

**NEIGHBORHOOD
AND COMMUNITY
SERVICES
STANDING
COMMITTEE**



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

January 16, 2020

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

RE: Request to Accept and Appropriate a Sub-award of the Good to Great Multi-Sport Parks Grant

The Detroit Economic Growth Association has awarded the City of Detroit General Services Department with a Sub-award of the Good to Great Multi-Sport Parks Grant, from the Ralph C. Wilson, Jr. Foundation, for a total of \$1,217,550.00. There is no match requirement. The total project cost is \$1,217,550.00.

The objective of the grant is to provide funds for the Multi-Sport Investments Project. The funding allotted to the department will be utilized to make improvements to Rouge Park. This is a reimbursement grant.

If approval is granted to accept and appropriate this funding, the appropriation number is 20768.

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

Sincerely,

DocuSigned by:

A38B48C2052F48B

Ryan Friedrichs
Director, Office of Development and Grants
CC:
Katerli Bounds, Deputy Director, Grants
Sajjiah Parker, Assistant Director, Grants

DocuSigned by:

1E1A2A8BD6C84B3

Office of Budget
DocuSigned by:

392557659A3D409

Agreement Approved as to Form
By the Law Department

CITY CLERK 2020 FEB 7 AM 10:58



Office of Development and Grants

RESOLUTION

Council Member _____

WHEREAS, the General Services Department is requesting authorization to accept a grant of reimbursement from the Detroit Economic Growth Association, in the amount of \$1,217,550.00, to provide funds for the Multi-Sport Investments Project; and

WHEREAS, the Law Department has approved the attached agreement as to form; 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 grant agreement on behalf of the City of Detroit, and

BE IT FURTHER RESOLVED, that the Budget Director is authorized to establish Appropriation number 20768, in the amount of \$1,217,550.00, for a Sub-award of the Good to Great Multi-Sport Parks Grant.

**WILSON FOUNDATION MULTI-SPORT PARKS GRANT – ROUGE PARK PROJECT
FISCAL SPONSORSHIP AGREEMENT
BETWEEN
THE CITY OF DETROIT
AND
DETROIT ECONOMIC GROWTH ASSOCIATION**

This Fiscal Sponsorship Agreement (“Agreement”) is entered into by and between **DETROIT ECONOMIC GROWTH ASSOCIATION**, a Michigan non-profit corporation, located at 500 Griswold Street, Suite 2200, Detroit, Michigan, 48226 (“DEGA”) 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 DEGA as the fiscal sponsor for certain funding to support the CITY’s improvements to Rouge Park as part of a Wilson Foundation grant (“Rouge Park Project”). DEGA and the CITY may each be referred to herein as a “Party” or collectively as the “Parties” to this Agreement, as applicable.

RECITALS:

Whereas, DEGA has been awarded a grant (“Grant”) in the amount of Two Million Five Hundred Sixty-Two Thousand Five Hundred and 00/100 (\$2,562,500.00) Dollars (“Grant Funds”) from the Ralph C. Wilson, Jr. Foundation (“Foundation”) for the purpose of providing funds for the Good to Great: 8 City Parks for Multi-Sport Investments project (“Multi-Sport Project”), which Multi-Sport Project is intended to be undertaken, in part, by the CITY; and

Whereas, the Rouge Park Project is one of the eight targeted investments in city parks which comprise the Multi-Sport Project; and

Whereas, DEGA and the CITY entered into a Memorandum of Understanding (“MOU”) on July 3, 2018 in order to cooperate and coordinate their respective activities in order to provide for fiscal sponsorship of the Multi-Sport Project, a copy of which is attached hereto as Exhibit A; and

Whereas, the City now desires to amend the terms of the fiscal sponsorship with respect to up to \$1,217,550.00 of Grant Funds allocated to the support of the Rouge Park Project (“Rouge Park Project Funds”); and

Whereas, DEGA 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 Rouge Park Project Funds in support of the Rouge Park Project;

NOW THEREFORE, DEGA and the CITY agree to amend the terms for the Rouge Park Project as follows:

Section 1: Fiscal Sponsorship. DEGA shall serve as the fiscal sponsor for the Rouge Park Project. In that capacity, DEGA will (1) serve as the CITY’s fiduciary for the Rouge Park Project Funds, (2) manage a segregated general ledger account (“Account”) for the Grant Funds, (3) disburse

Rouge Park Project Funds from the Account to the CITY in furtherance of the Rouge Park Project and in accordance with the terms of this Agreement. This Agreement does not in itself obligate the DEGA to any additional requirement, covenant, representation, or obligation with respect to the remaining portion of the Grant Funds not identified as Rouge Park Project Funds, which remains governed by the terms of the MOU.

Section 2: Fiduciary Responsibilities. As the CITY's fiduciary for all Rouge Park Project Funds, DEGA will notify the CITY of its receipt of all Rouge Park Project Funds from the Foundation and will deposit such Rouge Park Project Funds into the Account. DEGA will disburse the Rouge Park Project Funds in accordance with the terms of Section 4, herein. Any failure by DEGA to disburse the Rouge Park Project Funds for the benefit of the CITY in support of the Rouge Park Project as required by this Agreement constitutes a material breach of this Agreement. Upon the request of the CITY, DEGA will provide information to the CITY as to its fiduciary management of the Rouge Park Project Funds and current balance of the Rouge Park Project Funds in the Account. The CITY acknowledges that as of the date hereof, DEGA has received Grant Funds in the amount of \$1,621,500 from the Foundation, of which \$1,282,450 has been expended for a contract relating to the Palmer Park component of the Multi-Sport Project and \$62,500 have been reserved for a payment towards the Administrative Fee (as defined in the MOU). The CITY further acknowledges that pursuant to the terms of the Grant the receipt by DEGA of the remaining Grant Funds is contingent on the satisfaction by the CITY of certain conditions within the sole control of the CITY.

Section 3: Project Management. The CITY will serve as the general project manager for the Rouge Park Project. The Parties acknowledge that the Rouge Park Project will include the improvements to Rouge Park, which match those described in the MOU provided in Exhibit A, and for which a scope and budget estimate are provided in Exhibit B. Furthermore, the CITY will (1) manage implementation of the Rouge Park Project, including identification of specific activities to be undertaken within the Rouge Park Project scope and key milestones for such activities, (2) solicit, select, and engage all contractors, consultants and other third-party vendors for the Rouge Park Project ("Vendors") and oversee the day-to-day activities of all such Vendors, and (3) compensate Vendors for the services provided within the scope of the Rouge Park Project and in accordance with Exhibit B. Furthermore, upon request by the DEGA, the CITY will provide the DEGA with all reports and other information required by the Grant or requested by the Foundation regarding the Rouge Park Project.

The CITY understands and acknowledges that no such Vendors will be considered third-party beneficiaries to this Agreement and that DEGA will not have any privity of contract with or obligations to any Vendors. DEGA understands and acknowledges that the CITY will have sole discretion, in accordance with the terms of this Agreement, the Grant, any requirements of the Foundation, and 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 DEGA apprised of its project management of the Project to enable DEGA to tailor its fiscal sponsorship activities accordingly.

Section 4: Disbursement of Rouge Park Project Funds. Rouge Park Project Funds will be disbursed by DEGA to the CITY as reimbursement for the CITY's costs and expenses associated with the Rouge Park Project. Upon the CITY's payment to a Vendor for such Vendor's work in furtherance of the Rouge Park Project, the CITY may invoice DEGA for reimbursement up to the full amount of the payment. Such invoice must include proof of payment in a form reasonably acceptable to DEGA. DEGA must promptly review each invoice it receives for consistency with the budget and scope of the Rouge Park Project and, if consistent, approve such invoice for reimbursement. If DEGA finds that an invoice is not consistent with the budget and scope of the Rouge Park Project, it will promptly notify the CITY of any inconsistencies and collaborate with the CITY to resolve such inconsistencies as quickly as mutually possible, such that DEGA can then approve the invoice for reimbursement. Notwithstanding the foregoing, the DEGA is under no obligation to approve any invoice for the Rouge Park Project, and shall not make any disbursement from the Account, if the DEGA has not received the Rouge Park Project Funds or if such invoice exceeds the total amount of Rouge Park Project Funds available in the Account. Overdrafts of the Account are at DEGA's sole risk and expense. For each approved invoice, DEGA will provide reimbursement to the CITY, by way of transfer from the Account to the CITY in a form acceptable to the DEGA and the CITY in the amount identified on the invoice, within thirty (30) days following approval of the invoice.

DEGA will create and maintain a written register ("Register"), which must make express reference to this Agreement and must identify all requests for reimbursements that have been approved as eligible for reimbursement under this Agreement. As a point of clarification, the Register is not itself a part of this Agreement and any revision of the Register will not constitute an amendment of this Agreement subject to Section 13, herein. DEGA shall promptly provide the CITY with a copy of the Register upon request by the CITY.

DEGA will not disburse or otherwise obligate any Rouge Park Project Funds to any third party other than the CITY without prior written approval by the CITY. DEGA's obligation to provide reimbursement to the CITY is limited solely by the cumulative amount of the Rouge Park Project Funds.

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) and the requirements of the Foundation.

Section 7: Indemnification. DEGA will indemnify, defend, and hold the CITY harmless against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses for attorneys, expert

witnesses and other consultants) that may be imposed upon, incurred by, or asserted against the CITY or its departments, officers, employees, or agents by reason of (a) any grossly negligent act, error, or omission caused by the DEGA; or (b) any fraudulent or dishonest acts by DEGA'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 DEGA 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 Rouge Park Project in accordance with DEGA'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 DEGA determines, in its sole but reasonable discretion, that the Rouge Park Project or any Rouge Park 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 DEGA 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 DEGA final invoicing for all reimbursable obligations and DEGA 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 DEGA: Detroit Economic Growth Association
500 Griswold Street, Suite 2200
Detroit, Michigan 48226
Attention: Amanda Hanlin
Email: ahanlin@degc.org

with a copy to: Detroit Economic Growth Corporation
500 Griswold Street, Suite 2200
Detroit, Michigan 48226
Attention: General Counsel

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

Section 15: Miscellaneous Terms.

A. **Independent Parties.** Each Party acknowledges that DEGA 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.

DETROIT ECONOMIC GROWTH ASSOCIATION,
a Michigan nonprofit corporation

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

Approved as to Form Only:
Counsel to DEGA
By: _____
Rebecca A. Navin, Esq.

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.**

**Exhibit A:
Multi-Sport Park Project Memorandum of Understanding**

[Attached]

**Exhibit B:
Rouge Park Project Scope and Budget Estimate**

[Attached]



DEPARTMENTAL SUBMISSION

DEPARTMENT: Office of the Chief Financial Officer -
Development & Grants

FILE NUMBER: Office of the Chief Financial Officer -
Development & Grants-0021

*** RE:**

Submitting reso. autho.to Accept and Appropriate a Sub-award of the Good to Great Multi-Sport Parks Grant

*** SUMMARY:**

The Detroit Economic Growth Association has awarded the City of Detroit General Services Department with a Sub-award of the Good to Great Multi-Sport Parks Grant, from the Ralph C. Wilson Jr. Foundation, for a total of \$1,217,550.00. There is no match requirement.

*** RECOMMENDATION:**

Submitting reso. autho.to Accept and Appropriate a Sub-award of the Good to Great Multi-Sport Parks Grant

The Detroit Economic Growth Association has awarded the City of Detroit General Services Department with a Sub-award of the Good to Great Multi-Sport Parks Grant, from the Ralph C. Wilson Jr. Foundation, for a total of \$1,217,550.00. There is no match requirement.

*** DEPARTMENTAL CONTACT:**

Name: Jalesa Beck
Position: Administrative Assistant II

*=REQUIRED