



DDA ACTION SUMMARY SHEET

MEETING DATE: August 20, 2024

TOPIC Acceptance of Placemaking Program Grant

BACKGROUND BRIEF:

The Main Street Oakland County team developed a new Program seeking projects that would enhance public spaces in the County. The “Placemaking and Public Spaces Program” provided a very short application window and the DDA applied for support in bringing the “Lumber Yard at Paint Creek” forward for potential funding. The application was accepted “In Full” and recommended for approval by the Oakland County Board of Commissioners.

The Lake Orion DDA, in partnership with the Village of Lake Orion, was awarded \$595,823.00. To accept this award the DDA must agree to provide its own funding of not less than \$1,313,983.00 and adopt the reporting terms and grant conditions contained in the Program Agreement.

The DDA presently has retained approximately \$2,300,000 of project funding, all of which is dedicated to the elements set forth in the Program Grant Application. Therefore, this grant award is not a traditional match, but a committed dedication of existing funds to a project scope that now has a significantly solved gap shortfall. In short, we would spend the budget funding on this project anyway, but now we get to make the public space enhancements even better and more integrated with the principles of Main Street.

FINANCIAL IMPACT:

There will be certain additional administrative functions tied to the project management as a result of the grant, particularly in the form of documenting expenditures that are tied to ARPA based infrastructure funding. This is not only expected, but would be part of our general project administration. We can absorb the staff cost of reporting and administration of the grant without budget impact, and the dedication of DDA budget funds to project specific reporting is expected.

RECOMMENDED MOTION:

Move to approve and adopt a RESOLUTION TO ACCEPT GRANT FUNDING FROM THE MAIN STREET OAKLAND COUNTY PLACEMAKING AND PUBLIC SPACES PROGRAM and authorize execution of the Program Agreement by Executive Director Matthew Gibb.

**PLACEMAKING AND PUBLIC SPACES PROGRAM AGREEMENT FOR LOCAL FISCAL
RECOVERY FUND DISTRIBUTION BETWEEN
OAKLAND COUNTY AND
VILLAGE OF LAKE ORION AND LAKE ORION DOWNTOWN DEVELOPMENT
AUTHORITY**

This Agreement (the "Agreement") is made between Oakland County, a Municipal and Constitutional Corporation, 1200 North Telegraph Road, Pontiac, Michigan 48341 ("County"), and the (1) Village of Lake Orion and (2) Lake Orion Downtown Development Authority (DDA) ("Public Body 1 and 2") 21 E Church Street Lake Orion, MI 48362. County and Public Body may be referred to individually as a "Party" and jointly as "Parties". Notwithstanding any language to the contrary in the Agreement, Public Body is a grantee of the funds it received under the Agreement. Public Body shall comply with all requirements in the Agreement regardless of its classification as a grantee.

PURPOSE OF AGREEMENT. On March 11, 2021, the President of the United States signed the American Rescue Plan Act of 2021 ("ARPA") into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. Oakland County has been allocated \$244,270,949 in Local Fiscal Recovery Fund ("LFRF") dollars under ARPA.

The United States Department of Treasury has issued an interim final rule, and other guidance for qualified uses of LFRF. Those qualified uses include supporting eligible investments in public health expenditures, addressing negative economic impacts caused by the public health emergency, replacing lost public sector revenue, providing premium pay for essential workers, and investing in water, sewer and broadband infrastructure. The County has determined that the distribution of funds in accordance with this Agreement is a qualified use of LFRF funds pursuant to the interim rule and other applicable Department of Treasury guidance.

Placemaking creates quality places essential to dynamic and vibrant communities. Assistance with Placemaking plans will provide economic benefits to the Public Body and the County.

On December 7, 2023, in Miscellaneous Resolution #2023-3615 _ 23-164, the Oakland County Board of Commissioners authorized an appropriation in the amount of Five Million \$5,000,000 dollars from the American Rescue Plan Act, Local Fiscal Recovery Funds, for the Main Street Oakland County Placemaking and Public Services Program to combat the negative economic impacts still lingering in our communities as a result of the COVID-19 pandemic. This Agreement is funded through that program.

County and Public Body enter into this Agreement pursuant to the Urban Cooperation Act of 1967, 1967 Public Act 7, MCL 124.501 *et seq.*, for the purpose of County distributing a portion of its LFRF funds to Public Body.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

1. **DEFINITIONS.** The following words and expressions used throughout this Agreement, whether used in the singular or plural, shall be defined, read, and interpreted as follows:
 - 1.1 **Agreement** means the terms and conditions of this Agreement and any other mutually agreed to written and executed modification, amendment, exhibit and attachment.
 - 1.2 **Application** means a properly submitted written request by a Public Body to the County for an award of Grant Funds.

- 1.3 **Claims** mean any alleged losses, claims, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, liabilities, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are incurred by or asserted against County or Public Body, or for which County or Public Body may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.
- 1.4 **County** means Oakland County, a Municipal and Constitutional Corporation, including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, volunteers, and/or any such persons' successors.
- 1.5 **Day** means any calendar day beginning at 12:00 a.m. and ending at 11:59 p.m.
- 1.6 **Exhibits** mean the following exhibits, which are attached to this Agreement and incorporated by reference therein, or added later by a formal amendment to this Agreement:
- Exhibit A, Grant Award Payments
- Exhibit B, Reporting Requirements
- Exhibit C, Grant Application, Scope of Work and Budget
- 1.7 **Grantee** means the Public Body [City, Village or Township, as defined in 1.11 below] receiving Grant Funds from the County under this Agreement in the manner provided in Section 2, below, which is an entity created by state or local authority or which is primarily funded through state or local authority, including, but not limited to, its Council, Board, its departments, divisions, elected and appointed officials, directors, Board members, Council members, commissioners, authorities, committees, employees, agents, subcontractors, attorneys, volunteers and/or any such person's or entities' successors.
- 1.8 **Grant Funds** means the monetary funds awarded by the County to the Grantee under this Agreement.
- 1.9 **Grantee Funds** means the monetary funds that the Grantee raises on its own for this program.
- 1.10 **Points of Contact** means the individuals designated by the Grantee and County to act as primary contacts for communication and other purposes described herein.
- 1.11 **Public Body** means the Village of Lake Orion and Lake Orion DDA including, but not limited to, its council, its Board, its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, subcontractors, attorneys, volunteers, and/or any such persons' successors. For the purposes of this Agreement, Public Body includes any Michigan court, when acting in concert with its funding unit.
- 1.12 **Public Body Employee** means any employees, officers, directors, members, managers, trustees, volunteers, attorneys, representatives of Public Body, licensees, concessionaires, contractors, subcontractors, independent contractors, agents, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal, representative

or official capacities), and/or any persons acting by, through, under, or in concert with any of the above who use or have access to the funds provided under this Agreement. "Public Body Employee" shall also include any person who was a Public Body Employee at any time during the term of this Agreement but, for any reason, is no longer employed, appointed, or elected in that capacity.

2. **GRANT.** Subject to the terms and conditions of this Agreement, and in reliance upon the Public Body's affirmations set forth below, the County agrees to make, and the Public Body agrees to accept, the grant funds.

- 2.1 County will distribute \$595,823.00 in grant funds to Public Body for the project scope attached and incorporated into this Agreement as **Exhibits A and C**.
- 2.2 PUBLIC BODY UNIQUE ENTITY IDENTIFIER: FF55CJ8S1VN3.
- 2.3 FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): SLFRP2640
- 2.4 CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 21.027
- 2.5 FEDERAL AWARD DATE: May 28, 2021
- 2.6 PERIOD OF PERFORMANCE END: September 30, 2026.
- 2.7 AWARD IS NOT FOR RESEARCH & DEVELOPMENT (R&D): Funds cannot be used for research and development related expenditures.
- 2.8 INDIRECT COST RATE FOR FEDERAL AWARD: Indirect costs are not eligible for this Agreement.
- 2.9 CONTACT PERSON FOR COUNTY/PASS THROUGH ENTITY: John Bry, unless another person is designated in writing by the County.
- 2.10 DEFINED USE OF FUNDS: All grant funds must be expended in accordance with this Agreement and the guidelines for ARPA funds.

3. **PUBLIC BODY'S RESPONSIBILITIES.**

- 3.1 Public Body's grant match requirements are detailed in **Exhibit A**, which is attached hereto and incorporated as part of this Agreement.
- 3.2 Public Body shall invoice the County for the grant amount listed in 2.1. after this Agreement is executed.
- 3.3 Public Body shall submit to Oakland County a status report on the grant funds as provided in **Exhibit B**, including:
- 3.4 Project progress reports, including completion of deliverables included in project scope;
- 3.5 Accounting of incurred expenses and grant funds expended; and
- 3.6 Any other relevant information or records, to be determined by County.
- 3.7 Public Body shall submit to Oakland County a final report by the end of the Agreement or within 30 days after final project completion, whichever date is sooner, on the grant funds, including:
- 3.8 Project completion report;
- 3.9 Full accounting of its expenditure of grant funds;
- 3.10 Certification of its use of grant funds and fulfillment of the terms of the Agreement; and

- 3.11 Any other relevant information, records or other pertinent documentation, which may be requested by the County. If requested by the County, the Public Body shall provide information concerning the Grant Award to the County in a web based format.
- 3.12 Public Body shall respond to and be responsible for Freedom of Information Act requests relating to Public Body's records, data, or other information.
- 3.13 Public Body must comply with any other reporting requirements regarding the grant funds and/or this Agreement, as determined by the County.
- 3.14 Public Body may only use Grant Funds for purposes consistent with those specified by the Public Body in its approved Grant Application, Scope of Work and Budget (**Exhibit C**).

4. COUNTY'S RESPONSIBILITIES.

- 4.1 County has reviewed the Public Body's Grant Application and determined that the Public Body is eligible to receive Grant Funds. County is not obligated or required to provide any additional services that are not specified in this Agreement.
- 4.2 County may use, access, and disclose information concerning this Agreement and the award of Grant Funds described herein to comply with the law, such as a subpoena, court order or Freedom of Information Act request. County may refer all such requests to the Public Body's Point of Contact for their response within the required time frame if the information requested relates to records held by the Public Body.
- 4.3 County shall designate in writing a department, individual, or other entity to oversee the reporting requirements set forth in Section 3 above and **Exhibit B** to ensure timely reporting, accurate accounting, and verification of final certification.
- 4.4 County shall pay the Grant Funds to the Public Body in the manner and upon the conditions set forth in **Exhibit A**. As stated therein, it is understood between the Parties that under no circumstances shall the County be responsible for greater than Forty percent (40%) of the total development cost and that by accepting Grant Funds, the Public Body thereby commits to contributing Grantee Funds in an amount sufficient to fully fund the development cost of the project approved by the County pursuant to its Grant Application, Scope of Work and Budget (**Exhibit C**).

5. PUBLIC BODY AFFIRMATIONS.

- 5.1 Public Body affirms that all representations made to County in connection with its application and this grant were accurate, truthful and complete and remain so. Public Body acknowledges that all representations and information provided have been relied on by the County to provide funding under this Agreement. Public Body shall promptly notify County, in writing, of the occurrence of any event or any material change in circumstances which would make any Public Body representation or information untrue or incorrect or otherwise impair Public Body's ability to fulfill its obligations under this Agreement.
- 5.2 Public Body will comply with any federal, state, or local public health orders or mitigation recommendations regarding the COVID-19 pandemic which are in effect as of the date this Agreement is signed by both Parties.
- 5.3 Public Body may not use grant funds for expenses for which the Public Body has received any other federal funds or emergency COVID-19 supplemental funding, whether it be state, federal, or private in nature, for the same expense. No portion of grant funds may be used for the purpose of obtaining additional Federal funds under any other law of the United States,

except if authorized by law. Public Body shall promptly notify County if it receives insurance proceeds or other disaster assistance (public or private) that duplicates the funding received under this Agreement. Grant funds may not be used to cover expenses that were reimbursed by insurance.

- 5.4 Public Body shall not carry out any activities under this Agreement that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and in accordance with Section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 132 Stat. 3442), which amended Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155). If the Public Body receives duplicate benefits from another source for projects related to this disaster, the Public Body must refund the benefits provided by the County to the County. Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.
- 5.5 Public Body shall use all grant funds it receives under this Agreement by September 30, 2026. Any grant funds not used by that date must be returned to County.
6. **REPAYMENT REMEDIES.** Public Body is subject to repayment to the County of an amount equal to the grant funds received by Public Body in the event Public Body has made material misrepresentations to the County in its application, voluntary bankruptcy or insolvency proceeding are commenced against the Public Body and not set aside within sixty (60) days, or the Public Body fails to otherwise comply with the requirements of this Agreement. In the event County later determines the information Public Body provided in conjunction with this Agreement, or that Public Body was ineligible for the grant funds, or that Public Body's use of the grant funds following receipt was contrary to this Agreement, Public Body agrees to repay the grant funds to County in full. County further retains all rights and remedies allowed in law or equity, including seeking payment of its reasonable costs and expenses incurred enforcing its rights and remedies.
7. **TAX LIABILITY.** County and Public Body agree that to the extent that any part of the aforementioned funds are deemed to be taxable, that Public Body agrees to be fully responsible for the payment of any taxes, including withholding payments, social security, or other funds which are required to be withheld. Public Body agrees to provide County with all information and cooperation necessary to execute a completed 1099-G form; which County will file with the United States Internal Revenue Service. Public Body acknowledges that Public Body will consult with a tax professional regarding the tax implications, if any, of the grant funds, and/or hereby waives the option to do so. Public Body further agrees to indemnify and hold County harmless for the payment of any tax or withholding payments, including any penalty assessed it may owe under this Agreement.
8. **CONFLICT OF INTEREST.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.301, *et seq.* and MCL 15.321, *et seq.*), to avoid any real or perceived conflict of interest, Public Body shall disclose to County the identity of all Public Body Employees and all relatives of Public Body Employees who: a) are employed by the County or are elected or appointed officials of the County, on the date this Agreement is executed; and b) becomes employed or appointed by the County or becomes an elected official of County during the term of the Agreement.
9. **ACCESS TO RECORDS AND AUDIT.**

- 9.1 Grantee shall maintain all records pertinent to the Agreement and any amendments, including backup copies, for a period of five (5) years. The records shall be kept in accordance with generally accepted accounting practices, and the Grantee shall utilize adequate internal controls and shall maintain necessary documentation for all costs incurred, including documentation and an inventory of all equipment purchased with grant funds. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- 9.2 In addition to the Grantor, the U.S. Department of Treasury, or their authorized representatives, shall be provided the right to audit all records pertaining to the expenditure and use of grant funds. All records with respect to any matters covered by this Agreement shall be made available to the Grantor, the Federal awarding agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the audit requirements will constitute a violation of this Agreement.
- 9.3 Grantee must establish and maintain effective internal control over the Federal award that provides reasonable assurance that they are managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award.
- 9.4 Grantee shall provide a final report that is due to Grantor upon the completion of the project. Grantee agrees to submit a detailed and timely grant report covering expenses related to each outlined purpose.
10. **COMPLIANCE WITH LAWS.** Public Body shall comply with all federal, state, and local laws, statutes, ordinances, regulations, and all requirements applicable to its activities under the Agreement and grant. This includes the following:
- 10.1 Public Body must comply with 2 C.F.R. 200.303(e) and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information County designates as sensitive, or the Public Body considers sensitive consistent with applicable Federal, state, and local laws regarding privacy and obligations of confidentiality.
- 10.2 Public Body must comply with 2 C.F.R. 200.322 if it is passing through grant funds/issuing subawards to other entities.
- 10.3 Public Body must comply with 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements. Public Body will not pass-through grant funds to an entity listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov.
- 10.4 Public Body must register at sam.gov.
- 10.5 Public Body must comply with Title VI of the Civil Rights Act of 1964, and any implementing regulations, which prohibits entities receiving Federal financial assistance from excluding from a program or activity, denying benefits or services, or otherwise discriminating against a person on the basis of race, color, national origin (including limited English proficiency),

disability, age, or sex (including sexual orientation and gender identity). All applicable U.S. Department of Treasury Title VI regulations are incorporated into this Agreement and made a part of this Agreement.

- 10.6 Public Body must comply with 2 C.F.R. Part D, Post Federal Award Requirements, being 200.300 et seq., where applicable.

11. DURATION OF INTERLOCAL AGREEMENT.

- 11.1 This Agreement shall be effective when executed by both Parties with resolutions passed by the governing bodies of each Party. The approval and terms of this Agreement shall be entered in the official minutes of the governing bodies of each Party. An executed copy of this Agreement and any amendments shall be filed by the County Clerk with the Secretary of State.
- 11.2 This Agreement shall remain in effect until September 30, 2026, or until cancelled or terminated by any of the Parties pursuant to the terms of the Agreement. Public Body shall comply with the record keeping, reporting, audit response, and fund return requirements of this Agreement after the termination of this Agreement.

12. ASSURANCES.

- 12.1 **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third party, and for the acts of its employees arising under or related to this Agreement.
- 12.2 **Responsibility for Attorney Fees and Costs.** Except as provided for in Sections 7 and 14, in any Claim that may arise from the performance of this Agreement, each Party shall seek its own legal representation and bear the costs associated with such representation, including judgments and attorney fees.
- 12.3 **No Indemnification.** Except as otherwise provided for in this Agreement, neither Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents in connection with any Claim.
- 12.4 **Costs, Fines, and Fees for Noncompliance.** Public Body shall be solely responsible for all costs, fines and fees associated with any misuse of the grant funds and/or for noncompliance with this Agreement by Public Body Employees.
- 12.5 **Reservation of Rights.** This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.
- 12.6 **Authorization and Completion of Agreement.** The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

13. TERMINATION OR CANCELLATION OF AGREEMENT.

- 13.1 County may terminate or cancel this Agreement at any time if it determines that Public Body has expended the grant funds in violation of ARPA requirements or this Agreement. If County terminates or cancels this Agreement, Public Body shall be liable to repay County the amount of money expended in violation of ARPA requirements or this Agreement. County may utilize the provisions in Section 14 to recoup the amount of money owed to County by Public Body.

- 13.2 Public Body may terminate or cancel this Agreement at any time. If Public Body terminates or cancels this Agreement, it shall immediately return to County all grant funds it has received.
- 13.3 If either Party terminates or cancels this Agreement, they shall provide written notice to the other Party in the manner described in Section 21.

14. SETOFF OR RETENTION OF FUNDS

14.1 In any case where Public Body is required to return an amount of money to County under this Agreement, Public Body agrees that unless expressly prohibited by law, County or the Oakland County Treasurer, at their sole option, shall be entitled to set off from any other Public Body funds that are in County's possession for any reason, including but not limited to, the Oakland County Delinquent Tax Revolving Fund ("DTRF"), if applicable. Any setoff or retention of funds by County shall be deemed a voluntary assignment of the amount by Public Body to County. Public Body waives any Claims against County or its Officials for any acts related specifically to County's offsetting or retaining of such amounts. This paragraph shall not limit Public Body's legal right to dispute whether the underlying amount retained by County was actually due and owing under this Agreement.

14.2 Nothing in this Section shall operate to limit County's right to pursue or exercise any other legal rights or remedies under this Agreement or at law against Public Body to secure payment of amounts due to County under this Agreement. The remedies in this Section shall be available to County on an ongoing and successive basis if Public Body becomes delinquent in its payment. Notwithstanding any other term and condition in this Agreement, if County pursues any legal action in any court to secure its payment under this Agreement, Public Body agrees to pay all costs and expenses, including attorney fees and court costs, incurred by County in the collection of any amount owed by Public Body.

15. **DELEGATION OR ASSIGNMENT.** Neither Party shall delegate or assign any obligations or rights under this Agreement without the prior written consent of the other Party.
16. **NO THIRD-PARTY BENEFICIARIES.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity.
17. **NO IMPLIED WAIVER.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.
18. **SEVERABILITY.** If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
19. **PRECEDENCE OF DOCUMENTS.** In the event of a conflict between the terms and conditions of any of the documents that comprise this Agreement, the terms in the Agreement shall prevail and take precedence over any allegedly conflicting terms and conditions.
20. **CAPTIONS.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not

intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural, any reference to gender, and any use of the nominative, objective or possessive case in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.

21. **NOTICES.** Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first-class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (i) the date of actual receipt; (ii) the next business day when notice is sent express delivery service or personal delivery; or (iii) three days after mailing first class or certified U.S. mail.

21.1 If Notice is sent to County, it shall be addressed and sent to: Oakland County Executive, 2100 Pontiac Lake Rd., Waterford, MI, 48328, the Chairperson of the Oakland County Board of Commissioners, 1200 North Telegraph Road, Pontiac, MI, 48328 and to the individual designated by the County as its Point of Contact.

21.2 If Notice is sent to Public Body, it shall be addressed to: 21 E Church Street Lake Orion, MI 48362.

22. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

23. **SURVIVAL OF TERMS.** The Parties understand and agree that all terms and conditions of this Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

24. **ENTIRE AGREEMENT.**

24.1 This Agreement represents the entire agreement and understanding between the Parties regarding the grant funds and supersedes all other oral or written agreements between the Parties. Any amendment to this Agreement shall be in writing, and duly executed by the appropriate authority for each Party.

24.2 The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, (1) Darwin McClary, Village Manager and (2) Matthew Gibb, Executive Director, Village of Lake Orion DDA hereby acknowledges that he/she has been authorized by a resolution of the Village of Lake Orion and Lake Orion DDA, a certified copy of which is attached, to execute this Agreement on behalf of Public Body and hereby accepts and binds Public Body to the terms and conditions of this Agreement.

EXECUTED: _____
(1) Darwin McClary, Village Manager
Village of Lake Orion

DATE: _____

EXECUTED: _____
(2) Matthew Gibb, Executive Director
Village of Lake Orion DDA

DATE: _____

WITNESSED: _____
Sonja Stout, Village Clerk

DATE: _____

IN WITNESS WHEREOF, David Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____
David Woodward, Chairperson
Oakland County Board of Commissioners

DATE: _____

WITNESSED: _____
Oakland County Board of Commissioners
County of Oakland

DATE: _____

EXHIBIT A

Grant Award Payments

It is understood that under no circumstances shall the County be responsible for greater than 40% of the total development cost and that by accepting County Grant Funds, the Public Body thereby commits to contributing Grantee Funds in an amount sufficient to fully fund the development cost of the project as approved by the County pursuant to the Grant Application, Scope of Work and Budget (Exhibit C).

First Grant Award Payment

Within 45 days of the execution of this Interlocal Agreement between Oakland County and the Public Body the County will transfer seventy five percent (75%) of the total grant award to the Public Body.

Final Grant Award Payment

Within 30 days of the County receiving and approving documentation from the Public Body that demonstrates that eligible project development cost expenditures of a minimum amount of two times the first grant award payment have been made by the Public Body, the County will transfer the remaining balance of the total grant award to the Public Body.

Application Number: MSPM2406 – Lake Orion

Total Development Costs: \$1,909,806.00

Total Local Funds: \$1,313,983.00

Total Grant Award: \$595,823.00

Percent of Total Development Costs: 31%

First Grant Award Payment: \$446,867.25

(75% of the Total Grant Award)

Final Grant Award Payment: \$148,955.75

(25% of the Total Grant Award)

EXHIBIT B

Reporting Requirements

The Public Body receiving grant funds must submit Status Reports throughout the project construction process and a final report within 30 days of the end of the Agreement, or project completion, whichever date is sooner. The final report shall include a full accounting of its expenditure of grant funds, certification of its use of grant funds and fulfillment of the terms of the agreement, along with any other relevant information, records or other pertinent documentation.

The first Status Report covers the reporting period from the date the Interlocal Agreement is executed through December 31, 2024. The first Status Report must be submitted to the County no later than January 31, 2025. Subsequent Status Reports cover quarterly reporting periods based on the calendar year starting on January 1, 2025, and continuing through the completion of the project construction. These Status Reports are due to the County no later than the last day of the month following the end of each quarterly reporting period.

The Outcome Report is due to the County one year after the completion of construction.

Oakland County will provide an online form for submitting both the Status Reports and Outcome Report.

Status Report Content

All Status Reports must include documentation of expenditures, project narrative and project photographs.

Documentation of Expenditures

Documentation of Expenditures includes all funds, county and local, spent on the project within the reporting period. A spreadsheet template will be provided to the Public Body for this purpose.

The spreadsheet will require the following information be entered by the Public Body:

- Date of the Expenditure
- Amount of the Expenditure
- Line Item from the PROJECT BUDGET submitted as part of the Grant Application
- Purpose/Description of the Expenditure
- Paid Invoice Reference

Documentation of Expenditures					
No.	Date	Amount	PROJECT BUDGET Line Item	Purpose/Description of the Expenditure	Paid Invoice Reference
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

PDF copies of paid invoices or other Public Body payment transfer records that document that the expenditures itemized in the Excel file have been made. Provide a means (Paid Invoice Reference) for the County to associate the documentation that payment was made with the expenditures.

Status Narrative

Describe the progress made toward implementing the project. The narrative should include describing actions taken that are associated with the expenditures. Include any obstacles or setbacks that have occurred during the reporting period. Also, explain plans or actions to be taken to address any obstacles or setbacks. Highlight positive aspects of the project such as public support and awareness of the project and any new supportive partnerships that may have evolved.

Status Photographs

Include site photographs that show the progress made and illustrate the project expenditures and project narrative.

Outcome Report Content

The Outcome Report is due to the County one year after the completion of construction. This report will document the success the project has had in meeting the measurable outcomes included in the Public Body grant application. It also will include a narrative and supporting photographs of how the public space is being used and programed.

Measurable Outcomes

Include data that support the following outcomes:

- Number of visitors and residents who utilize the newly created public space on an annual basis during special events and functions in the district.
- Number of activities and functions that take place in the public space in the district to draw foot traffic, users and tourists to the district.
- Number of private partners, private contributions and in-kind contributions that supported the completion of the project and on-going programming and maintenance.
- Number of new businesses, or business expansions in the district following the completion of the public space project.

Also, include data for all additional outcomes included in the submitted grant application.

Outcome Narrative

Describe how well the project has advanced the Measurable Outcomes. What aspects of the project have been most successful and what aspects least successful. Describe how the resident and business community have embraced the project. Include a brief description of how the space is being programmed for use. Finally, as guidance for other communities pursuing public space and placemaking projects provide any lessons learned and/or what would you do differently next time undertaking a similar project.

Outcome Photographs

Include site photographs that show the completed project and community residents and visitors using the public space.

EXHIBIT C: Grant Application, Scope of Work and Budget

APPLICANT INFORMATION

Application Number: MSPM2406

QA1. Placemaking and Public Spaces Project Name:

Lumber Yard at Paint Creek

QA2. Municipality Name:

Village of Lake Orion ▼

QA3. Employer Identification Number (EIN):

38-6007183

QA4. Municipality Mailing Address:

Address

21 E Church St

City

Lake Orion

State

MI

ZIP Code

48362

QA5. Point of Contact - Individual that will be responsible for managing this grant.

First Name

Matthew

Last Name

Gibb

Title/Position

Executive Director

Phone

(248) 464-0307

Email Address

gibb@downtownlakeorion.org

Organization (If different from above)

Lake Orion Downtown Development Authority

Name

Lake Orion DDA

Address

118 N Broadway

City

Lake Orion

State

MI

Zip Code

48362

QA6. Describe the project management experience of the individual responsible for managing this grant.
(100 words maximum)

Matthew Gibb will be managing this grant. Mr. Gibb has written, accepted and managed more than 20 federal/state based grants, personally, and has held oversight management of local and county departmental organizations that acted as manager, sub-recipient, and overall administrative reporting agent. He has personally managed more than 50 large development projects, including all aspects of remediation, preservation and incentive based financing.

QA7. Individual submitting this application (If different than above).

First Name

Last Name

Title/Position

Phone Number

Email

ACKNOWLEDGMENTS

QA8. All of the information submitted is accurate and that I have the approval to submit this application on behalf of city/village/township identified above

☒ I acknowledge this statement

QA9. If awarded a grant the city/village/township will be required to enter into an Interlocal Agreement with Oakland County.

☒ I acknowledge this statement

QA10. If awarded a grant and the local DDA or CIA is providing local funding, the DDA or CIA may also be required to enter into the Interlocal Agreement with Oakland County.

☒ I acknowledge this statement

QA11. Obtaining all required local, county and/or state permits, inspections or approvals will be the responsibility of the applicant city/village/township.

☒ I acknowledge this statement

QA12. If awarded a grant the ARPA grant funds will be spent and the County funded elements of the project completed by September 30, 2026.

☒ I acknowledge this statement

PROJECT INFORMATION

QB1. Location - use the applicable fields below and must enter data in at least **ONE** of the three fields.

Site Address(s)

215 S Broadway St Lake Orion MI 48362

Parcel Identification Number(s)

09-11228-016, 09-11-228-020, 09-11-228-004

Written Description (ie. The project sites located within, and along, the Elm Street right-of-way between First and Second Streets)

The original Lumber Yard property, consisting of 4.1 acres, sitting on the North East corner of M-24 and Atwater St

QB2. Site Ownership - Does the applicant city/village/township own the entire project site(s)? If "NO" describe who owns what portions of the project site(s).

☒ YES

☐ NO

QB3. Site and Surrounding Uses Map - Upload the Site and Surrounding Uses Map provided by Oakland County.

Lake Orion Project Map County.pdf
1.6MB

QB4. Project Description - Provide a brief overview of the public spaces project.
(250 words maximum)

This opportunity will reinvent where the community hosts its large gatherings and festivals, while building start-up space for under-served entrepreneurs, a dynamic trailhead for the north end of the Paint Creek Trail, outdoor seating, walk-able access to the downtown district, and public art in both structure and programming. The signature feature is the rehabilitation and activation of three key historic structures, the large original barn and rack pavilion, the coal and yard office, and the canopy of the first supply building. These restored structures will become the bones of a new farmers market, art shows, retro food trailers, private event uses (i.e. weddings at the Lumber Yard) and relaxing mornings. The original railroad will be pulled up and restored into a public history walkway that will lead visitors into and through the site. A new large timber frame pavilion will be erected to host large events, moving the current "tent" area used for festivals out of a parking lot in front of the fire station and Children's Park and eliminating that impediment to the movement of people and safety in the downtown. The original lumber yard office (NW Corner) will be saved and re-imagined into an available space for a gallery, boutique or market. The frontage on M-24 will match a private partner to create a gateway, architecturally modeling the facade(s) of the original structures. This description derives from and improves the design concept plans attached.

To answer the next three questions:

Describe how the proposed public spaces project will address the adverse public health and economic impacts of the pandemic and support improved public health & welfare and overall economic recovery going forward. Frame your response in terms of the downtown district, small businesses, and public health & welfare.

QB5. Downtown District - How will this project positively impact the district?
(100 words maximum)

Beautifying our gateway to downtown is the bonus of activating a new, permanent location for festivals, events and new public markets. Festivals like Dragon on the Lake bring more than 15,000 region wide guests to the district, with temporary structures covering parking and blocking pathways. Replacing rented tents, and gateway blight, with preserved history and open air spaces has a multiplying impact on property values and commerce. The project also allows the connection of bicycles, runners, and visitors to complete their journey into the district, opening more attention to the Paint Creek, and a start up space for small business.

QB6. Small Businesses - How will the project positively impact small businesses in the district?
(100 words maximum)

The project has a solid focus on easing the cost of entry for new artists and entrepreneurs to find a "starting" location, building into its design several spaces intended to diversify our business community, and allowing the DDA to help with rent, location and resources. Our existing small business community is often burdened instead of enhanced as events squeeze into town. These issues are eased by moving the focus of significant pieces of events from our roadways to the lumber yard, adding a new walk-able customer as the project is within 500 steps from the district. Growth through the destination aspects of a regional trailhead and marketplace.

QB7. Public Health & Welfare - How will the project positively impact public health and welfare?
(100 words maximum)

The cleaning up of a 100 year old lumber yard, and its decades of use and impacts on soil, water table, and building contamination, will provide a safe, clean place to gather, shop for produce, listen to music and support community based business and art. Beyond clean soil and safe buildings, programming will be focused on opening community interaction and simply enjoying each others company, pushing back the lingering effects of isolation caused by the pandemic, fighting against depression, and maybe inspiring a bit more walking and biking and all their benefits. There is no greater health impact than a welcoming third place, a coffee, and kind words.

QB8. Describe how the proposed public space project will be primarily utilized (events, concerts, markets, open space, recreation space, etc.). Briefly describe each primary use.
(100 words maximum)

The main pavilion will serve as the gathering spot for large community events, a stage for music, entertainment, vendors, and lots of dancing and laughter. It will also host larger programming for car shows, flower markets, and when not used, ease parking constraints in the district. The restored barn and supply house will be designed for public/private events, weddings, scout ceremonies, reunions, art shows, and groups. The lumber rack will be restored into stalls, allowing regular summer/winter market(s) for regional vendors. Food trucks, canopies, and conversations, a park with a cool market, all building from the original design plans attached.

QB9. Describe how the County ARPA funds be utilized within the scope of the proposed public space project.
(100 words maximum)

ARPA funds will provide capital to assist in building ADA appropriate restroom facilities, pathways for pedestrian movement in and out of the site, and utility placement, including a trailhead water and care station. All additional ARPA funds will be applied towards community gathering assets such as seating, shade canopies, and public art projects.

QB10. Outline the timetable for completion of the County funded elements of the proposed public spaces project by September 30, 2026.
(100 words maximum)

Site demolition and clean up has commenced and final site plans for the development stage of the project will be approved by the Village of Lake Orion in October 2024. It is anticipated that necessary County permitting will be completed by December 2024. The County funded elements, and the project, are anticipated to be completed by October 2025. We are anticipating any delay caused by nature or unknown conditions would extend our anticipated all final date for the full project to January 2026.

QB11. Describe how the proposed public spaces project will be maintained and managed once completed.
(100 words maximum)

The DDA will provide both organizational programming and maintenance. The DDA currently maintains, and funds, several contracts for general maintenance of owned property in the district. Those would be extended, as applicable, as well as our existing general services agreement with the Village of Lake Orion DPW to provide infrastructure maintenance. We employ seasonal grounds workers and incorporate maintenance and use clauses in all contracts. By separate grant, a DDA established/companion non-profit will be assigned general roles in supportive fundraising and programming for community specific goals and small business support.

. Measurable Outcomes

Tracking the measurable outcomes listed below will be required as part of the Interlocal Agreement:

- Number of visitors and residents who utilize the newly created public space on an annual basis during special events and functions in the district.
- Number of activities and functions that take place in the public space in the district to draw foot traffic, users and tourists to the district.
- Number of private partners, private contributions and in-kind contributions that supported the completion of the project and on-going programming and maintenance.
- Number of new businesses, business expansions, and/or public/private investment in the district following the completion of the public space project.

QB12. In addition to tracking those listed above, describe any measurable outcomes unique to the public space project that will be tracked.
(100 words maximum):

In addition to the above, during development will be tracking in kind and service based project support, and will continue that tracking to better build programming and support tools for the success of the Lumber Yard. To better understand why, where and how people are coming to the project, we will be using AI based data to track attendees ,location, distance and method of transportation.

PROJECT PLANS

QC1. Upload project plans, construction drawings, engineering documents, renderings, etc. Combine all documents into one PDF and name **ProjectNameProjectPlans.pdf**.

Lumber Yard at Paint Creek Plans.pdf

22.7MB

application/pdf

QC2. Upload photographs that show the existing site conditions and context from various vantage points. Combine photos onto 8.5 x 11 PDF pages, then into a combined document. Include a name or description on each photo and name the document **ProjectNamePhotos.pdf**.

LumberYard at Paint Creek Photos.pdf

29.8MB

application/pdf

BUDGET

QD1. Upload the **PROJECT BUDGET FORM** (Excel File), name **ProjectNameBudget.xlsx**.

Lumber Yard at Paint Creek Budget.xlsx

19.2KB

application/vnd.openxmlformats-officedocument.spreadsheetml.sheet

QD2. Enter the following amounts from the **PROJECT BUDGET** (Excel File)

Total Development Costs

Green Cell

\$1,909,806.00

Total Local Funds

Purple Cell

\$1,313,983.00

Requested County ARPA Funds

Orange Cell

(Not to exceed 40% of Total Development Cost)

\$595,823.00

NOTE: The amounts shown above have been edited to match the approved amounts included in Exhibit A and the Project Budget Form.

QD3. Upload proof of funding commitment for each source of local funds listed in the **PROJECT BUDGET**. Proof of funding commitment can include local government, CIA and DDA resolutions, letters of financial commitment, copies of approved budget documents and documentation of other grant awards that are

specified to be used for the public space project. Combine documents into one PDF file, assign A-F to each source and name **ProjectNameFundingProofA_F.pdf**.

Lumber Yard at Paint Creek Funding Proof A-F.pdf

3.1MB

application/pdf

PROJECT SUPPORT

QE1. Upload any documentation of local support. Documentation of local support can include resolutions and/or letters of support from local government, DDAs, CIAs, community and business organizations, schools, and businesses. Please combine all letters into one PDF document to upload and name **ProjectNameSupport.pdf**.

Lumber Yard at Paint Creek Support.pdf

9.4MB

application/pdf

ADDITIONAL SUPPORT

QF1. Upload any additional support items for this project here and name **ProjectNameAdditionalSupport.pdf**.

Lumber Yard at Paint Creek Additional Support.pdf

3.9MB

application/pdf