Ordinance No. 93-2023

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 by providing services to address educational disparities in disproportionately impacted communities, and authorizing the Director of Finance to enter into agreements for same, in an amount up to $2,100,000, to be encumbered March 3, 2021, and ending December 31, 2024.

WHEREAS, the City desires to address educational disparities in disproportionately impacted communities by supporting the Greater Cleveland Career Consortium's (the "GCCC") development, implementation, and institutionalization of career programming across schools within the City, and intends for such programming to inform and direct the expenditure of $2,100,000 on said 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") 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, including assistance to households, by addressing educational disparities in disproportionately impacted households, populations, or communities, such as those located within Qualified Census Tracts identified by the U.S. Department of Housing and Urban Development ("QCTs") or to low-income households or communities, all pursuant to 31 CFR 35.6(b)(3)(ii)(A)(11)(v); 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, including assistance to households, to address educational disparities in the City by supporting GCCC's development, implementation, and institutionalization of a Planning and Career Exploration Program ("PACE") across all Cleveland Metropolitan School District ("CMSD") schools as well as developing a plan to expand PACE to non-CMSD schools within the City (the "Project"). This Council's decision that costs under the Project are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that such costs satisfy the two-part framework required by the 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) the Project targets disproportionately impacted households, populations, or communities including families or individuals living within QCTs or low-income households or communities; and (ii) the City's reasonably proportional response may include costs to address educational disparities in such disproportionately impacted communities, pursuant to 31 CFR 35.6(b)(3)(ii)(A)(11)(v).

Section 2. That the Director of Finance is authorized to enter into one or more agreements with such parties as may be necessary, for the reasonably proportional response, defined herein, for the Project.

The selection of such parties shall be made by the Board of Control on the nomination of qualified entities as may be determined by the Director of Finance. Any compensation to be paid for such services for the Project shall be fixed by the Board of Control.

Section 3. That the Director of Finance is authorized to apply for and accept any gifts or grants to implement this ordinance from any public or private entity; and that the Director is authorized to file all papers and execute all documents necessary to receive such funds; and that the funds are appropriated for the purposes described in this ordinance.

Section 4. 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 5. That the cost of all agreements authorized by this ordinance shall not exceed two million one-hundred thousand dollars and zero cents ($2,100,000.00) and shall be paid from the Fund Payment, from the fund or funds to which are credited any gifts or grants accepted under this ordinance, and from any other funds that are appropriate for this purpose as determined by the Director of Finance. 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 and shall be fully expended no later than December 31, 2026. (RQS 0117 RL 2021*79)

Section 6. 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

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READ FIRST TIME on JANUARY 9, 2023 **REPORTS**
and referred to DIRECTORS of Finance, Law;
COMMITTEES on Workforce Education Training and Youth Development,
Finance Diversity Equity and Inclusion

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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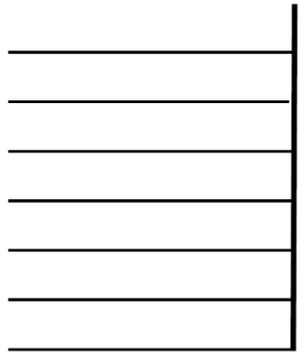
Published in the City Record _____

REPORT
after second Reading

PASSAGE RECOMMENDED BY COMMITTEE ON
WORKFORCE, EDUCATION, TRAINING and YOUTH DEVELOPMENT

FILED WITH COMMITTEE



PASSAGE RECOMMENDED BY COMMITTEE ON
FINANCE, DIVERSITY, EQUITY and INCLUSION

FILED WITH COMMITTEE