

RESOLUTION NO. 22-02 ~~OF 2021~~

A RESOLUTION OF THE CITY OF JEANNETTE AUTHORIZING AND APPROVING THE TRANSFER OF FUNDS RECEIVED BY THE CITY OF JEANNETTE UNDER THE AMERICAN RESCUE PLAN (ARP) STATE AND LOCAL FISCAL RECOVERY FUNDS (SLFRF); AUTHORIZING THE EXPENDITURE OF SLFRF FOR REVENUE REPLACEMENT, LEGAL EXPENSES, AND ADMINISTRATIVE EXPENSES; AUTHORIZING THE PREPARATION AND FILING OF NECESSARY REPORTS; ACKNOWLEDGING THE USE OF SLFRF; AND AUTHORIZING RELATED ACTIONS.

WHEREAS, the City of Jeannette, Westmoreland County, Pennsylvania (the "City") is the recipient of certain federal funds known as State and Local Fiscal Recovery Funds ("SLFRF"), which funds were appropriated and distributed as a result of the American Rescue Plan ("ARP"); and

WHEREAS, the amount of SLFRF funds received by the City in the 2021 Calendar and Budget year totaled \$474,884.22 (the "Funds"); and

WHEREAS, the City deposited the Funds into its General Fund at First National Bank (account number ending 2770) on July 14, 2021, for subsequent transfer and use; and

WHEREAS, the City is subject to certain accounting, reporting, and management requirements relating to the Funds; and

WHEREAS, the City desires to comply with all accounting, reporting, and management requirements relating to the Funds, which will be most efficaciously accomplished with the transfer of all of the Funds into a separate, segregated account; and

WHEREAS, the City has established a separate, segregated account identified as the City of Jeannette American Rescue Plan Account at First National Bank (account number ending 7939) for the purpose of holding and managing the Funds; and

WHEREAS, the City desires to amend its Budget for the 2022 Calendar and Budget year to reflect the Funds being received as revenue and to include supplemental appropriations relating to the use of the Funds; and

WHEREAS, the Funds may be used for the purpose of revenue replacement (e.g., revenue loss) as such use constitutes expenditures for the provision of government services (with the exception of pension deposits, contributions to reserve funds, debt service, and other restrictions) and is a permissible expenditure of the Funds pursuant to the Interim Final Rule, Section II.C (pp. 51-61), § 35.6(d) and the Final Rule, Part II, Section C (pp. 233-260), §35.6(d); see also SLFRF FAQs Question 3.8 and Question 9.4, SLFRF Compliance and Reporting Guidance, Part 1(B, C), with a presumption that such revenue loss resulted from the public health emergency; see Final Rule, Part II, Section C (pp. 249-254); and,

WHEREAS, the Interim Final Rule clarifies that "Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity,

including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety service;" and

WHEREAS, the Final Rule further clarifies that "Treasury continues to believe that the lists of activities that either are or are not providing government services are accurate but is clarifying here that, generally speaking, services provided by the recipient governments are "government services" under the interim final rule and final rule, unless Treasury has stated otherwise. Government services include, but are not limited to, maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. The aforementioned list of government services is not exclusive. However, recipients should be mindful that other restrictions may apply, including those articulated in the section Restrictions on Use. In the final rule, Treasury is maintaining the limitations on government services included in the interim final rule and has addressed and responded to public commenters on these issues in the section Restrictions on Use;" and

WHEREAS, applicable rules, guidance, and regulations relating to revenue loss and replacement uses note that: "Consistent with the broad latitude provided to recipients to use funds for government services to the extent of reduction in revenue, recipients will be required to submit a description of services provided. This description may be in narrative or in another form, and recipients are encouraged to report based on their existing budget processes and to minimize administrative burden. For example, a recipient with \$100 in revenue replacement funds available could indicate that \$50 were used for law enforcement operating expenses and \$50 were used for pay-go building of sidewalk infrastructure. As discussed in the Interim Final Rule, these services can include a broad range of services but may not be used directly for pension deposits or debt service;" and

WHEREAS, the Final Rule clarifies that "[i]n the final rule, Treasury is largely maintaining the revenue loss formula as set forth in the interim final rule. To address comments that the formula for calculating revenue loss was difficult to apply, Treasury is including an option for recipients to use a standard allowance for revenue loss. Specifically, in the final rule, recipients will be permitted to elect a fixed amount of loss that can then be used to fund government services. This fixed amount, referred to as the "standard allowance," is set at \$10 million total for the entire period of performance. Although Treasury anticipates that this standard allowance will be most helpful to smaller local governments and Tribal governments, any recipient can use this standard allowance instead of calculating revenue loss pursuant to the formula above, so long as recipients employ a consistent methodology across the period of performance (i.e., choose either the standard allowance or the regular formula). Treasury intends to amend its reporting forms to provide a mechanism for recipients to make a one-time, irrevocable election to utilize either the revenue loss formula or the standard allowance;"

WHEREAS, the City Council desires to elect to use the revenue replacement standard allowance instead of the using the revenue replacement calculation methodology and formula, as permitted pursuant to the Final Rule, § 35.6(d);

WHEREAS, the Funds may be used for the purpose of legal and other consultation expenses as such use constitutes costs and expenses related to the administration and use of the Funds to support effective management and oversight (including consultation for ensuring compliance with legal, regulatory, and other requirements), is a direct cost pursuant to 2 CFR

200.412-200.415, and is a permissible expenditure of the Funds pursuant to Final Rule, Part IV, Section E (pp. 364-366); SLFRF Compliance and Reporting Guidance, Part 1(D)(2); see also SLFRF FAQs Question 10.5; NEU SLFRF Award Terms and Conditions, Section 6; and

WHEREAS, the Funds may be used for the purpose of covering a portion of administration personnel salaries and benefits and other overhead costs as such use constitutes costs and expenses related to the administration and use of the Funds, is an indirect cost pursuant to 2 CFR 200.412-200.415, and is a permissible expenditure of the Funds pursuant to Final Rule, Part IV, Section E (pp. 363-366); SLFRF Compliance and Reporting Guidance, Part 1(D)(2); see also SLFRF FAQs Question 10.2; NEU SLFRF Award Terms and Conditions, Section 6; and

WHEREAS, SLFRF Compliance and Reporting Guidance, Part 1(D)(3) provides and confirms that any interest generated or earned from SLFRF funds is not subject to program restrictions and interest-remission and other requirements; see also SLFRF FAQs Question 10.3 and NEU and Non-UGLGs Agreements and Supporting Documents User Guide; and

WHEREAS, the Funds may not be used for tax offsetting;

WHEREAS, various reports are required to be filed in connection with the Funds and the expenditure and use of the Funds; see Final Rule, § 35.4(c), Part IV, Section H (pp. 370-374); Interim Final Rule, Section VIII (pp. 110-112).

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Jeannette that:

1. The City Council hereby ratifies, authorizes, approves, and directs the transfer of the Funds, totaling \$474,884.22, from the General Fund at First National Bank (account number ending 2770) to the City of Jeannette American Rescue Plan Account at First National Bank (account number ending 7939).

2. The City Council hereby directs the City Clerk, the Chief Fiscal Officer, the City Treasurer, the City Controller, and the Director of Accounts and Finance to retain all records relating to (1) the receipt of the Funds in the General Fund at First National Bank (account number ending 2770); (2) the transfer of the Funds from the General Fund to the City of Jeannette American Rescue Plan Account on August 17, 2021; and (3) the receipt of the Funds in the City of Jeannette American Rescue Plan Account at First National Bank (account number ending 7939).

3. The City Council hereby adopts and implements all federal and state mandatory requirements for the accounting, reporting, management, and use of the Funds, including, without limitation, 2 CFR 200.303 and the requirements described in the Interim Final Rule and the SLFRF Compliance and Reporting Guidance, which federal and state mandatory requirements are incorporated herein by reference.

4. The City Council hereby authorizes and directs the City Clerk, the Chief Fiscal Officer, the Director of Accounts and Finance, the City Controller, the City Treasurer, and the City Solicitor to prepare such safeguards as may be advisable or necessary relating to the accounting, reporting, management, and use of the Funds.

5. The City Council hereby revises, amends, and changes the Budget of the City of Jeannette for the 2021 Calendar Year, as adopted, to add and increase the amount for Line Item 352.530/352.53 (Federal Entitlements to Governmental Units) by \$474,884.22 to reflect such

additional revenue.

6. The City Council does hereby irrevocably elect to use the revenue loss standard allowance, in accordance with the Final Rule (Part II, Section C (p. 240)), and to authorize the supplemental appropriation and expenditure of Funds in the amount of \$474,884.22 as revenue replacement funds used for the provision of government services (with the exception of pension deposits, contributions to reserve funds, or debt service), such amount to be transferred to the General Fund for expenditure (Expenditure Category 6.1), such revenue loss to be presumed to be resulting from the public health emergency.

7. The City Council does hereby appropriate and authorize the use of a portion of the Funds as revenue replacement/revenue loss expenditures for the provision of the following government services: (i) \$120,000.00 for the purchase of Fire Department radios and communication equipment; (ii) \$130,000.00 for the Green Street stormwater facilities project (i.e., the Teacher project); (iii) \$17,000.00 for premium/hazard pay for employees who were employed by the City during the COVID-19 public health emergency period, meaning the period beginning on January 27, 2020, and lasting until the termination of the national emergency concerning the COVID-19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. § 1601, *et seq.*) (as essential workers performing essential work in response to the performance of essential work by those workers during the COVID-19 public health emergency). All such uses qualify both as the provision of government services and also under existing authorized uses for the Funds, although the City Council directs such use, application, and reporting of all such funds to be governed and controlled by the criteria, requirements, restrictions, and conditions of the revenue replacement/revenue loss use in contract to other uses. See Final Rule, Article II, Section A(2)(a) (pp. 55-65), Section B (pp. 219-233), and Section D(1) (pp. 261-293). The City Council further authorizes subsequent appropriations and use of the remainder of the Funds by approval upon motion at subsequent regular or special meetings of the City Council.

8. In addition to the foregoing and as part of the use of the aforesaid revenue replacement/revenue loss funds, the City Council does hereby authorize the supplemental appropriation and expenditure of Funds in the amount of \$4,600.00 to Timothy J. Witt, Esquire, for the provision of legal and other consultation services relating the administration of the Funds, the preparation of the related documents, and the performance of other research and work related thereto, such amount to be transferred to the General Fund for expenditure (Expenditure Category 7.1). An invoice, proposal, quote, or other necessary document describing such consultative work is attached hereto and incorporated herein as Exhibit A.

9. In addition to the foregoing and as part of the use of the aforesaid revenue replacement/revenue loss funds, the City Council does hereby authorize the supplemental appropriation and expenditure of Funds for any and all administration and administrative expenses (including a portion of the payroll and benefits of employees corresponding to the time spent on administrative work relating to the Funds and other COVID-19 public health emergency and negative economic impacts), such amount to be transferred to the General Fund for expenditure (Expenditure Category 7.1). This amount, when considered with other administrative costs, constitute an amount of up to ten percent (10%) of the Funds of the other amounts authorized for expenditure by this Resolution.

10. The City Council does hereby authorize the transfer of any interest generated by and in the City of Jeannette American Rescue Plan Account (being the approximate total amount through January 17, 2022, of \$215.88) to the General Fund to be used for General Fund expenditures of the City.

11. The City Council does hereby acknowledge that the aforesaid authorized uses do not constitute tax offsetting, pension deposits, contributions to reserve funds, debt service (including interest or principal), or the satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding (except if the judgment or settlement required the provision of government services).

12. The City Council does hereby authorize the City Clerk, the Chief Fiscal Officer, the Director of Accounts and Finance, and the City Treasurer to complete and file any and all reports, including, without limitation, Project and Expenditure Reports required to be filed by nonentitlement units of local government (NEUs) on or before April 30, 2022 (for the initial reporting period of the date the City received the Funds through and including March 31, 2022) and on April 30 of each year thereafter, that are required in connection with the administration, use, and expenditure of the Funds.

13. The City Council does hereby adopt a conflicts of interest policy relating to the use of the Funds that is consistent with the Third Class City Code, the State Ethics Act, and existing City ordinances, policies, and practices, including, without limitation, prohibiting (i) any recipient from using control over the Funds, or any portion thereof, for their own private gain, and (ii) any employee, officer, or agent of the City from participating in the selection, award, or administration of a contract paid for or supported by the Funds if he or she has a real or apparent conflict of interest; requiring conflicts disclosure; and by using, where applicable, competitive bidding processes, which policy is incorporated herein by reference.

14. The City Council does hereby authorize and direct all City officials and employees to comply with all federal and state environmental and civil rights laws relating to the Funds or the use of the Funds.

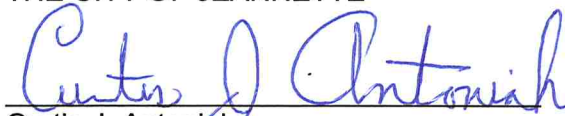
15. The City Council does hereby authorize and direct all City officials and employees to take such actions as may be necessary to effectuate this Resolution and to take all actions necessary thereto.

16. The City Council hereby resolves that all resolutions, or parts of resolutions, which are inconsistent herewith be and hereby are repealed.

17. The City Council hereby resolves that this Resolution shall be immediately effective.

RESOLVED, ENACTED, AND ADOPTED at a meeting of the City Council of the City of Jeannette, Westmoreland County, Pennsylvania, held on the 25th day of February, 2022.

THE CITY OF JEANNETTE


Curtis J. Antoniak
Mayor and President of Council

ATTEST:



Nathan Benjamin Jay Bish
City Clerk

I, Nathan Benjamin Jay Bish, duly qualified City Clerk of the City of Jeannette, County of Westmoreland, and Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by a majority vote of the City Council of the City of Jeannette at a regular meeting held January 25, 2022, and said Resolution has been recorded in the minutes of the City of Jeannette and remains in effect as of this date.

Certified:



Nathan Benjamin Jay Bish
City Clerk