

# Ordinance No. 1123-2021

**By Council Members B. Jones, Brancatelli and Kelley (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 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.

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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 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; 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 its COVID-19 Response, defined herein, duly authorizes the Director of Community Development to enter into an

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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 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 3. That the cost of the t 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 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  
11-29-2021  
FOR: Director Wackers

