

Ordinance No. 883-2022

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

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 a loan agreement with Woodhill Homes II LLC, or its designee, to finance the development of Woodhill Center East affordable housing at 11305 Woodland Avenue, Cleveland, Ohio 44104.

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

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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 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 Woodhill Choice Neighborhood Initiative is a comprehensive redevelopment of a Cuyahoga Metropolitan Housing Authority estate known as Woodhill and in Phase Two Woodhill Center East located at 11305 Woodland, Cleveland, Ohio and the vicinity ("Property") is being redeveloped into 77 affordable housing units ("Affordable Housing Project"); and

WHEREAS, the City desires to provide to Woodhill Homes II LLC, or its designee, ("Redeveloper"), \$4,919,291 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 projects that qualify for the HOME Investment Partnerships Act program; and;

WHEREAS, 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:

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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, 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 Director of Community Development is authorized to enter into a loan agreement with Redeveloper to finance ARPA-eligible acquisition, construction, rehabilitation, and other associated costs of the Affordable Housing Project.

Section 2. 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 3. 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 4. 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.

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Section 5. That the loan agreement and other appropriate documents needed to complete the transaction authorized by this legislation 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 6. That the cost of the loan agreement shall be paid from the Fund Payment appropriated under this ordinance and may not exceed \$4,919,291.
(RQS 0117, RLA 2022-69)

Section 7. That the loan agreement 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. Any such funds to be paid from the Fund Payment encumbered on or before December 31, 2024, shall be fully expended no later than December 31, 2026.

Section 8. 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.

GEP:nl
9-12-2022
FOR: Director Hernandez

