

# Ordinance No. 88-2023 AS AMENDED

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 improving the public sector capacity and workforce with respect to building an IT platform to track and report on data in the City's 311 system and to make necessary investments in broadband infrastructure to strengthen City cybersecurity, to the extent necessary; and authorizing the Director of Finance to enter into one or more agreements for such improvements, to be encumbered March 3, 2021, and ending December 31, 2024.

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WHEREAS, the Director of Finance desires to engage one or more qualified vendors to build and implement an enterprise-wide, citizen-engagement IT platform to track residents' non-emergent 311-placed calls for City services or complaints, collect information regarding resident callers, provide a means for residents to track the status of their requests, construct a knowledge portal for City staff taking such calls, and enable real-time reporting and analytics; 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

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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 as well as making necessary investments in broadband infrastructure pursuant to 31 CFR 35.6(b) and 31 CFR 35.6(e), respectively; and

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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 building of an enterprise-wide, citizen-engagement IT platform (the "Project"). The Project includes costs to build a system which: (i) tracks residents' non-emergent 311-placed calls for City services or complaints, (ii) collects information regarding resident callers, (iii) provides a means for residents to track the status of their requests, (iv) constructs a knowledge portal for City staff taking 311-placed calls, (v) enables real-time reporting and analytics development, and (vi) performs other 311-related functions as desired by the City (collectively, the "System Construction Costs"). This Council's decision that the System Construction Costs associated with the Project are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that such costs are to improve government information technology systems designed to further encourage access to, and the user-experience of, government. In addition, this Council finds that the System Construction Costs are specifically enumerated eligible uses of funds pursuant to 31 CFR 35.6(b)(3)(ii)(E)(4) including upgrades to hardware, software, public-facing websites, or

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to data management systems intended to increase public access and improve the delivery of government programs and services.

Section 2. That this Council hereby declares that it is necessary to make investments in broadband infrastructure, to the extent the Project requires the City to improve the resiliency and reliability of the City's broadband infrastructure. The Project includes, to the extent required, investments in securing data maintained under the Project and integrated with other systems, as well as establishing tiered administrative privileges, user-groups, and password security management systems (collectively, the "System Security Costs"). This Council's decision that the System Construction Costs associated with the Project are appropriate by virtue of charging to the City's Fund Payment is based on the consideration that such costs are to make investments in cybersecurity infrastructure designed to improve reliability and resiliency of new and existing broadband infrastructure. In addition, this Council finds that the System Security Costs are specifically enumerated eligible uses of funds pursuant to 31 CFR 35.6(e)(2)(ii) including the addition or modernization of network security hardware and software tools designed to strengthen cybersecurity for the end-users of networks.

Section 3. That the total System Construction Costs and/or System Security Costs authorized by this ordinance by virtue of charging to the City's Fund Payment shall not exceed an amount to be determined as a result of competitive selection, evidenced by one or more agreements entered into between the City and competitively selected and qualified vendors.

Section 4. That the Director of Finance is authorized to enter into one or more agreements with one or more competitively selected and qualified vendors for purpose of supplementing the regularly employed staff of the several departments of the City in order to provide the professional services, and to purchase any licenses, hardware, equipment, or materials, necessary to build and implement the Project. The selection of

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the vendors shall be made by the Board of Control on the nomination of the Director of Finance. The compensation to be paid to the vendors shall be fixed by the Board of Control. The agreements authorized shall be prepared by the Director of Law, contain such terms and conditions as necessary to protect the public interest consistent with the purposes of this ordinance, and approved and certified by the Director of Finance. The agreements shall be fully executed, with funds to be encumbered during the period beginning March 3, 2021, and ending December 31, 2024 and be expended no later than December 31, 2026.

Section 5. That the Director of Finance is authorized to apply for and accept any gifts or grants to implement the Project from any public or private entity; and the Director is further 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 6. That the cost of all agreements authorized in this ordinance, estimated at \$4,000,000, shall be paid from the Fund Payment, from the fund or funds to which are credit gifts or grants accepted under this ordinance, and from any other funds approved by the Director of Finance\_(RQS 0117 RL 2021\*79).

Section 7. 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

