hough GP, LLC, or its designee for the purpose of improving affordable housing in the City of Cleveland.

Program Description:

9410 Hough is a proposed redevelopment of a condemned affordable housing development. The developer, 9410 Hough GP, LLC, recently purchased the building with the intention to restore it as affordable housing. Located in Ward 7, the developer has retained SLSCO, LTD as general contractor and RDL Architects as architect on the project.

The redevelopment of 9410 Hough would provide 116 units of affordable rental housing along with other amenities and services.

The building is 97,570 square feet and will cost approximately \$34.4M to redevelop at a square foot cost of \$345.72. The project has a funding gap of \$8M.

In evaluating this request, the Department believes this is an eligible proposal to use available American Rescue Plan Act (ARPA) funding. Under 31 CFR 35.6(b)(12)(B), communities may use ARPA funds for the "Development, repair, and operation of affordable housing and services or programs to increase long-term housing security'..."

Award Amount: \$8,000,000

Period of Performance: Estimated Project Start Date: Upon receipt of funds
Estimated Project End Date: TBD

Ordinance No. 1123-2021

By Council Members: B. Jones, Brancatelli and Kelley (by departmental request)

An ordinance directing a portion of the City's Coronavirus Local Fiscal Recovery Fund payment to the City's COVID-19 response by authorizing the Director of Community Development to enter into an agreement with an eligible private nonprofit organization to finance the development of affordable housing at 9410 Hough Avenue, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024.

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 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 Interim Final Rule (31 CFR 35.1 et seq.) and its regularly updated Coronavirus State and Local Fiscal Recovery Funds' Frequently Asked Questions (collectively, "Guidance"), further explaining the Criteria and the proper use of the Fund Payment during the Covered Period; and

WHEREAS, the condemned multi-family apartment building at 9410 Hough Avenue is being redeveloped into a 116-unit affordable housing development ("Affordable Housing Project"); and

WHEREAS, the City desires to provide to a private nonprofit organization, formed in satisfaction of certain federal requirements, approximately \$8,000,000 for the Affordable Housing Project; and

WHEREAS, the Criteria and Guidance describe such eligible uses of the Fund Payment to include alleviating the immediate economic impacts of the COVID-19 pandemic on housing security by increasing the supply of affordable and high-quality living units in a Qualified Census Tract; now, therefore,

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

Section 1. That this Council hereby declares that its COVID-19 Response, defined herein, duly authorizes the Director of Community Development to enter into an agreement with an eligible private nonprofit organization for a total amount of approximately \$8,000,000 to finance ARPA-eligible acquisition, construction, and other associated costs of the Affordable Housing Project. This Council's decision that such expenditures are appropriate by virtue of charging the City's Fund Payment is based on the consideration that the development programming addresses the negative economic impact of COVID-19 by investing in housing and neighborhoods, particularly as such programming is provided in a Qualified Census Tract in the City ("COVID-19 Response"). The private nonprofit organization to enter into the agreement shall be determined by the Board of Control on the nomination of the Director of Economic who shall first determine that the organization meets the federal requirements.

Section 2. That the agreement and other appropriate documents need to complete the transaction authorized by Section 1 shall be prepared by the Director of Law and shall contain such other terms and conditions that the Director of Law determines to be necessary to protect and benefit the City.

Section 3. That the cost of the agreement shall be paid from the Fund Payment appropriated under this ordinance, from the fund or funds to which are credited the proceeds of any existing or future bond issue that includes these purposes, and from any other funds that are appropriated for this purpose as determined by the Director of Finance. (RQS 0117, RL 2021-79)

Section 4. That the agreement authorized shall be fully executed, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024.

Section 5. That notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that the following described properties are no longer needed for the City's public use: Permanent Parcel No. 119-13-011 (9302 Hough Avenue), Permanent Parcel No. 119-13-013 (9310 Hough Avenue), and Permanent Parcel No. 119-13-098 (vacant land Amesbury Avenue).

Section 6. That by and at the direction of the Board of Control, the Mayor and the Commissioner of Purchases and Supplies are authorized to sell the above-described properties to 9410 Hough GP, LLC, or its designee, at a price not less than fair market value as determined by the Board of Control.

Section 7. That the conveyance shall be made by official deed or deeds prepared by the Director of Law and executed by the Mayor and the Commissioner of Purchases and Supplies on behalf of the City of Cleveland. The deed or deeds shall contain necessary provisions, including restrictive reversionary interests as may be specified by the Board of Control or Director of Law, which shall protect the City's interests and shall specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs.

Section 8. That the Director of Community Development is authorized to execute any documents as may be necessary to effectuate the purposes of this ordinance.

Section 9. 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.

Passed December 6, 2021.

Effective January 5, 2022.