

Ordinance No. 909-2022 AS AMENDED

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 Public Safety to enter into one or more agreements with ShotSpotter, Inc. for a gunfire detection system, to be encumbered beginning March 3, 2021, and ending December 31, 2024; and to apply for and accept grants and gifts.

WHEREAS, under Ordinance No. 880-2019, passed August 21, 2019, the Director of Public Safety ("Director") entered into a two-year agreement with ShotSpotter, Inc. for the deployment of a gun fire sensor technology system in a 3-square mile radius in the Fourth District; and

WHEREAS, in a one-year period, the Division of Police received about 2,777 ShotSpotter alerts for gunfire incidents that had not been called into 9-1-1 which enabled police officers to arrive at the scenes quicker and be better prepared; and

WHEREAS, the Director desires to continue to deploy this technology in the Fourth District and to further expand the deployment of this technology for an additional 13-square miles of neighborhoods that have experienced a disproportionate rate of gun violence; and

WHEREAS, the City has a documented ~~in an~~ increase in gun violence since the onset of the pandemic; 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

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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

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

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nonprofit organizations; and for services to disproportionately impacted communities;
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 Public Safety to enter into one or more agreements with ShotSpotter, Inc. for a not to exceed three-year subscription for its gunshot detection technology service and to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to evaluate and assess the services provided under any such agreements with ShotSpotter, Inc. As part of the evaluation, the consultants employed under this section shall undertake independent testing of ShotSpotter, Inc.'s ability to differentiate between gunshots and non-gunshot high-decibel noises within the target area and provide the methodology used and the testing results in the report and evaluate and assess the impact the use ShotSpotter has on building community trust. 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 such service is a response to the COVID-19 public health emergency

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in that the City has a documented increase in gun violence since the onset of the pandemic.

The selection of the consultants for the professional services shall be made by the Board of Control on the nomination of the Director of Public Safety and the Director of Urban Analytics and Innovation from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Safety and the Director of Urban Analytics and Innovation for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Safety and the Director of Urban Analytics and Innovation, and certified by the Director of Finance. The selected consultants shall certify that they do not have existing financial relationships with ShotSpotter, Inc., any other gunshot detection technology firm, or any organization advocating for or against gunshot detection technology.

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 under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements with other governmental agencies. The Director of Public Safety may sign all documents that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 4. That the Director of Public Safety is authorized to apply for and accept any gifts or grants for the gunshot detection technology service 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 5. That the cost of all agreements authorized by this ordinance with ShotSpotter, Inc. shall not exceed \$2,758,500.00 and , that the cost of all professional service contracts shall not exceed \$150,000 and that all such contracts 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 any grants or gifts received, and from any other funds approved by the Director of Finance. (RQS 6002, RLA 2022-60)

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Section 6. That 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. 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 7. That the ~~Director of Public Safety shall provide a quarterly report~~ consultants employed under Section 1 of this ordinance shall evaluate at least two years of the gunshot detection technology services provided by ShotSpotter, Inc. under its agreement(s) authorized under Section 1 and shall provide its evaluation to the Director of Public Safety approximately 30 months after such services are commenced. The Director shall immediately provide a copy of such evaluation to the Clerk of Council. The Director of Public Safety also shall provide bi-annual reports on the gunshot detection technology service and, upon written request from Council, make a presentation to Council on any such report.

Section 8. That any contract or grant over \$50,000 to be entered into under this ordinance shall require additional legislative authority.

Section 9. 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

