

RESOLUTION NO. 2022-01-88

ACCEPT PROPOSAL AND AUTHORIZE
A FORMAL ENGAGEMENT WITH LEGAL CONSULTANT
TO ASSIST WITH MANAGING AND ADMINISTERING AMERICAN RESCUE PLAN ACT
FUNDS (ARPA), AND DECLARING AN EMERGENCY

COMMISSIONERS/GENERAL COUNTY

Mr. Simmons introduced the following Resolution and moved for its adoption:

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, non-entitlement units of local government, and counties; and,

WHEREAS, pursuant to the ARPA’s Fund methodology, Miami County was allocated approximately \$20,800,000 (the “Fund Payment”) to “mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID-19)”; and,

WHEREAS, the ARPA and its supporting U.S. Treasury guidance provide that the Fund Payment may only be used by the County 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 extent of reduction in revenue; and (d) make necessary investments in water, sewer, or broadband infrastructure (collectively, the “Criteria”); and,

WHEREAS, so long as the County duly directs its Fund Payment to finance those costs in compliance with the Criteria, the County may use the Fund Payment to offset the County’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 on July 30, 2021, the US Treasury issued to the Board \$10,390,485.50 of its total ARPA funding allocation \$20,800,000.00, 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 County; and,

WHEREAS, the U.S. Treasury has published Interim Final Rule (31 CFR 35.1 *et seq.*) and its regularly updated Coronavirus State and Local Fiscal Recovery Funds’ Frequently Asked Questions (collectively, the “Guidance”), further explaining the Criteria and the proper use of the Fund Payment during the Covered Period; and,

WHEREAS, the Guidance was updated on June 8, 2021 to allow the use of the ARPA’s Fund to cover the costs of consultants to assist with managing and administering the County’s Fund Payment, to wit: “Recipients may use funds for administering the... program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements” as set forth in the Frequently Asked Questions, Item 10.5; and,

WHEREAS, the County formally engaging Bricker & Eckler LLP for consulting services would duly serve to support the County's effective management and oversight of its Fund Payment as to ensuring compliance with legal requirements; and,

WHEREAS, the County has a sufficient remaining unencumbered balance of its Fund Payment, to be deployed to fund said consulting engagement; and,

WHEREAS, this Board intends to direct the County to formally engage the law firm named herein to provide consulting services to support the County's effective management and oversight of its Fund Payment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Miami, State of Ohio:

SECTION 1. Expenditures to support effective management and oversight of the County's Fund Payment. That this Board hereby declares that its COVID-19 Response, defined herein, duly incorporates the costs of consultants to support effective management and oversight of its Fund Payment. Specifically, this Board authorizes entering into a formal engagement with Bricker & Eckler LLP for legal consulting services, subject to the Criteria, supporting Guidance, the terms and conditions of the consultant's engagement letter or terms of service, and Section 4 of this resolution. This Board's decision that such expenditures are appropriate by virtue of charging to the County's Fund Payment is based on the following: the U.S. Treasury's Guidance was updated on June 8, 2021 to allow the use of the ARPA's Fund to cover the costs of consultants to assist with managing and administering the County's Fund Payment (collectively, the "COVID-19 Response").

SECTION 2. Expenditures incurred during Covered Period. That this Board hereby declares the County's COVID-19 Response expenditures were incurred during the Covered Period under the Criteria and the Guidance; to wit: beginning March 3, 2021 and ending December 31, 2024.

SECTION 3. Engaging Consultants and Local Government Proclamation. That this Board hereby directs such authorized representatives of the County to (i) proclaim that the COVID-19 Response is an allowable use of the County's Fund Payment; and (ii) to take such actions, execute such instruments (including but not limited to engagement letters or emailed terms of service), and direct such efforts so as to give full effect to this Board's determinations and declaration on this subject.

SECTION 4. The County will be billed by Bricker & Eckler LLP based on the standard hourly rates of the attorneys who work on the matter, and the Commissioners hereby appropriate up to \$20,000 to cover such billed time. The Commissioners may consider appropriating such additional amounts from time-to-time for purposes of obtaining legal advice in the use of the County's Fund Payment. In all instances, the Commissioners acknowledge, and hereby designate, that amounts billed by Bricker & Eckler LLP related to the County's use of its Local Fiscal Recovery Fund payment are to be reimbursed to the County from such ARPA funds, pursuant to U.S. Treasury's Guidance as was updated on June 8, 2021.

SECTION 5. As time is of the essence, the duly authorized representatives of the County are directed to take action under this resolution as soon as possible.

SECTION 6. This Board finds and determines that all formal actions of this Board and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting

of this Board, and that all deliberations of this Board and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with Ohio's Sunshine Laws, including Section 121.22 of the Revised Code.

SECTION 7. EMERGENCY CLAUSE: This Resolution is hereby declared to be an emergency measure necessary to provide for the public peace, safety, health, and welfare of the County and to provide immediate assistance needed by County residents in response to the COVID-19 public health emergency.

NOW THEREFORE be it RESOLVED by the Board of Miami County Commissioners that as authorized by Title IX, Subtitle M, Section 9901 of the American Rescue Plan Act, Pub. L. 117-2 [H.R. 1319], it hereby retains Bricker and Eckler to provide legal and professional services related to the administration, use and/or disbursement of ARPA funds in compliance with the American Rescue Plan Act and pertinent Federal, State and Local law and regulation and pursuant to the terms attached hereto; and that said services shall be provided commencing June 8, 2021 and ending December 31, 2024; and that said services shall be billed based on the attorneys standard hourly rates with appropriations up to \$20,000, to be paid from Fund 198.

VOTE ON RULE SUSPENSION: YEAS 3 NAYS _____
ABSTAIN _____

VOTE ON EMERGENCY CLAUSE: YEAS 3 NAYS _____
ABSTAIN _____


Mr. Westfall seconded the motion and the Board voted as follows upon roll call:

Mr. Westfall, Yea; Mr. Simmons, Yea; Mr. Mercer, Yea.

DATED: January 20, 2022

CERTIFICATION

I, Beth A. Booher, Assistant Clerk to the Board of Miami County Commissioners, do hereby certify that this is a true and correct transcript of action taken by the Board under the date of January 20, 2022.


Beth A. Booher, Assistant Clerk

cc: Journal
 Files
 Auditor
 MCC – Carrie Vaughan