

# Ordinance No. 901-2022

**By Council Member Griffin and  
Mayor Bibb**

## 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 Economic Development to enter into one or more loan agreements with the Cleveland Development Advisors Community Reinvestment Fund, Inc. to extend loans for affordable housing and the renovation of vacant or abandoned properties, to be encumbered beginning March 3, 2021, and ending December 31, 2024; to enter into other similar agreements; and to apply for and accept grants and gifts.

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WHEREAS, the Cleveland Development Advisors Community Reinvestment Fund, Inc. ("CDACRF"), an Ohio nonprofit corporation and an affiliate of the Greater Cleveland Partnership, is the manager of the Opportunity CLE Loan Fund ("Fund"); and

WHEREAS, the City desires to provide one or more loans to CDACRF to extend financing for projects in Qualified Census Tracts ("QCT") in the City that, among other goals, (i) create or preserve quality housing that is affordable to existing residents; and (ii) involve the remediation of brownfields ("Project"); and

WHEREAS, the City desires to fund the Project, to the extent eligible under the Guidance, with the Fund Payment described below, and other City funding, which is now available because the City paid certain government expenses and services from the Fund Payment, for ineligible costs; and

WHEREAS, to the extent the Project may be funded in part with money raised by taxation, the Housing Advisory Board of the City of Cleveland has been provided a description of the 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" or "LFRF") 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

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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 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

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WHEREAS, the Criteria and Guidance describe such eligible uses of the Fund Payment include as a response to the negative economic impacts of the COVID-19 pandemic (i) affordable housing programs that satisfy National Housing Trust Fund (“HTF”), Home Investment Partnership Program (“HOME”), Community Development Block Grant (“CDBG”), or other eligible federal affordable housing program requirements; and (ii) addressing vacant or abandoned properties; 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:

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 LFRF investment; and
3. To protect affordability, the project owners of any properties receiving LFRF loans which also receive Low-Income Housing Tax Credit (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 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 Economic Development to enter into one

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or more loan agreements with CDACRF to extend loans for ARPA- eligible acquisition, rehabilitation and other associated costs to renovate or construct affordable housing and to renovate vacant and abandoned properties located within a QCT in the City.

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 Project is an eligible use to the extent that a portion of the City's Fund Payment is directed to alleviate the immediate economic impacts of COVID-19 pandemic by increasing the supply of affordable and high-quality living units in the following ways: (i) renovating and/or constructing specific housing units that will be rented to tenants or sold to homeowners who satisfy one or more federal affordable housing programs identified in the Guidance and/or (ii) renovating vacant and abandoned properties located in a QCT within the City ("COVID-19 Response").

Section 2. That the Director of Economic Development is further authorized to enter into the loans with CDACRF for the Project for any costs that are not eligible under the Guidance.

Section 3. That the Director of Economic Development is authorized to accept monies in repayment under the programs and to utilize the repayments, and other program income in a revolving fund for additional expenditures under these programs and administrative expenses, which repayments and program income are appropriated for those purposes.

Section 4. That the City is authorized to accept promissory notes, naming the City of Cleveland as payee, and mortgages, naming the City of Cleveland as mortgagee, and any other security instrument executed to evidence and secure repayment of loans made under this program.

Section 5. That the Director of Economic Development is authorized to enter into forbearance agreements with any recipient of a validly existing loan administered by the City, and to charge and accept fees to cover costs incurred in the preparation of loan documents, closing, and servicing costs. Such fees shall be deposited into a Fund approved by the Director of Finance and are hereby appropriated for the purposes of the Project.

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Section 6. That the Director of Economic Development is authorized to apply for and accept any gifts or grants for the Project from any public or private entity; and that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in this ordinance.

Section 7. 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 8. That the cost of all loans authorized by this ordinance shall not exceed \$7,500,000 and shall be paid from the Fund Payment, Fund No. 01-001-9997, Fund No. 15 SF 190, from the fund or funds to which are credited and grant or gift received under this ordinance, and from any other funds approved by the Director of Finance. (RQS 9501, RLA 2022-53)

Section 9. That the loan 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. 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 10. That the Director of Economic Development shall provide a quarterly report on the Project and, upon written request from Council, make a presentation to Council on any such report.

Section 11. That any contract, grant or loan over \$50,000 to be entered into under this ordinance shall require additional legislative authority.

Section 12. 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  
9-12-2022  
FOR: Mayor Bibb

