

12/19/22

lst

ORDINANCE NO. 213-22

BY: **ALLAN DIVIS**

(By Request — City Engineer)

AN ORDINANCE AUTHORIZING THE USE OF A PORTION OF THE CITY OF PARMA'S LOCAL FISCAL RECOVERY FUNDS AND AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT WITH THE LOWEST AND BEST BIDDER FOR THE FENWAY STORM SEWER IMPROVEMENT PROJECT PHASE 1 IN THE CITY OF PARMA, AND DECLARING AN EMERGENCY

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 (the "Fund") payments from the U.S. Treasury Secretary to metropolitan cities, nonentitlement units of local government, and counties; and

WHEREAS, pursuant to the ARPA's Fund methodology, the City of Parma was allocated approximately \$23,800,000 (the "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 and local 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 of Parma 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 of Parma duly directs its Fund Payment to finance those costs in compliance with the Criteria, the City of Parma may use the Fund Payment to offset the City of Parma's various fiscal effects from COVID-19 during the period beginning March 3, 2021, and ending December 31, 2024 (the "Covered Period"); and

WHEREAS, the City of Parma received some or all of the Fund Payment directly from the Treasury Department; 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 C.F.R. 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 making necessary investments in water and sewer infrastructure, as authorized under 31 C.F.R. 35.6(e)(1); 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, in the judgment of this Council, the Fenway Storm Sewer Improvement Phase 1 Project will make necessary investments in water and sewer infrastructure under the Criteria, which all determinations as to the eligible use of funds hereunder are at the sole discretion of the Council, pursuant to certain advice it has received from its outside legal counsel, which such advice is to be obtained and maintained in the files of the City Auditor and/or City Law Director; and

WHEREAS, this Council now finds that it is in the best interest and necessary to authorize the Fenway Storm Sewer Improvement Project Phase 1 Project to proceed under the Criteria and Guidance to make expenditures in carrying out necessary investments in water and sewer infrastructure, all as set forth under the ARPA, the Criteria, and its supporting Guidance, and as specifically authorized under 31 C.F.R. 35.6(e)(1).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. That this Council hereby declares that certain Necessary Investments in Water and Sewer Infrastructure, defined herein, duly authorizes the Mayor and/or Director of Public Service to enter into a contract with the lowest and best bidder pursuant to the Ohio Revised Code including section 735.07, and the lowest responsive and responsible bidder under 2 C.F.R. 200.320(b)(1), for the Fenway Storm Sewer Improvement Project Phase 1, at the bid price of \_\_\_\_\_ except for contract modifications pursuant to the requirements of Ohio Revised Code Section 735.07. This Council's decision that such expenditures are appropriate by virtue of charging to the City's Fund Payment is based on the following respective considerations: the Fenway Storm Sewer Improvement Project Phase 1 complies with the Criteria and its supporting Guidance per one or more of the following: (i) the project is eligible under Clean Water State Revolving Funds and/or comprises additional stormwater projects, (ii) the project is eligible under Drinking Water State Revolving Funds and/or comprises additional lead remediation and household water quality testing, or (iii) the project supports increased population, as applicable, all pursuant to the U.S. Treasury, Final Rule, Supplementary Information, at pages 264 – 293 (collectively, "Necessary Investments in Water and Sewer Infrastructure").

Section 2. That the Mayor and/or Director of Public Service are hereby authorized to execute said contract and to take such action and to execute such other documents and amendments, thereto as may be necessary and as are approved by the Law Director.

Section 3. That such non-Fund Payment-sourced funds for said contract shall be paid from Fund No. 192-192 – American Rescue Plan Act; Account No. 62110-00000 – Professional Services.

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements

Section 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City of Parma, and for the further reason that this measure is necessary in order to comply with the funding agency and begin this project as soon as possible, and this Ordinance shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period.

PASSED: \_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
CLERK OF COUNCIL

FILED WITH  
THE MAYOR: \_\_\_\_\_  
MAYOR, CITY OF PARMA, OHIO