

## Agenda No. 224

### ORDINANCE No.

\*Accept and appropriate \$19,647,973 in Emergency Rent Assistance Program funds from United States Department of the Treasury (Ordinance)

The City of Portland ordains:

**Introduced by**  
Commissioner Ryan

Section 1. The Council finds:

**Bureau**  
Housing

1. On May 20, 2020, Resolution 37487 declared the City of Portland's intent to centralize, guide and coordinate COVID-19 efforts that bolster progress towards the City's long-term equity goals and directs the City's response programs to be in alignment with the Office of Equity and Human Rights: Equity Toolkit for Community Relief and Recovery Efforts.
2. On December 27, 2020, H.R. 133 Consolidated Appropriations Act, 2021 was signed into law, making available \$25 billion to local jurisdictions to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic.
3. On January 8, 2021, the City of Portland submitted certification documents to receive a disbursement of \$19,647,973.30 in Emergency Rent Assistant Program (ERAP) funds from the United States Department of the Treasury, receiving those funds on January 26, 2021.
4. As a result of the State eviction moratorium expiring on June 30, 2021, and the existing houseless crisis in our region, the City has determined that it is necessary to utilize the full amount of ERAP funds for eviction prevention and rent assistance programs through the Portland Housing Bureau.

**Prepared by**  
Anna Shook

**Date Prepared**  
March 15, 2021

**Requested Council Date**  
April 7, 2021

**Requested Agenda Type**  
Regular  
15 minutes

**Date Filed with Clerk**  
March 30, 2021

5. As a result of one in five Portlanders being at risk of eviction and an estimated \$25 million in rental arrears being accrued each month, the Portland Housing Bureau shall work with our jurisdictional and community partners to develop a rent relief program that prioritizes Black, Indigenous and People of Color communities, people living with a disability, and other vulnerable populations who are at or below 50% Area Medium Income.
6. Due to the urgent and immediate need to begin disbursing relief funds, the Council finds it necessary to delegate contract and agreement execution authority to the Portland Housing Bureau Director to manage the Emergency Rental Assistance Program. In addition, the City finds it reasonable and appropriate under these circumstances to forgo any competitive process for awarding procurement contracts and subrecipient grants.

NOW THEREFORE, The Council directs:

- A. The Mayor is hereby authorized to accept on behalf of the City of Portland \$19,647,973.30 in Emergency Rent Assistant Program funds from the United States Department of the Treasury and to execute the grant agreement as attached hereto as Exhibit A.
- B. The FY20-21 budget is hereby amended as follows:  
GRANTS FUND
  - a. Fund 217
  - b. Business Area – HC
  - c. Bureau Program Expenses–         \$5,000,000
- C. The Office of Management & Finance Grants Management Division is authorized to perform and provide oversight of all administrative matters in relation to the federal funds, subrecipient agreements, contracts or amendments, requests for reimbursement, subrecipient grant monitoring, internal and external reporting and to submit required online grant documents on the Mayor’s behalf.
- D. The Director of the Portland Housing Bureau is authorized to accept on behalf of the City of Portland any subsequent modifications by the United States Department of the Treasury for the Emergency Rental Assistance Program, provided such modifications do not increase the City of Portland’s financial obligation or risk. Any modifications that increase the City of Portland’s financial obligation or risk must be authorized by the Portland City Council.

E. The Portland Housing Bureau Director is hereby authorized to execute, amend, and terminate contracts and agreements funded by the Emergency Rental Assistance Payments grant through December 31, 2021.

Section 2. The Council declares that an emergency exists because a delay would unnecessarily delay the City's ability to perform the activities authorized by the grant. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by Council:

**MARY HULL CABALLERO**

Auditor of the City of Portland

By

Deputy

Action taken:

Commissioners voted as follows (Yea or Nay)

Rubio -

Ryan -

Hardesty -

Mapps -

Wheeler -

U.S. DEPARTMENT OF THE TREASURY  
EMERGENCY RENTAL ASSISTANCE

|   |   |
|---|---|
| Recipient name and address:<br>[Recipient to provide] | DUNS Number: [Recipient to provide]<br>Taxpayer Identification Number: [Recipient to provide] |
|---|---|

Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020) authorizes the Department of the Treasury ("Treasury") to make payments to certain recipients to be used to provide emergency rental assistance.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

\_\_\_\_\_  
Authorized Representative:

Title: [To be signed by chief executive officer if recipient is a local government.]

Date signed:

U.S. DEPARTMENT OF THE TREASURY  
EMERGENCY RENTAL ASSISTANCE

1. Use of Funds. Recipient understands and agrees that the funds disbursed under this award may only be used for the purposes set forth in Section 501 of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020) (referred to herein as “Section 501”).
2. Repayment and reallocation of funds.
  - a. Recipient agrees to repay excess funds to Treasury in the amount as may be determined by Treasury pursuant to Section 501(d). Such repayment shall be made in the manner and by the date, which shall be no sooner than September 30, 2021, as may be set by Treasury.
  - b. The reallocation of funds provided by Section 501(d) shall be determined by Treasury and shall be subject to the availability of funds at such time.
3. Availability of funds.
  - a. Recipient acknowledges that, pursuant to Section 501(e), funds provided under this award shall remain available only through December 31, 2021, unless, in the case of a reallocation made by Treasury pursuant to section 501(d), Recipient requests and receives from Treasury an extension of up to 90 days.
  - b. Any such requests for extension shall be provided in the form and shall include such information as Treasury may require.
  - c. Amounts not expended by Recipient in accordance with Section 501 shall be repaid to Treasury in the manner specified by Treasury.
4. Administrative costs.
  - a. Administrative expenses of Recipient may be treated as direct costs, but Recipient may not cover indirect costs using the funds provided in this award, and Recipient may not apply its negotiated indirect cost rate to this award.
  - b. The sum of the amount of the award expended on housing stability services described in Section 501(c)(3) and the amount of the award expended on administrative expenses described in Section 501(c)(5) may not exceed 10 percent of the total award.
5. Reporting.
  - a. Recipient agrees to comply with any reporting obligations established by Treasury, including the Treasury Office of Inspector General, as relates to this award, including but not limited to: (i) reporting of information to be used by Treasury to comply with its public reporting obligations under section 501(g) and (ii) any reporting to Treasury and the Pandemic Response Accountability Committee that may be required pursuant to section 15011(b)(2) of Division B of the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136), as amended by Section 801 of Division O of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260). Recipient acknowledges that any such information required to be reported pursuant to this section may be publicly disclosed.
  - b. Recipient agrees to establish data privacy and security requirements as required by Section 501(g)(4).

6. Maintenance of and Access to Records

- a. Recipient shall maintain records and financial documents sufficient to support compliance with Section 501(c) regarding the eligible uses of funds.
- b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
- c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of Section 501 and Treasury interpretive guidance regarding such requirements. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
  - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180 (including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
  - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

## Exhibit A

- c. Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;
  - ii. The Fair Housing Act, Title VIII-IX of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;
  - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;
  - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - v. The Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
9. False Statements. Recipient understands that false statements or claims made in connection with this award may result in fines, imprisonment, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
10. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
11. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are not repaid by Recipient as may be required by Treasury pursuant to Section 501(d) shall constitute a debt to the federal government.
  - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made. Interest, penalties, and administrative charges shall be charged on delinquent debts in accordance with 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Treasury will refer any debt that is more than 180 days delinquent to Treasury's Bureau of the Fiscal Service for debt collection services.
  - c. Penalties on any debts shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law. Administrative charges, that is, the costs of processing and handling a delinquent debt, shall be determined by Treasury.

- d. Funds for payment of a debt must not come from other federally sponsored programs.

12. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way constitute an agency relationship between the United States and Recipient.

13. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information to any of the list of persons or entities provided below that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for contract or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; and/or
  - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

14. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (April 8, 1997), Recipient should and should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

15. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

## IMPACT STATEMENT

**Legislation title:** \*Accept and appropriate \$19,647,973 in Emergency Rent Assistance Program funds from United States Department of the Treasury (Ordinance)

**Contact name:** Anna Shook

**Contact phone:** 3-2802

**Presenter name:** Shannon Callahan

### **Purpose of proposed legislation and background information:**

- As of January 26, 2021, the City of Portland received \$19,664,923.40 from the U.S. Department of the Treasury to administer local rental assistance payments as part of the Emergency Rental Assistance Program (ERAP).
- Many Portlanders are facing an uncertain future as a result of the coronavirus. As a result, the City has determined it is necessary to use ERAP funds to provide rent assistance that supports households facing extreme economic and housing hardships.
- The purpose of this legislation is to accept \$19,647,973.30, to appropriate \$5,000,000 into the Portland Housing Bureau's 20-21 budget, and delegate authority to the Bureau Director to execute contracts and agreements funded under the program.

### **Financial and budgetary impacts:**

- The legislation –
  - Accepts \$19,647,973.30 in Emergency Rental Assistance Program funds and appropriates \$5,000,000 into the FY2020-21 budget.
- The legislation does not –
  - Authorize additional staffing levels

### **Community impacts and community involvement:**

In the summer of 2020, the Housing Bureau convened four stakeholder and community workgroups to address the housing impacts of the COVID-19 pandemic and associated economic recession. One work group focused exclusively on the rental housing market, and this group developed a series of recommendations for the Housing Bureau and the city to consider implementing to address the rental housing market impacts of the pandemic. In response to this, in Portland and Multnomah County, the city, county, Home Forward, and Joint Office of Homeless Services developed and implemented a joint community centered COVID rent assistance program grounded in racial equity – the City is allocating ERAP resources to support this program. This program is intentional in deploying limited resources through over 40 community based and culturally specific organizations, in order to serve those most impacted by the recession, and those who have been disproportionately marginalized by the systems of society in the past – BIPOC communities. In addition, an open application and lottery will be available for the general public who do not have a connection to a community-based organization, and the program will be implemented in coordination with the state landlord compensation fund.

Locally, it is estimated the Portland housing market experienced 12-15% non-payment rates from May to December due COVID-19 – this translates to an estimated \$160 to \$200 million in rent arrears accumulation in 2020. 1 in 5 Oregon renters rents in Portland, and that number increases to 1 in 4 renters when including all of Multnomah County. When looking at BIPOC communities, through a lens of racial equity – over half of all Black renters, 1 in 3 Asian renters, 1 in 4 Native Hawaiian and Pacific Islander renters, and 1 in 4 multiracial renters in Oregon rent in Portland

The bureau continues to solicit feedback from impacted households, community-based partners, landlords, and other stakeholders to make ongoing modifications to the coordinated COVID rent assistance program.

**100% Renewable Goal:**

Not applicable.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

**YES:** Please complete the information below.

**NO:** Skip this section

| Fund   | Fund Center | Comm. Item | Functional Area  | Funded Program | Grant    | Sponsored Program | Amount      |
|--------|-------------|------------|------------------|----------------|----------|-------------------|-------------|
| 217018 | HCPG000001  | 529001     | CDEHRA00000000GC | Non-Program    | MF000015 |                   | \$5,000,000 |
| 217018 | HCPG000001  | 441000     | CDEHRA00000000GC | Non-Program    | MF000015 |                   | \$5,000,000 |
|        |             |            |                  |                |          |                   |             |
|        |             |            |                  |                |          |                   |             |