

**NEIGHBORHOOD
AND COMMUNITY
SERVICES STANDING
COMMITTEE**

49



CITY OF DETROIT
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF DEVELOPMENT AND GRANTS

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE, SUITE 1026
DETROIT, MICHIGAN 48226
PHONE: 313 • 628-2158
FAX: 313 • 224 • 0542
WWW.DETROITMI.GOV

CITY CLERK 2019 MAY 17 PM 12:14:01
April 29, 2019

The Honorable Detroit City Council
ATTN: City Clerk Office
200 Coleman A. Young Municipal Center
Detroit MI 48226

RE: Request to Accept and Appropriate the Strategic Neighborhood Fund Agreement to Support the Revitalization of Certain Parks

The Invest Detroit Foundation has applied for and been awarded, or expects to be awarded, grants in a cumulative amount of \$56,000,000.00 from various corporations and foundations for the Strategic Neighborhood Fund, of which up to \$14,000,000.00 is budgeted for the purpose of improving catalytic parks and greenways within the Strategic Neighborhood Fund neighborhoods. Invest Detroit has also been awarded Civic Commons grant as part of the Strategic Neighborhood Fund initiative in Livernois-McNichols, up to \$400,000.00 of which is budgeted for catalytic park and greenway improvements in that neighborhood.

Invest Detroit has agreed to act as fiscal sponsor for these funds on behalf of the City of Detroit General Services Department, and will reimburse the City's costs and expenses for these improvements on a project-by-project basis.

The objective of this agreement is to revitalize certain parks and greenways as part of the Strategic Neighborhood Fund Initiative. The funding allotted to the department will be utilized to improve multiple parks and greenways throughout the City of Detroit; improvements to each park or greenway will be governed by an individual project scope and budget. This is a reimbursement agreement.

If approval is granted to accept and appropriate this funding, the appropriation number is 20656.

I respectfully ask your approval to accept and appropriate funding in accordance with the attached resolution.


Sincerely,

Ryan Friedrichs
Director, Office of Development and Grants

CC:
Katerli Bounds, Deputy Director, Grants
Sajjiah Parker, Assistant Director, Grants

This request has been approved by the Law Department
This request has been approved by the Office of Budget

CITY CLERK 2019 MAY 17 PM 12:14:01

RESOLUTION

Council Member _____

WHEREAS, the General Services Department is requesting authorization to accept a reimbursement agreement from Invest Detroit, in the amount of \$14,400,000.00, to revitalize certain parks and greenways as part of the Strategic Neighborhood Fund Initiative; and

WHEREAS, this request has been approved by the Law Department; and

WHEREAS, this request has been approved by the Office of Budget; now

THEREFORE, BE IT RESOLVED that the Director or Head of the Department is authorized to execute the reimbursement agreement on behalf of the City of Detroit; and

BE IT FURTHER RESOLVED, that the Budget Director is authorized to establish Appropriation number 20656, and appropriate these funds up to the amount of \$14,400,000.00 on a project-by project basis, for the Strategic Neighborhood Fund Parks Revitalization Agreement.

**STRATEGIC NEIGHBORHOOD FUND PARKS REVITALIZATION
FISCAL SPONSORSHIP AGREEMENT
BETWEEN
THE CITY OF DETROIT
AND
INVEST DETROIT FOUNDATION**

This Fiscal Sponsorship Agreement (“Agreement”) is entered into by and between **INVEST DETROIT FOUNDATION**, a Michigan non-profit corporation, located at 600 Renaissance Center, Suite 1710, Detroit, Michigan 48243 (“INVEST DETROIT”) and **THE CITY OF DETROIT**, a Michigan municipal corporation acting through its General Services Department, located at 18100 Meyers Rd, Detroit, Michigan 48235 (“CITY”), for the purpose of establishing INVEST DETROIT as the fiscal sponsor for certain funding to support the CITY’s revitalization of certain parks as part of its strategic neighborhood fund initiative (“Project”). INVEST DETROIT and the CITY may each be referred to herein as a “Party” or collectively as the “Parties” to this Agreement, as applicable.

RECITALS:

Whereas, the CITY and INVEST DETROIT have established a Strategic Neighborhood Fund (“SNF”), which is intended to spur economic development through layered improvements of parks and other open spaces, strengthening commercial corridors including streetscape improvements and investment in mixed-use multifamily development, and single family stabilization in multiple selected neighborhoods in Detroit which are on the verge of growth; and

Whereas, INVEST DETROIT has applied for and has been awarded, or expects to be awarded, certain grants (“Grants”) in a cumulative amount of up to Fifty-Six Million and 00/100 Dollars (\$56,000,000.00) from various corporations and foundations (collectively, the “Foundations”), of which up to Fourteen Million and 00/100 Dollars (\$14,000,000.00) , is budgeted for the purpose of supporting the Project; and

Whereas, INVEST DETROIT has been awarded funds for the Civic Commons Initiative in the Livernois-McNichols neighborhood, which is also part of the Project, and desires to use a portion of such funds up to an amount of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) for the purpose of supporting the Project; and

Whereas, the \$14,000,000.00 in funding from the Foundations and the \$400,000.00 in Civic Commons Initiative funding identified herein may be collectively referred to as the “Grant Funds” for purposes of this Agreement; and

Whereas, the Project will include improvements to multiple parks and greenways throughout the City of Detroit and improvements to each park or greenway (each an “Individual Project”) will be governed by an individual project scope and budget; and

Whereas, INVEST DETROIT desires to serve as the fiscal sponsor of the Grant Funds for the Project, which will include management of the Grant Funds; and

Whereas, INVEST DETROIT and the CITY desire to enter into this Agreement in order to set forth each Party's roles and responsibilities regarding the management of the Grant Funds in support of the Project;

NOW THEREFORE, INVEST DETROIT and the CITY agree as follows:

Section 1: Fiscal Sponsorship. INVEST DETROIT shall serve as the fiscal sponsor for the Project. In that capacity, INVEST DETROIT will (1) manage a segregated general ledger account ("Account") for the Grant Funds, (2) disburse Grant Funds from the Account to the CITY in furtherance of the Project and in accordance with the terms of this Agreement, and (3) retain a portion of the Grant Funds for administrative purposes in accordance with the agreements between INVEST DETROIT and the Foundations governing the Grants.

Section 2: Fiscal Responsibilities. INVEST DETROIT will notify and provide documentation to the CITY of its receipt of all Grant Funds from the Foundations and deposit of such Grant Funds into the Account. INVEST DETROIT will guarantee the availability of funds for each Individual Project upon approval that such Individual Project is eligible for reimbursement in accordance with the terms of Section 4, herein. Any failure by INVEST DETROIT to guarantee the availability of funding for Individual Projects constitutes a material breach of this Agreement. Throughout the Term of this Agreement, INVEST DETROIT will provide regular reports to the CITY as to its management of the Grant Funds and current balances in the Account.

Section 3: Project Management. The CITY will serve as the general project manager for the Project. The Parties acknowledge that the Project will include the improvements to multiple parks and greenways throughout the City of Detroit. For each Individual Project the CITY will (1) establish general goals, objectives, and priorities for the Individual Project, (2) delineate the scope of the Individual Project, (3) develop a budget for the Individual Project, (4) manage implementation of the Individual Project, including identification of specific activities to be undertaken within the Individual Project scope and key milestones for such activities, and (5) solicit, select, and engage all contractors, consultants and other third-party vendors ("Vendors") for the Individual Project and oversee the day-to-day activities of all such Vendors.

The CITY understands and acknowledges that no such Vendors may be considered third-party beneficiaries to this Agreement and that INVEST DETROIT will not have any privity of contract with or obligations to any Vendors. INVEST DETROIT understands and acknowledges that the CITY will have sole discretion, in accordance with its own standards and procedures, to solicit, select, engage, and oversee all Vendors, including sole discretion to negotiate the pricing and schedules for payment to Vendors and to determine whether any Vendor has failed to adequately perform in accordance with its contract. Within that discretion, the CITY may from time to time keep INVEST DETROIT apprised of its project management of the Project to enable INVEST DETROIT to tailor its fiscal sponsorship activities accordingly

Section 4: Disbursement of Grant Funds. Grant Funds will be disbursed by INVEST DETROIT to the CITY as reimbursement for the CITY's costs and expenses on an Individual Project-by-Project basis. For each Individual Project, the CITY will submit such Individual Project's scope, specific activities, key milestones, and budget to INVEST DETROIT. Upon receipt of such information, INVEST DETROIT must promptly review the Individual Project for consistency with the applicable terms and conditions of the Grants, as well as consistency with the purpose of the Project and, if consistent, approve such project as eligible for reimbursement. If INVEST DETROIT reasonably determines that the Individual Project is not consistent with the applicable terms and conditions of the Grants or the purpose of the Project, it shall promptly notify the CITY of the specific points of inconsistency and collaborate with the CITY to resolve such inconsistencies as quickly as mutually possible, such that INVEST DETROIT can then approve Individual Project as eligible for reimbursement. Any significant change to an approved Individual Project's scope, specific activities, key milestones, or budget is subject to additional review and approval by INVEST DETROIT according to the same process as applicable to the approval of a new Individual Project. Any increase of a budget line item of 5% or more will constitute a significant change to the budget.

INVEST DETROIT shall create and maintain a written register ("Register"), which must make express reference to this Agreement and must identify all Individual Projects that have been approved as eligible for reimbursement under this Agreement and set forth the scope, specific activities, key milestones, and budget associated with each such Individual Project. Upon approval by INVEST DETROIT of a new Individual Project or revision of the associated information for an existing Individual Project, INVEST DETROIT shall update the Register accordingly. The Register is hereby incorporated into this Agreement by reference; however, any revision of the Register will not constitute an amendment of this Agreement subject to Section 13, herein. INVEST DETROIT shall promptly provide the CITY with a copy of the Register upon request by the CITY.

For any approved Individual Project, INVEST DETROIT must disburse the Grant Funds to the CITY as reimbursement for the CITY's costs and expenses associated with the Individual Project, including payments to all Vendors. Immediately upon the CITY's incurrence of a monetary obligation to compensate a Vendor for such Vendor's work in furtherance of the Project, the CITY may invoice INVEST DETROIT for reimbursement up to the full amount of such monetary obligation. Within thirty (30) days following the date of such invoice, INVEST DETROIT shall provide reimbursement by way of payment to the CITY from the Account in the amount identified on the invoice. INVEST DETROIT must not disburse or otherwise obligate Grant Funds in any amount that exceeds the existing balance of Grant Funds in the Account. Overdrafts of the Account are at INVEST DETROIT's sole risk and expense. INVEST DETROIT must not disburse or otherwise obligate any Grant Funds that have been allocated to any Individual Project that has been approved as eligible for reimbursement in accordance with the terms of this Section of this Agreement to any third party other than the CITY without prior written approval by the CITY and is solely responsible for all disbursements or obligations that may be made to any such third-party, with the exception of disbursements necessitated by INVEST DETROIT's fiduciary obligations to the Foundations, as such obligations are established in the terms and conditions of the Grants. INVEST DETROIT's obligation to provide reimbursement to the CITY is limited solely by the cumulative amount of the Grant Funds, less the amount retained by INVEST DETROIT as

reasonable compensation for its fiscal sponsorship activities, as set forth in Section 1, herein of this Agreement.

Section 5: Meetings. The Parties will meet at their mutual convenience, whether in person or via video conference, telephone, or other convenient means on a periodic basis to review the progress of each Party's activities under this Agreement, to coordinate further activities as may be necessary in furtherance of the purpose of this Agreement, and to discuss other relevant issues that may arise from time to time.

Section 6: Recordkeeping and Reporting. Each Party will maintain, and the CITY will request that its Vendors maintain, information pertinent to its activities under this Agreement for at least four (4) years following the conclusion or earlier termination of this Agreement, but in no case for less time than may be required to maintain compliance with Applicable Laws (as defined below).

Section 7: Insurance. INVEST DETROIT will obtain at its sole cost and maintain during the entire Term of this Agreement fidelity bonds or other similar dishonesty insurance protection in an amount not less than the total amount budgeted for any single Individual Project that is approved as eligible for reimbursement under Section 4 of this Agreement, naming the CITY as the insured and covering losses the CITY may incur as the result of fraudulent or dishonest acts by INVEST DETROIT's employees, agents, or contractors.

Section 8: Compliance with Laws. Each Party acknowledges that it is individually responsible for maintaining compliance in all respects with all applicable federal, state, and local laws, rules, regulations, and orders having the binding effect of law (collectively, "Applicable Laws"). Neither Party will be responsible for ensuring the other Party's compliance with Applicable Laws at any time, unless so required under Applicable Laws.

Section 9: Non-Discrimination. The Parties will, in performing its respective activities set forth herein, refrain from refusing, restricting, withholding, or denying any accommodations, services, privileges, advantages or facilities or otherwise discriminating, whether directly or indirectly, on the basis of race, color, ethnicity, national origin, religious beliefs or practices, age, disability, pregnancy, marital status, parental status, military status, employment or educational status, gender, sex, sexual orientation, gender identity or expression, or any other protected classification, in accordance with Chapter 27 of the Detroit City Code and other Applicable Laws.

Section 10: Accordance with Tax-Exemption. The Parties understand that INVEST DETROIT is incorporated as a nonprofit corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Section 501(c)(3)"). The Parties will use best efforts to perform all activities as part of the Project in accordance with INVEST DETROIT's nonprofit status and to refrain from any activities that could foreseeably jeopardize such status, including but not limited to efforts to influence legislation or participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office or otherwise engage in the carrying on of propaganda, within the meaning of Section 501(c)(3). In the event that INVEST DETROIT determines, in its sole but reasonable discretion, that the Project or any Project activities could foreseeably jeopardize its tax-exempt status, it may terminate this Agreement immediately and wind down the activities hereunder as contemplated by Section 12 of this Agreement; provided, that INVEST

DETROIT will notify the CITY and the Foundations of such termination in writing and otherwise comply with the applicable provisions of Section 12 of this Agreement.

Section 11: Avoidance of Conflicts. Neither Party presently has any interest, direct or indirect, and does not intend during the Term (as defined below) of this Agreement to acquire any such interest or employ any person having any such interest, which would conflict in any manner or degree with the performance of this Agreement.

Section 12: Effective Date, Term, and Termination. This Agreement is effective upon its execution by an authorized representative of each of the Parties, approval by the City of Detroit Law Department and Purchasing Director, and adoption by resolution of the Detroit City Council, approved by the Mayor of the City of Detroit, in accordance with the terms of the 2012 City Charter (“Effective Date”). This Agreement will be effective for a term commencing on the Effective Date and continuing until the later of (a) the term of the Grants, or (b) two (2) years, and will remain in effect until the expiration of the later of (a) and (b) above (the “Term”), unless earlier terminated as set forth in this Agreement.

This Agreement can be terminated for cause by either Party upon a finding of material breach and failure to cure such breach by the other Party. If a Party determines that the other Party is in material breach of this Agreement, it may provide written notice of such determination that other Party. The breaching Party will have thirty (30) days after such written notice to cure the breach. If the breaching Party fails to timely cure, the Party not in breach may terminate this Agreement, effective fifteen (15) days after giving notice of termination to the breaching Party. This Agreement can be terminated without cause by mutual agreement of the Parties. Such mutual agreement must be in writing and executed by both Parties, and is effective fifteen (15) days following the date of its execution by both Parties.

Upon the expiration or termination of this Agreement, each Party will wind down its activities under this Agreement so as to reasonably minimize the inconvenience to the other Party. Among other wind down activities, the CITY will provide to INVEST DETROIT final invoicing for all reimbursable obligations and INVEST DETROIT will provide a final accounting of its fiscal sponsorship activities to the CITY. The Parties understand and agree that, upon expiration or termination of this Agreement, the CITY has no obligation to terminate or otherwise wind down its contracts with any Vendor; however, monetary obligations of the CITY to the Vendor incurred after the date of expiration or termination of this Agreement are not eligible for reimbursement under this Agreement.

Section 13: Amendments. No amendment to this Agreement will be effective unless it is in writing, expressly references this Agreement, is executed by a duly authorized representative of each Party and is approved in accordance with the procedure for approval of this Agreement.

Section 14: Notices. Notices, requests, notifications, and other communications (collectively, “Notices”) related to this Agreement by either Party will be given in writing, signed by an authorized representative of the Party, and hand delivered, mailed by first-class mail or by overnight courier, or emailed with receipt confirmation enabled, and addressed as follows:

If to INVEST DETROIT: Invest Detroit Foundation
600 Renaissance Center, Suite 1710
Detroit, Michigan 48243-1802
Attention: Carrie Lewand-Monroe
Email: Carrie.Lewand-Monroe@investdetroit.com

If to the CITY: City of Detroit General Services Department
2 Woodward, Suite 808
Detroit, Michigan 48226
Attention: Jan Anderson
Email: jan@detroitmi.gov

Section 15: Miscellaneous Terms.

A. **Independent Parties.** Each Party acknowledges that INVEST DETROIT and the CITY are independent of each other and do not intend, as a result of this Agreement or otherwise, to become a joint venture, partners, employees, servants, agents, representatives, contractors, or any type of related business entities to one another with respect to the subject matter of this Agreement.

B. **Assignment.** This Agreement sets forth each Party's intended activities in furtherance of the purpose of this Agreement and neither Party intends to delegate or assign this Agreement, or any portion of this Agreement, either voluntarily or involuntarily, or by operation of law, without the prior written notice to the other Party.

C. **Merger.** This Agreement sets forth the entire understanding between the Parties as to their activities in the purpose of this Agreement and all prior discussions, negotiations, communications, and understandings, whether written or verbal, are hereby merged into this Agreement.

D. **Choice of Law and Venue.** The Parties acknowledge that this Agreement will be governed by the laws of the State of Michigan, excluding its choice of laws rules. Any legal suit, action or proceeding arising out of this Agreement will be instituted in the federal courts of the United States of America or the courts of the State of Michigan, in each case located in the City of Detroit and County of Wayne, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

E. **Severability.** In the event that any provision in this Agreement is found by a court to be impermissible or illegal, then that provision shall be stricken from the Agreement and shall be replaced by a provision that is permissible and legal and by mutual agreement of the Parties comes closest to expressing the intent of the stricken provision. The remainder of the Agreement shall remain in full force and effect in accordance with its original overall intent.

F. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, all of which together shall constitute but one document. Each counterpart may be executed by facsimile or electronic signature, which will be deemed to be an original signature, to the extent permitted by Applicable Laws.

[Signatures appear on next page.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates shown below, to be effective as of the Effective Date.

INVEST DETROIT FOUNDATION,
a Michigan nonprofit corporation

By: _____

Name: _____

Its: _____

Date: _____

Approved as to Form Only:

By: _____

Carrie Lewand-Monroe, Counsel to INVEST
DETROIT FOUNDATION

CITY OF DETROIT,
a Michigan municipal corporation

By: _____

Name: _____

Its: _____

Date: _____

THIS CONTRACT WAS APPROVED BY
THE CITY COUNCIL ON _____

APPROVED BY LAW DEPARTMENT
PURSUANT TO SECTION 7.5-206 OF
THE CHARTER OF THE CITY OF DETROIT

Purchasing Director

Date

Corporation Counsel

Date

**THIS AGREEMENT IS NOT VALID OR AUTHORIZED UNTIL APPROVED BY
RESOLUTION OF THE CITY COUNCIL AND SIGNED BY THE PURCHASING
DIRECTOR.**