

Ordinance No. 1037-2022

**By Council Members Hairston and Griffin
(by departmental request)**

AN EMERGENCY ORDINANCE

To amend the tenth whereas clause, the title and Sections 1 and 3 of Ordinance No. 1123-2021, passed December 6, 2021; and to supplement the ordinance by adding new Sections 1a, 1b, and 1c relating to the development of 9410 Hough Avenue.

WHEREAS, Ordinance No. 1123-2021, passed December 6, 2021 was authorized under the Interim Final Rule and the Treasury Department has published the Final Rule; 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 projects that qualify for the HOME Investment Partnerships Act program; and;

WHEREAS, under the Final Rule 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 SLFRF investment; and
3. To protect affordability, the project owners of any properties receiving SLFRF loans which also receive 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, the City has prepared a Written Justification in accordance with the Guidance for capital expenditures and the Written Justification is approved; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department and constitutes an emergency measure

Ordinance No. 1037-2022

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 the tenth whereas clause, the title and Sections 1 and 3 of Ordinance No. 1123-2021, passed December 6, 2021 are amended to read as follows:

WHEREAS, the City desires to provide to ~~a private nonprofit organization, formed in satisfaction of certain federal requirements, approximately~~ 9410 Hough GP, LLC, up to \$8,000,000 for the Affordable Housing Project; and

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~~ 9410 Hough GP, LLC 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.

Section 1. That this Council hereby declares that its COVID-19 Response, defined herein, duly authorizes the Director of Community Development to enter into a loan agreement with ~~an eligible private nonprofit organization~~ 9410 Hough GP, LLC, or its designee, for a total amount of ~~approximately up to~~ \$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 to expand the number of affordable housing units 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 3. That the cost of the agreement shall ~~not exceed~~ \$8,000,000 ~~and 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 2. That the existing tenth whereas clause, the title and Sections 1 and 3 of Ordinance No. 1123-2021, passed December 6, 2021 are repealed.

Ordinance No. 1037-2022

Section 3. That Ordinance No. 1123-2021, passed December 6, 2021, is supplemented by adding new Sections 1a, 1b, and 1c to read as follows:

Section 1a. That the Director of Community Development is authorized to accept a promissory note, naming the City of Cleveland as payee, an Open-End Leasehold Mortgage, naming the City of Cleveland as mortgagee, and a Restrictive Covenant to secure repayment of the loan and the affordable units in the Affordable Housing Project.

Section 1b. That the Director of Community Development is authorized to accept monies in repayment of the loan and to deposit the monies in the fund or funds approved by the Director of Finance.

Section 1c. That the Director of Community Development is authorized to charge and accept fees to cover costs incurred in the preparation of loan documents, closing, and servicing of the loan. The fees shall be deposited to and expended from the fund or funds approved by the Director of Finance.

Section 4. 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.

GEP:nl
10-10-2022
FOR: Director Hernandez

