

**MICHIGAN ECONOMIC DEVELOPMENT CORPORATION
GRANT WITH
CITY OF NOVI**

The Michigan Economic Development Corporation (the “MEDC”) enters into a binding agreement (the “Agreement”) with City of Novi (the “Grantee”). As used in this Agreement, the MEDC and Grantee are sometimes individually referred to as a “Party” and collectively as “Parties.”

Grantee: City of Novi
45175 Ten Mile Rd
Novi, Michigan 48375

I. **NATURE OF SERVICES.** The purpose of this Agreement is to provide funding to the Grantee for a park splash pad (the “Grant Activities”).

II. **PERFORMANCE SCHEDULE.**

Starting Date: October 1, 2023

Ending Date: December 31, 2024

The term of this Agreement (the “Term”) shall commence on the Starting Date and shall continue until the occurrence of an event described in Section IX of this Agreement.

III. **INCORPORATION BY REFERENCE.** The following documents are incorporated by reference as binding obligations, term, and conditions of this Agreement.

Exhibit A: Grantee’s Budget

In the event of any inconsistency between the provisions of Exhibit A and this Agreement, the provisions of this Agreement shall control.

IV. **PAYMENT SCHEDULE INFORMATION.**

A. The MEDC agrees to pay the Grantee a sum not to exceed Two Hundred Thousand Dollars (\$200,000) (the “Grant”). This Agreement does not commit the MEDC to approve requests for additional funds during or beyond the Term.

B. MEDC requires that payments under this Agreement be processed by electronic funds transfer (EFT). Grantee is required to register to receive payments by EFT at the State Integrated Governmental Management Applications (SIGMA) Vendor Self Service (VSS) website (www.michigan.gov/VSSLogin).

- C. The Grant shall be disbursed in two tranches. Subject to Section IV.B., an initial disbursement of 50% of the Grant funds shall be made by the MEDC to the Grantee within thirty days of execution of this Agreement by both Parties (the "Initial Payment").
- D. Additional funds shall only be disbursed after verification that the previous payment has been expended, in full, in accordance with this Agreement and Grantee's Budget, including providing appropriate supporting documentation. A second, and final, payment of the remaining 50% of the Grant funds under this Agreement shall be made by the MEDC to Grantee upon receipt and approval by the Grant Administrator of Grantee's supporting documentation showing that the remaining costs for which payment is requested have been appropriately expended in accordance with Grantee's Budget. Supporting documentation may include invoices, accounting ledgers, and/or other supporting documentation as approved by the Grant Administrator. Grantee shall provide such documentation to Grant Administrator when requesting disbursement, or at Grant Administrator's request through the Term. Grant Administrator shall provide Grantee with appropriate submission instructions of Grantee's supporting documentation. Grantee's supporting documentation may be subject to a final audit prior to the release of final payment.
- E. The Grantee agrees that all funds shown in the Budget, described in Exhibit A, are to be spent as specified. Grantee may not submit a request for the same costs twice. Grantee may reallocate expenditures between the categories identified in Grantee's Budget of up to ten percent (10%) of the total Grant funds without prior written approval of the Grant Manager. Changes greater than ten percent (10%) of the total Grant Funds are only allowed upon review and written approval by the Grant Administrator. The addition of any Budget categories requires review and written approval by the Grant Administrator.
- V. **MEDC GRANT ADMINISTRATOR.** The Grantee must communicate with the MEDC representative named below or his or her designee regarding this Agreement. The Grant Administrator may be changed, at any time, at the discretion of the MEDC.
- Kristyn Blackmer (the "Grant Administrator")
Michigan Economic Development Corporation
300 North Washington Square
Lansing, Michigan 48913
blackmerk1@michigan.org
- VI. **GRANTEE DUTIES.**
- A. The Grantee agrees to submit documentation of the expenditures of funds

in accordance with Grantee's Budget (Exhibit A) and submit quarterly progress reports in form and substance satisfactory to the MEDC. Quarterly reporting shall include, at a minimum, the status of the Grant Activities and an accounting of all funds expended on Grant Activities during that quarter.

- B. The Grantee shall ensure the amount paid for such services, supplies, and/or materials identified in Grantee's Budget shall be necessary to accomplishing the Grant Activities and will not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered, or the supplies or materials are furnished.

VII. RELATIONSHIP OF THE PARTIES.

- A. Due to the nature of the services described herein and the need for specialized skill and knowledge of Grantee, the MEDC is entering into this Agreement with Grantee. As a result, neither Grantee nor any of its employees or agents is or shall become an employee of the MEDC due to this Agreement.
- B. Grantee will provide the services and achieve the results specified in this Agreement free from the direction or control of the MEDC as to means and methods of performance.
- C. Grantee assumes full responsibility for any insurance or other fringe benefits, including, but not limited to, Social Security, Worker's Compensation, income tax withholdings, retirement or leave benefits for its employees. The MEDC is not responsible for any such insurance or other fringe benefits.
- D. Including those items provided for in Grantee's Budget in order for Grantee to achieve the Grant Activities, all tools, supplies, materials, equipment, and office space necessary to carry out this Agreement are the sole responsibility of Grantee.
- E. Grantee shall retain all control of its employees and staffing decisions independent of the direction and control of the MEDC.

VIII. ACCESS TO RECORDS. During the Term, and for seven (7) years after the Ending Date, the Grantee shall maintain reasonable records, including evidence that the services actually were performed and the identity of all individuals paid for such services, and shall allow access to those records by the MEDC or their authorized representative at any time during this period.

IX. TERMINATION. This Agreement shall terminate upon the earlier of the following:

- A. The Ending Date.
- B. Termination by the MEDC:

1. By giving thirty (30) calendar days prior written notice to the Grantee in the event of fraudulent behavior or other egregious circumstances directly relating to the Grantee or the Grant Activities not otherwise covered by Section XIX of this Agreement, which would in the judgment of the MEDC CEO, reflect unfavorably on the State of Michigan if the Agreement were not terminated; or
 2. In the event that the Legislature of the State of Michigan the State Government, or any State official, commission, authority, body, or employee or the federal government (a) takes any legislative or administrative action which fails to provide, terminates, or reduces the funding necessary for this Agreement; or (b) takes any legislative or administrative action, which is unrelated to the source of funding for the Agreement, but which affects the MEDC's ability to fund and administer this Agreement and other MEDC programs, provided, however, that in the event such action results in an immediate absence or termination of funding, cancellation may be made effective immediately upon delivery of notice to the Grantee; or
 3. Pursuant to Section XIX of this Agreement.
- X. **MEDC EMPLOYEES.** The Grantee will not hire any employee of the MEDC to perform any services covered by this Agreement without prior written approval from the Chief Executive Officer of the MEDC.
- XI. **CONFIDENTIAL INFORMATION.** Except as required by law, the Grantee shall not disclose any information, including targeted business lists, economic development analyses, computer programs, databases, and all materials furnished to the Grantee by the MEDC without the prior written consent of the MEDC. All information described in this Section shall be considered "Confidential Information" under this Agreement. Confidential Information does not include: (a) information that is already in the possession of, or is independently developed by, Grantee; (b) becomes publicly available other than through breach of this Agreement; (c) is received by Grantee from a third party with authorization to make such disclosures; or (d) is released with MEDC's written consent.
- XII. **PUBLICATIONS.** Except for Confidential Information, the MEDC hereby agrees that researchers funded with this Agreement shall be permitted to present at symposia, national, or regional professional meetings, and to publish in journals, theses, or dissertations, or otherwise of their own choosing, the methods and results of their research. Grantee shall at its sole discretion and at its sole cost and expense, prior to publication, seek intellectual property protection for any Inventions (as described in Section XIII) if commercially warranted. Grantee shall submit to the MEDC a listing of articles that Grantee has submitted for publication resulting from work performed hereunder in its quarterly report to the MEDC.

Grantee shall acknowledge the financial support received from the MEDC, as appropriate, in any such publication.

XIII. INTELLECTUAL PROPERTY RIGHTS. Grantee shall retain ownership to the entire right, title, and interest in any new inventions, improvements, or discoveries developed or produced under this Agreement, including, but not limited to, concepts know-how, software, materials, methods, and devices ("Inventions") and shall have the right to enter into license agreements with industry covering Inventions.

XIV. CONFLICT OF INTEREST. Except as has been disclosed to the MEDC, Grantee affirms that neither the Grantee nor its Affiliates or their employees has, shall have, or shall acquire any contractual, financial business, or other interest, direct or indirect, that would conflict in any manner with Grantee's performance of its obligations under this Agreement or otherwise create the appearance of impropriety with respect to this Agreement.

Grantee further affirms that neither Grantee nor any affiliates or their employees has accepted or shall accept anything of value based on an understanding that the actions of the Grantee or its affiliates or either's employees on behalf of the MEDC would be influenced. Grantee shall not attempt to influence any MEDC employee by the direct or indirect offer of anything of value. Grantee also affirms that neither Grantee, nor its Affiliates or their employees has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Grantee or its Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the execution of this Agreement.

In the event of change in either the interests or services under this Agreement, Grantee will inform the MEDC regarding possible conflicts of interest which may arise as a result of such change. Grantee agrees that conflicts of interest shall be resolved to the MEDC's satisfaction or the MEDC may terminate this Agreement. As used in this Paragraph, "conflict of interest" shall include, but not be limited to, conflicts of interest that are defined under the laws of the State of Michigan.

XV. INDEMNIFICATION AND GRANTEE LIABILITY INSURANCE. Except for its payment obligations under this Agreement, the MEDC, its corporate board of directors, executive committee members including its participants, its officers, agents, and employees (the "MEDC Persons") is not liable for any claims or any damages that may arise out of, or relate to, this Agreement.

The Grantee will provide and maintain its own general liability, property damage, and Worker's Compensation insurance. The insurance shall be written for not less than any limits of liability required by law for the Grantee's obligation under this Agreement.

XVI. TOTAL AGREEMENT. This Agreement, together with Exhibit A incorporated herein, is the entire agreement between the Parties superseding any prior or

concurrent agreements as to the services being provided, and no oral or written terms or conditions which are not contained in this Agreement shall be binding. This Agreement may not be changed except by mutual agreement of the Parties reduced to writing and signed.

- XVII. ASSIGNMENT/TRANSFER/SUBCONTRACTING.** Except as contemplated by this Agreement, the Grantee shall not assign, transfer, convey, subcontract, or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of the MEDC. Any future successors of the Grantee will be bound by the provisions of this Agreement unless the MEDC otherwise agrees in a specific written consent. The MEDC reserves the right to approve subcontractors for this Agreement and to require the Grantee to replace subcontractors who are found to be unacceptable.
- XVIII. COMPLIANCE WITH LAWS.** The Grantee is not and will not during the Term be in violation of any laws, ordinances, regulations, rules, orders, judgments, decrees, or other requirements imposed by any governmental authority to which it is subject, and will not fail to obtain any licenses, permits, or other governmental authorizations necessary to carry out its duties under this Agreement.
- XIX. DEFAULT.** The occurrence of any one or more of the following events or conditions shall constitute an "Event of Default" under this Agreement, unless a written waiver of the Event of Default is signed by the MEDC: (a) any representation, covenant, certification, or warranty made by the Grantee shall prove incorrect at the time that such representation, covenant, certification, or warranty was made in any material respect; (b) the Grantee's failure generally to pay debts as they mature, or the appointment of a receiver or custodian over a material portion of the Grantee's assets, which receiver or custodian is not discharged within sixty (60) calendar days of such appointment; (c) any voluntary bankruptcy or insolvency proceedings are commenced by the Grantee; (d) any involuntary bankruptcy or insolvency proceedings are commenced against the Grantee, which proceedings are not set aside within sixty (60) calendar days from the date of institution thereof; (e) any writ of attachment, garnishment, execution, tax lien, or similar writ is issued against any property of the Grantee, which is not removed within sixty (60) calendar days. (f) the Grantee's failure to comply with the reporting requirements hereof; (g) the Grantee's failure to comply with any obligations or duties contained herein; and/or (h) Grantee's use of the Grant funds for any purpose not contemplated under this Agreement.
- XX. AVAILABLE REMEDIES.** Upon the occurrence of any one or more of the Events of Default, the MEDC may terminate this Agreement immediately upon notice to the Grantee. The termination of this Agreement is not intended to be the sole and exclusive remedy in case any Event of Default shall occur and each remedy shall be cumulative and in addition to every other provision or remedy given herein or now or hereafter existing at law or equity.

- XXI. REIMBURSEMENT.** If this Agreement is terminated as a result of Section XIX(h) hereof, the MEDC shall have no further obligation to make a Grant disbursement to the Grantee. The Grantee shall reimburse the MEDC for disbursements of the Grant determined to have been expended for purposes other than as set forth herein as well as any Grant funds, which were previously disbursed but not yet expended by the Grantee.
- XXII. NOTICES.** Any notice, approval, request, authorization, direction, or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes: (a) on the delivery date if delivered by electronic mail or by confirmed facsimile; (b) on the delivery date if delivered personally to the Party to whom the same is directed; (c) one business day after deposit with a commercial overnight carrier, with written verification of receipt; or (d) Three business days after the mailing date, whether or not actually received, if sent by U.S. mail, return receipt requested, postage, and charges prepaid, or any other means of rapid mail delivery for which a receipt is available. The notice address for the Parties shall be the address as set forth in this Agreement, with the other relevant notice information, including the recipient for notice and, as applicable, such recipient's facsimile number or electronic mail address, to be as reasonably identified by notifying Party. The MEDC and Grantee may, by notice given hereunder, designate any further or different addresses to which subsequent notices shall be sent.
- XXIII. ACCESS TO RECORDS AND INSPECTION RIGHTS.** During the Term, there will be frequent contact between the Grant Administrator and the Grantee. Until the end of the Term, to enable the MEDC to monitor and ensure compliance with the terms of this Agreement, the Grantee shall permit the MEDC to visit the Grantee, and any other location where books and records of the Grantee are normally kept, to inspect the books and records, including financial records and all other information and data relevant to the terms of this Agreement, including the expenditure of the Grant disbursements; provided, however, that such audit right shall survive the end of the Term by three (3) years. At such visits, the Grantee shall permit any employee or agent of the MEDC to make copies or extracts from information and to discuss the affairs, finances, and accounts of the Grantee related to this Agreement with its officers, employees, or agents. The MEDC shall have the right to remove, photocopy, photograph, or otherwise record in any way any part of such books and records with the prior written consent of the Grantee, which consent shall not be unreasonably withheld.
- XXIV. GOVERNING LAW.** This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced, and governed under the laws of the State of Michigan without regard to the doctrines of conflict of laws. The terms of this provision shall survive the termination or cancellation of the Agreement.
- XXV. COUNTERPARTS AND COPIES.** The Parties hereby agree that the faxed

signatures of the Parties to this Agreement shall be as binding and enforceable as original signatures; and that this Agreement may be executed in multiple counterparts with the counterparts together being deemed to constitute the complete agreement of the Parties. Copies (whether photostatic, facsimile or otherwise) of this Agreement may be made and relied upon to the same extent as though such copy was an original.

XXVI. JURISDICTION. In connection with any dispute between the Parties under this Agreement, the Parties hereby irrevocably submit to jurisdiction and venue of the Michigan circuit courts of the State of Michigan located in Ingham County. Each Party hereby waives and agrees not to assert, by way of motion as a defense or otherwise in any such action any claim; (a) that it is not subject to the jurisdiction of such court; (b) that the action is brought in an inconvenient forum; (c) that the venue of the suit, action, or other proceeding is improper; or (d) that this Agreement or the subject matter of this Agreement may not be enforced in or by such court.

XXVII. SEVERABILITY. All of the clauses of this Agreement are distinct and severable and, if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or provision of this Agreement. To the extent possible, the illegal, void, or unenforceable provision shall be revised to the extent required to render the Agreement enforceable and valid, and to the fullest extent possible, the rights and responsibilities of the Parties shall be interpreted and enforced to preserve the Agreement and the intent of the Parties. Provided, if application of this section should materially and adversely alter or affect a Party's rights or obligations under this Agreement, the Parties agree to negotiate in good faith to develop a structure that is as nearly the same structure as the original Agreement (as may be amended from time to time) without regard to such invalidity, illegality, or unenforceability.

XXVIII. PUBLICITY. At the request and expense of the MEDC, the Grantee will cooperate with the MEDC to promote the Grant Activities through one or more of the placement of a sign, plaque, media coverage, or other public presentation at the project or other location acceptable to the Parties.

XXIX. SURVIVAL. The terms and conditions of sections VII, VIII, XI, XV, XVII, XXIV, XXVI, and XXVII shall survive termination of this Agreement.

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The signatories below warrant that they are empowered to enter into this Agreement.

GRANTEE ACCEPTANCE:

City of Novi

Dated: _____

By
Its

MEDC ACCEPTANCE:

Michigan Economic Development Corporation

Dated: _____

Linda Asciutto
SVP and General Counsel

EXHIBIT A

GRANTEE'S BUDGET

1. Grantee: City of Novi		2. Project Title: Jessica's Splashpad			
3. Project Cost Elements		4. Funding Sources			
Activities	Other/Additional Notes	Michigan Enhancement Grant	Local Funding	Other Funding	Total
Construction:	splash pad, restrooms, mechanical room	\$200,000	\$ 2,053,910.94	\$ 400,000.00	
Engineering	design, construction, geotechnical services		\$ 253,808.70		
Equipment:	aquatic equipment		\$ 208,910.26		
Water & Sewer Infrastructure	water and sanitary sewer service installation		\$ 52,509.00		
Construction Contingency	remaining funds available budgeted		\$ 240,869.11		
Total		\$ 200,000.00	\$ 2,810,008.01	\$ 400,000.00	\$ -