Ordinance No. 89-2023

By Mayor Bibb

AN EMERGENCY ORDINANCE

Directing a portion of the City's Coronavirus Local Fiscal Recovery Fund payment to respond to the public health emergency or its negative economic impacts through the redevelopment of vacant or abandoned property located within one or more Qualified Census Tracts, to be encumbered March 3, 2021, and ending December 31, 2024; authorizing the Director of Economic Development to apply and accept one or more grants from JobsOhio for the acquisition of brownfield sites located in and around the Opportunity Corridor needed for future redevelopment, and for services related to land assembly, site evaluation assessment, and remediation of those properties; authorizing the Director to employ one or more professional consultants to implement this ordinance and authorizing other contracts; and authorizing the Mayor and the Commissioner of Purchases and Supplies to acquire, accept, and record all real property and permanent and temporary easements needed for land assembly.

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 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 or its negative economic impacts with respect to capital expenditures and other services to address vacant or abandoned properties, pursuant to 31 CFR 35.6(b)(3)(ii)(A)(11)(iv); 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 it is a response to the public health emergency or its negative economic impacts to provide for the redevelopment of vacant or abandoned property located within one or more Qualified Census Tracts as identified by the U.S. Department of Housing and Urban Development ("QCTs") (the "Project"). This Council's decision that Rehabilitation Expenditures (as defined herein) under the Project are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that such Rehabilitation Expenditures satisfy the two-part framework required by Guidance such that (i) the City has identified a negative public health or economic impact resulting from or exacerbated by COVID-19 and (ii) the City's response is designed to address the identified health or economic impact in a reasonably proportional manner. In addition, this Council finds that the Project meets the two-part framework required by the Guidance with respect to the following: (i) disproportionately impacted households, populations, and communities include those located or living within QCTs and the Project will take place within one or more such QCTs and (ii) the City's reasonably proportional response may include capital expenditures and other services to address duly designated vacant or abandoned properties, pursuant to 31 CFR 35.6(b)(3)(ii)(A)(11)(iv), which such capital expenditures include: rehabilitation, renovation, or other costs to position the property for current or future productive use, removal and remediation of environmental contaminants or hazards, demolition or

deconstruction, greening or cleanup of vacant lots making vacant lots safer for surrounding communities, inspection fees and other administrative costs, and such other eligible uses specifically enumerated under the Guidance (the "Rehabilitation Expenditures").

Section 2. That the total cost of the Rehabilitation Expenditures authorized by this ordinance by virtue of charging to the City's Fund Payment shall not exceed three million five hundred thousand dollars and zero cents ($3,500,000.00) 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 with funds to be encumbered during the Covered Period. In determining whether funds are to be encumbered during the Covered Period, the Director of Finance shall additionally ensure that Rehabilitation Expenditures authorized by this ordinance are paid for services which will be delivered by December 31, 2026 in accordance with the Guidance.

Section 3. That the Director of Economic Development is authorized to apply for and accept one or more grants totaling $3,500,000, from JobsOhio to conduct the Opportunity Corridor Area Brownfields Redevelopment OSIP Grant; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grants; and that the funds are appropriated for the purposes described in the summary for the grants contained in the file described below.

Section 4. That the summary for the grants, **File No. 89-2023-A**, made a part of this ordinance as if fully rewritten, including the obligation of the City of Cleveland to provide matching funds in the sum of $3,500,000 which will be satisfied with the authorized expenditures herein from the Fund Payment, is approved in all respects and shall not be changed without additional legislative authority.

Section 5. That the Director of Economic Development is authorized to enter into one or more contracts with various agencies, entities, or individuals to implement this ordinance.

Section 6. That the Director of Economic Development is authorized 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 conduct land acquisition, relocation, redevelopment and related activities needed in connection with land assembly services for the purposes described in this ordinance.

Section 7. That the Director of Economic Development is authorized 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 brownfield properties located in and around the Opportunity Corridor, including but not limited to, conducting Phase I and Phase II environmental site assessments, environmental remediation oversight, or other professional services necessary to implement this ordinance.

Section 8. That the selection of the consultant or consultants for the services described in this ordinance shall be made by the Board of Control on the nomination of the Director of Economic Development from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Economic Development 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 Economic Development, and certified by the Director of Finance.

Section 9. That in accordance with the provisions of the Charter and Codified Ordinances, the Director of Economic Development or Building and Housing, as appropriate, may enter into contracts for the environmental remediation, demolition of structures and removal and disposal of related debris, including site improvements, and other services necessary to implement this ordinance.

Section 10. That the Director of Public Works or Capital Projects, as appropriate, is authorized to make one or more written standard purchase contracts and written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, the period of requirements to be determined by the director, for the necessary items of materials, equipment, supplies, and services necessary for the demolition of streets and the removal and disposal of related debris and materials, for the Project, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the appropriate department. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines.

Section 11. That the Directors of Economic Development, Building and Housing, Public Works, and Capital Projects, as appropriate, are authorized to apply and pay for permits, licenses, or other authorizations required by any regulatory agency or public authority to permit performance of the work authorized by this legislation.

Section 12. That under Section 108(b) of the Charter, the purchases and/or services authorized by this ordinance may be made through cooperative arrangements with other governmental agencies. The Directors of Economic Development, Building and Housing, Public Works, and/or Capital Projects may sign all documents that are necessary to obtain such purchases or services, and may enter into one or more contracts with the vendors or consultants selected through that cooperative process.

Section 13. That, notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Mayor and/or the Commissioner of Purchases and Supplies, as appropriate, are authorized to acquire, accept, and record all real property necessary to implement this ordinance, including but not limited to gift, fee simple acquisitions, temporary and permanent easements, and work agreements. The consideration to be paid for the property shall not exceed fair market value as determined by the Board of Control.

Section 14. That the Director of Economic Development is authorized to execute on behalf of the City all documents necessary to acquire, accept, and record the property and to employ and pay all fees for title companies, surveys, escrows, appraisers, review appraisers, and all other costs necessary for the acquisition of the property or easement interests.

Section 15. That the costs of acquiring, accepting, and recording the land or easement interests shall not be paid from the City's Fund Payment but from other City funds approved by the Director of Finance.

Section 16. That the cost of the contract or contracts authorized shall be paid from the Fund Payment, from the funds or funds to which are credit any grants accepted under this ordinance, and from any other funds that are appropriate for this purpose as determined by the Director of Finance. (RQS 0117 RL 2021*79)

Section 17. 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
1-9-2023
FOR: Mayor Bibb

Ord. No. 89-2023

[File No. 89-2023-A]

By Mayor Bibb

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READ FIRST TIME on JANUARY 9, 2023 **REPORTS**
and referred to DIRECTORS of Economic Development, Finance, Law;
COMMITTEES on Development Planning and Sustainability,
Finance Diversity Equity and Inclusion

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

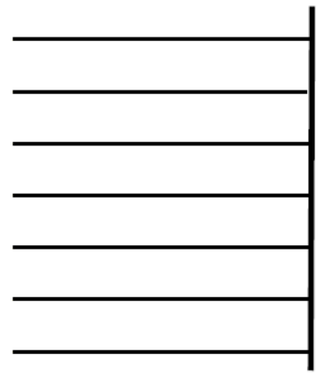
Recorded Vol. **110** Page_____

Published in the City Record _____

REPORT
after second Reading

PASSAGE RECOMMENDED BY COMMITTEE ON
DEVELOPMENT, PLANNING AND SUSTAINABILITY

FILED WITH COMMITTEE



PASSAGE RECOMMENDED BY COMMITTEE ON
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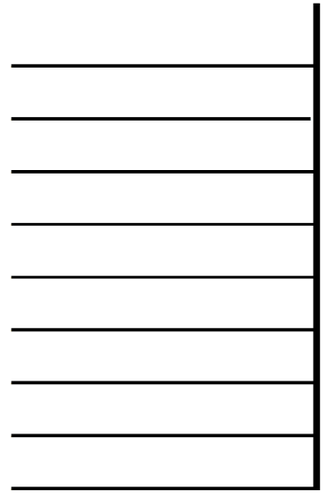
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