

ORDINANCE NO. 140-2021 (F), *First Reading*

By Council Member

An Ordinance authorizing the allocation, appropriation and expenditure of ARPA funds for sewer infrastructure improvement projects, and declaring an emergency.

WHEREAS, on the 11th Day of March 2021, the President of the United States, Joseph R. Biden, signed into law the American Rescue Plan Act of 2021 (hereafter “ARPA”), Public Law 117-2, authorizing, among other things, payment of direct subsidies to the general revenue funds of cities, counties, school districts, and other governmental entities; and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, the intended purpose of the direct subsidy payments to state and local governmental entities under the ARPA is to alleviate the effect of funding shortfalls, invest in state and local economic development, and provide relief from the economic and societal hardships sustained during the onset of the Coronavirus Pandemic and COVID-19 illness; and

WHEREAS, ARPA and the Interim Final Rule provide that ARPA funds may be used, among other reasons, to make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, the City of Cleveland Heights has been notified of ARPA funding in the amount of \$38,817,062, split into two payments with one in 2021 and one in 2022; and

WHEREAS, in 2017, pursuant to Resolution 66-2017, the City entered into a partial consent decree with the United States of America, the U.S. Environmental Protection Agency (EPA), and the State of Ohio related to alleged violations of the Clean Water Act; and

WHEREAS, Section V (F) of the partial consent decree requires that by June 1, 2021, the City submit for EPA review and approval an Integrated Overflow Control Master Plan (IOCMP) developed in accordance with Appendix A to the partial consent decree; and

WHEREAS, the City, working with professional engineers and financial consultants, developed an IOCMP meeting the requirements of the partial consent decree, and timely submitted it for EPA review and approval; and

WHEREAS, the City’s IOCMP submittal included sewer projects necessary to comply with the partial consent decree that would cost in excess of \$40,000,000, in 2021 dollars, over 15 years; and

WHEREAS, this Council has determined that the permitted use of ARPA funds for IOCMP and other necessary sewer projects will speed the initiation and completion of many projects, will

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allow the City to seek grant funding that requires local match funding, will improve the environment of the City and the health and safety of its residents, and will have a powerful impact on sewer rate increases that would otherwise be required to fund the performance of work related to the IOCMP; and

WHEREAS, the City has determined that the investment of ARPA funds into the IOCMP project work is projected to generate savings for Cleveland Heights residents, over 20 years, that exceed four times the ARPA dollars invested; and

WHEREAS, the savings to Cleveland Heights residents through lower sewer rates as a result of the use of ARPA funds for this purpose will be universal and will accrue to the benefit of every household, business and institutional sewer customer in the City, and will enhance the City's competitive position as a community of choice for residents and businesses; and

WHEREAS, there are many competing needs within the City of Cleveland Heights that might be addressed to some extent through the use of ARPA funding; and

WHEREAS, Council at this time determines that a very substantial investment of ARPA funds toward sewer infrastructure projects is in the best interest of the City of Cleveland Heights and its residents.

BE IT ORDAINED by the Council of the City of Cleveland Heights, that:

SECTION 1. Council at this time directs the use of Eighteen Million Dollars (\$18,000,000.00) in ARPA funding for the performance of sewer infrastructure improvement projects described in the IOCMP, and allocates those funds for that purpose, to be drawn upon for design contracts, local match grant programs, and construction contracts, to the maximum possible extent, within the timing requirements of the ARPA and the Interim Final Rule.

SECTION 2. Council will continue to consider uses of ARPA funding to produce the maximum benefit for the City and its residents, which may include the determination in the future to devote additional ARPA funds to IOCMP-related sewer infrastructure in excess of the funding level established in Section 1.

SECTION 3. The Finance Director and the Public Works Director are to periodically update Council on the usage of ARPA monies for IOCMP sewer infrastructure projects, so that it can timely consider uses in accordance with Section 2 and to ensure that if for any reason the allocation described in Section 1 cannot be timely utilized, no ARPA monies go unused.

SECTION 4. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to timely appropriate funding received from

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the ARPA for purposes of performing sewer infrastructure improvement work related to necessary sewer investments including the City's Integrated Overflow Control Master Plan at the earliest possible time, to improve environmental conditions in the City, and to ensure that Cleveland Heights residents receive the maximum possible benefit associated with the earliest possible investment of such funds as described herein. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED: