

INTRODUCED: March 13, 2023

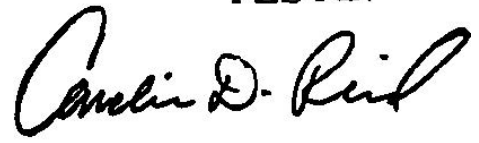
AN ORDINANCE No. 2023-084

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Cooperation Agreement between the City of Richmond and the Economic Development Authority of the City of Richmond, Virginia for the purpose of providing grants and technical assistance to small businesses in the city of Richmond.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

**A TRUE COPY:
TESTE:**



City Clerk

PUBLIC HEARING: MAR 27 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Cooperation Agreement between the City of Richmond and the Economic Development Authority of the City of Richmond, Virginia for the purpose of providing grants and technical assistance to small businesses in the city of Richmond. The Cooperation Agreement shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

§ 2. This ordinance shall be in force and effect upon adoption.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 27 2023 REJECTED: _____ STRICKEN: _____



City of Richmond

Intracity Correspondence

O&R REQUEST

DATE: January 30, 2023 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sabrina B. Joy-Hogg, DCAO, Finance and Administration

THROUGH: Sheila White, Director of Finance

THROUGH: Jason May, Director of Budget and Strategic Planning

THROUGH: Sharon L. Ebert, DCAO, Planning & Economic Development Portfolio

THROUGH: Leonard L. Sledge, Director of Economic Development

FROM: Patricia Foster, Director of the Office of Minority Business Development PF

RE: Transfer of ARPA Funds to the Economic Development Authority for the "Triple A Program"

ORD. OR RES. No. _____

PURPOSE: To (1) authorize the Chief Administrative Officer ("CAO") to execute, for and on behalf of the City of Richmond ("City"), the Cooperation Agreement attached hereto by and between the City and the Economic Development Authority ("EDA") and (2) to approve the transfer of ARPA funds in the amount of \$700,000 to the EDA pursuant to the Cooperation Agreement.

REASON: Council approval is necessary to authorize the City's execution of the Cooperation Agreement.

RECOMMENDATION: The City Administration recommends approval.

BACKGROUND: On October 25, 2021, the City Council of the City of Richmond approved Ordinance Number 2021-291, which accepted the first tranche of American Rescue Plan Act

(ARPA) funds in the amount of \$77,439,914.00 and established the complete ARPA spend plan, which included a total of \$1,000,000 allocated to the Small Business Development category. These grants will be used to assess individual needs of participating small businesses, provide a strategic plan to promote their respective growth and provide grants to execute their growth plan.

This ordinance will authorize the transfer of \$700,000 of such funds to the EDA for the “Triple A Program” approved in the ARPA funding ordinance. Pursuant to the Cooperation Agreement, the EDA will use the funds to provide technical assistance and grants to small businesses. The Office of Minority Business Development will provide staffing and administrative support to the EDA in administering the program.

FISCAL IMPACT / COST: \$700,000 of ARPA funds will be transferred to the EDA.

FISCAL IMPLICATIONS: The City will be able to allocate ARPA funding to stimulate growth for businesses located in the city therefore potentially adding to the city’s revenue through increase business tax revenue.

BUDGET AMENDMENT NECESSARY:

REVENUE TO CITY: N/A

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: February 27, 2023

CITY COUNCIL PUBLIC HEARING DATE: March 13, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Finance & Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: N/A

AFFECTED AGENCIES: Office of Minority Business Development, Economic Development, Finance, Budget, City Attorney’s Office

RELATIONSHIP TO EXISTING ORD. OR RES.: Ord. No. 2021-291

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Cooperation Agreement and Economic Development Authority Grant Contract/Triple A Business Assistance Grant Program

STAFF: Patricia Foster, OMBD

COOPERATION AGREEMENT

THIS COOPERATION AGREEMENT is made this 14 day of ,October by and between the CITY OF RICHMOND, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (“City”) and the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the “Authority”).

STATEMENT OF PURPOSE

- A. Section 15.2-953(B) of the Code of Virginia authorizes the City to make gifts, donations, and appropriations of money to the Authority for the purpose of promoting economic development and Section 15.2-4905(13) of the Code of Virginia grants the Authority the power to make grants to “any person, partnership, association, corporation, business, or governmental entity in furtherance of economic development.”
- B. Whereas the City desires to provide the Authority with Grant Funds in the amount of \$700,000 pursuant to the terms and conditions contained in this Contract and as authorized by the federal American Rescue Program Act (ARPA).
- C. Whereas the ARPA authorizes expenditures for, among other things, technical assistance, loans and grants to assistance small businesses in an effort to promote economic development and recovery from the pandemic.
- D. Whereas, the services provided for in this Contract are for the purpose of promoting economic development for businesses through grants that respond to the negative economic impacts of the pandemic.

NOW, THEREFORE, intending to be legally bound, the City and the Authority agree as follows:

- 1. **Definitions.** The following words and terms used in this Cooperation Agreement have the following meanings unless the context clearly indicates otherwise:
 - 1.1 **Agreement** means this Cooperation Agreement.
 - 1.2 **Eligible Activities** means those activities identified in section 5.1 of this Agreement.
 - 1.3 **Funds** means \$700,000 in City ARPA funds made available for the purpose of establishing and administering the Grants.

- 1.4 **Grant or Grants** means the funds awarded to a Grant Recipient or Recipients.
- 1.5 **Grant Contract** means the contracts by and between the Authority and the recipients of grants funded by this Agreement.
- 1.6 **Grant Program** means the “Triple A Small Business Program” as outlined in Exhibit A attached hereto and made a part hereof.
- 1.7 **Grant Recipient** means an applicant to whom a Grant has been awarded.
- 1.8 **Project Fund** means that account or accounting structure established in accordance with this Agreement which shall contain any funds from any source related to the Grants.
- 1.9 **Small Business** means those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of “small business,” specifically:
- A. Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and
 - B. Are a small business concern as defined in section 3 of the Small Business Act (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation) a business as having no more than 500 employees, is independently owned and operated, and is not dominant in its field of operation.

2. **Duration.** This Agreement will be in force and effect beginning on the date written first above and shall expire when all obligations have been performed and all rights have been fully exercised by both the City and the Authority.

3. **Funding.** The City agrees to transfer the Funds to the Authority as soon as practicable after full execution of this Agreement.

4. **City Undertakings.**

The City’s Office of Minority Business Development (“OMBD”) shall collect, review and approve the Grant Program applications and facilitate the overall operation of the Program, to include:

- A. Providing staff;
- B. Undertaking assessment of the business for eligibility in compliance with ARPA;

- C. Undertaking the “Assess” and “Address” phases of the Grant Program as set forth in Exhibit A;
- D. Making Grant awards based upon the “Activate” phase of the Grant Program as set forth in Exhibit A, including the determination of Eligible Activities to be funded;
- E. Providing necessary resources and mentorship to the Grant Recipients;
- F. Maintaining all documentation and appropriate accounting records relating to the Grants.

5. **Activities to be Funded**

5.1. **Eligible Activities.** Activities funded by the Grant Program must comply with The U.S. Department of Treasury Coronavirus State and Local Fiscal Recovery Funds Final Rule, Federal Register Vol. 87, No. 18 (January 27, 2022)(to be codified at 31 CFR Part 35) pp. 4376 – 4379, attached hereto as Exhibit B.

5.2 **Grant Contracts.** The Authority shall enter into Grant Contracts with the Grant Recipients. Such Grant Contracts shall require that the Grant Recipients expend the Grant by December 30, 2024 as required by the ARPA.

5.3 **ARPA.** The Authority shall obligate the Grant Recipients to abide by the ARPA and to repay a Grant to the Authority in the event the Grant Recipient’s use of the Grant is found to be non-compliant with the ARPA. Should any such Grant be returned to the Authority, the Authority shall return the Grant to the City.

5.4 **Repayment to the City.** Should the Authority fail to expend any Funds by December 30, 2024, the Authority shall return any such unexpended Funds to the City.

6. **City Staff Support.** The City, through its Office of Minority Business Development, in coordination with other City departments, offices, or agencies as deemed appropriate by the Director of the Office of Minority Business Development, shall provide staffing and administrative support to the Authority in administering the Grant Program.

7. **Project Fund.** The Authority shall establish an account or accounting structure to ensure that all funds transferred by the City to the Authority for the Grant Program are used only to satisfy the obligations contained in this Agreement and remain separate from any other funds of the Authority.

8. **Accounting and Audit.** The Authority shall prepare financial reports and statements of all financial activity relating to the Grant Program in accordance with generally accepted accounting principles, or such other or additional method mutually agreeable to the City and the Authority. The Authority may use its accountant to prepare the reports and statements if it chooses, and the Authority may include these reports and

statements in its regular reports and statements on other activities of the Authority. Pursuant to Section 2-187 of the Code of the City of Richmond, the Authority shall, as a condition of receiving monies from the City, be subject to periodic audits of its finances and expenditures of such City monies by the City Auditor on demand and without notice.

9. **Limitations on Authority's Obligations.**

9.1 **Authority Bond.** The Authority shall not be required to furnish the City with a fidelity bond covering all officers or employees of the Authority capable of authorizing disbursements of funds or handling funds received from the City or any other party or disbursed by the Authority to any other party pursuant to this Cooperation Agreement.

9.2 **Authority Liability.** It is the intent of the parties not to impose upon the Authority any responsibility other than what may be required to consummate the transactions contemplated by and perform the obligations specified in this Cooperation Agreement. Accordingly, the Authority does not assume any responsibility or liability whatsoever except as specifically stated herein. Should any liability accrue to the Authority which is not specifically addressed in this Cooperation Agreement, the Authority shall not be required to expend funds the Authority derives from sources other than those provided for by this Cooperation Agreement to discharge such liability. If a lawsuit involving the subject matter of this Cooperation Agreement is filed or expected to be filed against the Authority, the Authority shall immediately notify the City Attorney and Chief Administrative Officer.

9.3 **Availability of Funds.** The Authority's obligation to undertake and perform the activities required of the Authority herein is specifically conditioned on the availability of funds in the Project Fund for the Authority to perform the Authority's obligations hereunder. The Authority shall not be required to expend funds the Authority derives from sources other than those provided for by or described in this Cooperation Agreement for the performance of the Authority's obligations under this Cooperation Agreement. The Authority's obligation to undertake the activities herein is specifically conditioned upon the City providing funding on a timely basis.

10. **General Terms and Conditions.**

10.1 **Captions.** All section titles or captions in this Agreement are for convenience of reference only. They should not be deemed to be part of this Agreement or to in any way define, limit, extend, or describe the scope or intent of any provisions of this Agreement.

10.2 **Counterparts.** This Agreement may be executed by the City and the Authority in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same Agreement. This Agreement, agreements ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by

facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.

10.3 EDA Administrative Fee. The City agrees to pay the Authority \$25,000 from the Funds in the Project Fund to administer the Grant Contracts, prepare financial reports and statements, and to complete any required audits.

10.4 Entire Agreement. This Agreement contains the entire understanding between the City and the Authority and supersedes any prior understandings and written or oral agreements between them respecting this subject matter. There are no representations, agreements, arrangements, or understandings, oral or written, between the City and the Authority relating to the subject matter of this Agreement that are not fully expressed in this Agreement.

10.5 Governing Law and Forum Choice. All issues and questions concerning the construction, enforcement, interpretation and validity of this Agreement, or the rights and obligations of the City and the Authority in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. Any and all disputes, claims and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia. Each party shall be responsible for its own attorneys' fees in the event this Agreement is subject to litigation.

10.6 Modifications. This Agreement may be amended, modified and supplemented only by the written consent of both the City and the Authority preceded by all formalities required as prerequisites to the signature by each party of this Agreement.

10.7 No Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties hereto; provided, however, that in no event may this Agreement or any of the rights, benefits, duties or obligations of the parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither party shall be obligated to give.

10.8 No Individual Liability. No director, officer, employee or agent of the City or the Authority shall be personally liable to another party hereto or any successor in interest in the event of any default or breach under this Agreement or on any obligation incurred under the terms of this Agreement.

10.9 No Third-Party Beneficiaries. Notwithstanding any other provision of this Agreement, the City and the Authority hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than the City or the Authority; (iii) no individual or entity shall obtain any right to make any claim against the City or the Authority under the

provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity

10.10 Notices. All notices, offers, consents, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be considered as properly given or made if delivered personally, by messenger, by recognized overnight courier service or by registered or certified U. S. mail with return receipt requested, and addressed to the address of the intended recipient at the following addresses:

A. To Authority:

Leonard L. Sledge
Executive Director
Economic Development Authority of the City of Richmond, Virginia
1500 East Main Street, Suite 400
Richmond, Virginia 23219

With a copy to

General Counsel to the Economic Development Authority
900 East Broad Street, Suite 400
Richmond, Virginia 23219

B. To the City:

Chief Administrative Officer
900 East Broad Street, Suite 201
Richmond, Virginia 23219

With a copy to

City Attorney
900 East Broad Street, Suite 400
Richmond, Virginia 23219

Either party may change any of its address information given above by giving notice in writing stating its new address to the other party.

10.10 Public Records. The City and the Authority acknowledge and agree that this Agreement and any other records furnished, prepared by or in the possession of the City or the Authority may be subject to the retention and disposition requirements of the Virginia Public Records Act and the public disclosure requirements of the Virginia Freedom of Information Act.

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the day and year first written above.

SIGNATURES ON FOLLOWING PAGE

ECONOMIC DEVELOPMENT
AUTHORITY OF THE
CITY OF RICHMOND, VIRGINIA,
a political subdivision of the
Commonwealth of Virginia

CITY OF RICHMOND, VIRGINIA, a
municipal corporation of the
Commonwealth of Virginia

By: _____
Executive Director

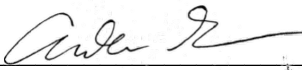
By: _____
J. E. Lincoln Saunders
Chief Administrative Officer

Chairman

Approved as to Form:

Approved as to Form:

Deputy City Attorney



Assistant City Attorney