

# Ordinance No. 119-2022

## AN EMERGENCY ORDINANCE

By: Council President Griffin and Mayor Bibb

Directing a portion of the City's Coronavirus Local Fiscal Recovery Fund payment to the City's COVID-19 response provision of government services to the extent of the City's reduction in revenue resulting from the COVID-19 public health emergency by authorizing the Director of Community Development to enter into one or more subrecipient agreements with The Mt. Sinai Health Care Foundation to assist with a lead safe program, to be encumbered 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

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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 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 and its negative economic impacts, including providing assistance to households, small businesses, and nonprofit organizations; and for services to disproportionately impacted communities; and~~

WHEREAS, the Criteria and Guidance describe such eligible uses of the Fund Payment to include the provision of government services to the extent of the City's reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the more recent full fiscal year prior to the emergency; 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 its COVID-19 Response, defined herein, duly authorizes the Director of Community Development to enter into one or more subrecipient agreements with The Mt. Sinai Health Care Foundation, as fiscal agent, to transfer a portion of the City's Fund Payment for a lead safe program to provide grants for repairs to create lead safe housing and emergency housing assistance related thereto. This Council's decision that such expenditures are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that the lead safe program is an eligible use to the extent that a portion of the City's Fund Payment is directed to the Mt. Sinai Health Care Foundation as an eligible subrecipient and that the program addresses health disparities in low to moderate income households, represents commercial property rehabilitation by small businesses with rental units or home-based childcare in Qualified Census Tracts, or mitigates the financial hardship of rental property owners and/or childcare operators resulting from COVID-19 ("COVID-19 Response").~~

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Section 1. That this Council hereby declares that it is a provision of government services for the implementation of a lead safe home program to provide the following: (i) grants for property owners for lead safe home repair (including both homeowners and rental property owners); (ii) incentive grants to rental property owners to achieve their lead safe certification; (iii) emergency housing assistance for those households facing housing insecurities due to lead; (iv) workforce development for targeted populations disproportionately impacted by the pandemic; and (v) screening and testing, and as such duly authorizes the Director of Community Development to enter into one or more subrecipient agreements with The Mt. Sinai Health Care Foundation, as fiscal agent, to transfer a portion of the City's Fund Payment in furtherance thereof. This Council's decision that such expenditures are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that the City already operates its own Lead Hazard Control Program and the lead safe home program set forth herein augments and furthers the City's own such programming to the extent that the City determined a reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency, all in accordance with the method of calculation set forth in 31 C.F.R. 35.6(d)(2), with such portion of the City's Fund Payment directed to the Mt. Sinai Health Care Foundation as an eligible subrecipient.

Section 2. 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 3. That the cost of all agreements authorized by this ordinance shall not exceed \$17 million dollars and shall be paid from the Fund Payment and from any other funds that are appropriated for this purpose as determined by the Director of Finance. (RQS 8006, RL 2022-03)

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Section 4. That the agreements 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  
1-24-22

FOR: Council President Griffin and Mayor Bibb

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**REPORT  
after second Reading**

**By: Council President Griffin and Mayor Bibb**

**AN EMERGENCY ORDINANCE**

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**READ FIRST TIME**

**REPORTS**

and referred to \_\_\_\_\_

by the council \_\_\_\_\_

**CITY CLERK**

**READ SECOND TIME**

by the council \_\_\_\_\_

**CITY CLERK**

**READ THIRD TIME**

by the council \_\_\_\_\_

**PRESIDENT**

**CITY CLERK**

**APPROVED**

**MAYOR**

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