

# Ordinance No. 87-2023

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 by improving public sector capacity and workforce with respect to implementing platforms in the City to enable schools to engage and solicit feedback from students' families, and authorizing the Director of Finance to enter into agreements with Possip, Inc., for same, in an amount up to \$730,625, to be encumbered March 3, 2021, and ending December 31, 2024.

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WHEREAS, the City desires to improve public sector capacity by making investments in technology infrastructure resources to enable schools in the City to engage with families, solicit feedback, and synthesize action reports for school administrators via online feedback platforms, and intends for such programming to inform and direct the expenditure of \$730,625 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

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

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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 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 with respect to improving public sector capacity and workforce via technology infrastructure resources designed to upgrade government information technology systems, pursuant to 31 CFR 35.6(b)(3)(ii)(E)(4); and

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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 to defray the costs of a contract with Possip, Inc. that provides SMS and online feedback platform services, as to which all schools in the City may opt-in, and that enables participating schools to engage in regular contact with families, solicit feedback, and organize synthesized action reports for school administrators (the "Project"). 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 are to improve the public delivery of government programs such as the public delivery of education. In addition, this Council finds that costs under the Project are specifically enumerated as an eligible use of funds, to wit: technology infrastructure resources to improve government information technology systems, pursuant to 31 CFR 35.6(b)(3)(ii)(E)(4).

Section 2. That the Director of Finance is authorized to enter into one or more agreements with Possip, Inc. for the response, defined herein, for the Project.

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

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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.

Section 5. That the cost of all agreements authorized by this ordinance shall not exceed seven hundred thirty thousand six hundred twenty-five dollars and zero cents (\$730,625.00) 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 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 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

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**REPORT  
after second Reading**

**By Mayor Bibb**

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**READ FIRST TIME on JANUARY 9, 2023** **REPORTS**  
**and referred to DIRECTORS of Finance, Law;**  
**COMMITTEES on Workforce Education Training and Youth Development,**  
**Finance Diversity Equity and Inclusion**

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**CITY CLERK**

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**READ SECOND TIME**

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**CITY CLERK**

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**READ THIRD TIME**

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**PRESIDENT**

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**CITY CLERK**

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**APPROVED**

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**MAYOR**

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PASSAGE RECOMMENDED BY  
COMMITTEE ON  
**WORKFORCE, EDUCATION,  
TRAINING and YOUTH  
DEVELOPMENT**

FILED WITH COMMITTEE

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**FINANCE, DIVERSITY, EQUITY  
and INCLUSION**

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