



Missouri Department of
Economic Development

House Bill 7 Funding Agreement
Fiscal Year 2024

This agreement ("Agreement") is entered into by and between the Department of Economic Development, an executive branch agency of the State of Missouri ("DED"), and Recipient (together with DED a "Party" or collectively the "Parties").

1. IDENTIFYING INFORMATION

A field with an asterisk (*) is a defined term in this Agreement.

RECIPIENT* City of Kansas City, Missouri	RECIPIENT'S PARENT (if applicable) Not applicable
STATE OF ORGANIZATION Missouri	TYPE OF ENTITY Municipality
MAXIMUM FUNDING AMOUNT* \$28,600,000	EFFECTIVE DATE OF AWARD July 1, 2023
PERIOD OF PERFORMANCE* July 1, 2023 to June 30, 2024 FY24 REIMBURSEMENT DEADLINE: June 10, 2024	FUNDING SOURCE AND GENERAL DESCRIPTION § 7.024, planning, design, and construction of a park above an interstate in Kansas City
NOTICE TO RECIPIENT* City of Kansas City, Missouri Attn: Brian Platt, City Manager 414 E. 12 th Street, 29 th Floor Kansas City, MO 64106 Email: brian.platt@kcmo.org WITH COPY TO Law Department 414 E. 12 th Street, 28 th Floor Kansas City, MO 64106 Email: law@kcmo.org	NOTICE TO DED* Department of Economic Development Attn: Bradley Clark Director of New Programs Federal Initiatives Mail: PO Box 1157 Jefferson City, MO 65102 Physical: 301 W. High Street, Suite 720 Jefferson City, MO 65101 Phone: 573/395-6055 Email: Bradley.Clark@ded.mo.gov

2. RECITALS

- 2.1. The Missouri General Assembly appropriated, and the Governor approved, \$28,600,000 for DED "For the planning, design, and construction of a park above an interstate in any city with more than four hundred thousand inhabitants and located in more than one county" from the "General Revenue Fund" for State Fiscal Year 2024 (July 1, 2023 – June 30, 2024, "FY24") (House Bill 7, § 7.024) (the "Appropriation").
- 2.2. Recipient sought the Appropriation through an elected senator or representative.
- 2.3. Kansas City is the city described in the appropriation.

- 2.4. Recipient has been identified to DED as the entity responsible for implementing the activities described in the Appropriation.
- 2.5. The Parties wish to set forth their mutual expectations and obligations with respect to the Appropriation for Recipient, and agree as follows:

3. DEFINITIONS

- 3.1. As used in this Agreement, capitalized terms have the meanings set forth in the introductory clause, Sections 1 (terms followed by an asterisk), 2, and 4 of this Agreement, and as follows:
 - (a) "General Revenue Funds" mean the financial assistance Recipient may receive from DED under this Agreement, which must not exceed the Maximum Funding Amount in Section 1 of this Agreement.
 - (b) "Request for Reimbursement" means the form, including accompanying and supporting documentation, completed by Recipient and submitted to DED to request payment from General Revenue Funds.
 - (c) "RSMo" means the Revised Statutes of Missouri.

4. RECIPIENT'S REPRESENTATIONS AND OBLIGATIONS

- 4.1. Recipient represents the following:
 - (a) Recipient sought the Appropriation through an elected senator or representative.
 - (b) The Appropriation was sought for the planning, design, and construction of a 5.5-acre park bridging a four-block section above Interstate 670 from Grand Boulevard to Wyandotte Street that will:
 - (i) connect the south side of Kansas City's Central Business District (CBD) and the Crossroads Arts District.
 - (ii) connect Kansas City's Bartle Hall Convention Center and T-Mobile Arena.
 - (iii) include open lawns, a play area, dog park, amphitheater, musical pavilion, and community plaza.(Collectively, the "Project").
 - (c) Upon completion, the Project is expected to:
 - (i) provide recreational spaces, landscaping, and community programming that will promote lifestyle and health benefits for residents, employees, and tourists in the area; and
 - (ii) benefit Kansas City's residents, the CBD, and Crossroads Arts District, and the area's tourism industry.
 - (d) The Project has federal funding of \$28,600,000 and additional federal funding of approximately \$75,000,000 is being sought. The Project has \$10,000,000 in city funding. The Project will have approximately \$75,000,000 in private finding, \$25,000,000 of which has already been raised.
 - (e) The Project would not occur without the General Revenue Funds.
- 4.2. Recipient shall use General Revenue Funds from the Appropriation for the Project as set forth in this Agreement, and solely for the purpose set forth in the Appropriation.
 - (a) Recipient will use the General Revenue Funds for preconstruction activities including preliminary and final design and professional services (approximately \$2.5 million) and for hard construction costs (approximately \$26.1 million).

- 4.3. Recipient understands and agrees that the General Revenue Funds under the Appropriation have only been appropriated for FY24. Recipient understands that DED does not include continuation of one-time line-item appropriations such as the one for this Project in its budget requests. To receive General Revenue Funds or other state funding after June 10, 2024, Recipient shall be responsible for securing State appropriation(s) for the Project for FY25 (July 1, 2024, to June 30, 2025), or later, if necessary.

5. REIMBURSEMENT OF COSTS

- 5.1. Recipient shall only be reimbursed for costs that are for the Project.
- 5.2. To be paid from the current FY24 appropriation authority, Recipient must submit Request(s) for Reimbursement to DED no later than June 10, 2024.
- 5.3. Recipient may submit Requests for Reimbursement to DED with all necessary supporting documentation, including invoices and proof of payment of the invoices.
- (a) Each Request for Reimbursement shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly):
- (i) Invoice/reference number (assigned by Recipient);
 - (ii) Invoice date;
 - (iii) Invoice period (to which the reimbursement request is applicable);
 - (iv) "Missouri Department of Economic Development";
 - (v) Recipient name;
 - (vi) Recipient remittance address;
 - (vii) Recipient contact for invoice questions (name, phone, and email, if available); and
 - (viii) Itemization of reimbursement requested for the invoice period detailing, at minimum, all of the following:
 - a. The total amount reimbursed under this Agreement to date; and
 - b. The total amount requested for the invoice period.
- (b) Each proof of payment shall clearly identify the associated invoice(s) for which payment was made.
- (c) Upon review and approval of Recipient's Request for Reimbursement, DED shall reimburse Recipient's costs with General Revenue Funds, not to exceed the Maximum Funding Amount in Section 1 of this Agreement.
- 5.4. DED is not liable for any of Recipient's obligations, expenditures, or commitments in any amount in excess of the Maximum Funding Amount in Section 1 of this Agreement.

6. REPORTING

- 6.1. Recipient shall provide DED with quarterly progress reports (March 31, June 30, September 30, and December 31) on a form provided by DED, to include the following:
- (a) Project completion status;
 - (b) Anticipated Project completion date;
 - (c) Description of activities during the quarter;
 - (d) Status of expenditures; and
 - (e) Expected Project outcomes at completion.

- 6.2. Recipient shall provide DED with a final report no later than forty-five (45) days after the Project is complete, which shall include the final status of expenditures and identify actual Project outcomes.

7. RECORD RETENTION AND ACCESS

- 7.1. Recipient shall establish and maintain, during the term of this Agreement, all books of account, reports, and records in accordance with generally accepted accounting practices and standard for records directly related to this Agreement. Recipient agrees to make available to DED, during normal business hours, all book of account, reports and records relating to this Agreement for the duration of this Agreement and retain them for a minimum period of one (1) year beyond the end of the Period of Performance.
- 7.2. Recipient must give the State, DED, the Missouri State Auditor, and their authorized representatives, access to any records (electronic and otherwise) of Recipient related to this Agreement in order to conduct inspections, audits, or other investigations. Recipient must also give timely and reasonable access to its personnel for the purpose of interview and discussion related to such records.

8. TERMINATION

- 8.1. This Agreement shall automatically terminate 90 days from the end of the Period of Performance or an earlier termination of this Agreement pursuant to Section 9 of this Agreement.
- 8.2. Upon termination, Sections 1 (table), 2 (recitals), 3 (definitions), 6 (reporting), and 9 (default and remedies), of this Agreement shall survive and continue in force.

9. DEFAULT AND REMEDIES

- 9.1. Recipient's knowing misrepresentation of a material fact to DED in this Agreement, a Request for Reimbursement, or in any communication or document in connection with this Agreement, is a default event, in which case DED may cancel this Agreement, and Recipient shall have no right or claim to the Appropriation and shall forfeit and repay the General Revenue Funds received by Recipient under this Agreement.
- (a) For the purposes of this Section 9.1 of this Agreement, "knowing" means Recipient's shareholders, directors, officers, and other employees know or should have known, after reasonable investigation.
- 9.2. Recipient's failure to comply with the terms of this Agreement, or failure to make sufficient progress so as to endanger performance, are default events, in which case DED may take one or more of the following actions:
- (a) Temporarily withholding General Revenue Funds pending the correction of the deficiency;
- (b) The disallowance of costs and the establishment of an accounts receivable;
- (c) Wholly or partially suspending or terminating this Agreement; and
- (d) Such other remedies as may be legally available.

10. STANDARD TERMS

- 10.1. **Federal Laws and Regulations.** This Agreement may be subject to the laws and regulations of the United States. Recipient must comply with all applicable requirements of all Federal laws, regulations, executive orders, and policies governing the Program in addition to those specifically stated in this Agreement.

- 10.2. **State Laws and Regulations.** This Agreement is subject to the laws and regulations of the State of Missouri. Recipient must comply with all applicable requirements of all Missouri laws, regulations, executive orders, and policies governing the Project in addition to those specifically stated in this Agreement.
- 10.3. **Recipient Status.** Recipient is an independent contractor and shall not represent Recipient or Recipient's employees to be employees of DED.
- 10.4. **Authorized Employees – Missouri Law.** Pursuant to § 285.530.1 RSMo, Recipient must not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri.
- (a) Recipient submitted an Affidavit Pursuant to § 285.530 RSMo and Recipient's Employment Eligibility Verification Program ("E-Verify") Memorandum of Understanding to DED.
 - (b) Recipient hereby reaffirms its enrollment and participation in E-Verify with respect to the employees working in connection with this Agreement.
- 10.5. **Funds Availability.** Funding for this Agreement must be appropriated by the Missouri General Assembly and approved by the Governor for each fiscal year in which Recipient submits Request(s) for Reimbursement to DED. Recipient understands and agrees that appropriated funds may be reduced unilaterally by the State through withholdings made pursuant to the Missouri Constitution, Article IV, § 27. Therefore, this Agreement shall not be binding upon DED for any period in which funds have not been appropriated or approved, and DED shall not be liable for any damages or costs, including attorney's fees, associated with cancellation caused by such unavailability of funds.
- 10.6. **Notices.** All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and addressed as set forth in Notice to Recipient and Notice to DED in Section 1 of this Agreement.
- (a) Notwithstanding Section 10.7 of this Agreement to the contrary, DED and Recipient may from time to time designate, unilaterally and by written notice given under this Section 10.6 to the other, additional or substitute contact information.
 - (b) All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation of receipt, whichever occurs first.
- 10.7. **Amendments.** This Agreement may be amended, supplemented, reduced, or superseded only by a writing executed by the Parties.
- 10.8. **Interpretation.** In this Agreement, unless the context otherwise reasonably requires:
- (a) Headings are for reference purposes only and shall not alter the interpretation of this Agreement;
 - (b) Words importing the singular may include the plural and vice versa, as reasonably required by context;
 - (c) References to any document include references to such document as amended, novated, supplemented, varied, or replaced from time to time;
 - (d) References to a statute, regulation, federal notice, or executive order means such statute, regulation, federal notice, or executive order as amended from time to time; and

- (e) References to a party to this Agreement includes that Party's legal successors (including but not limited to executors and administrators) and permitted assigns.
- 10.9. **Governing Law.** The validity, interpretation, construction, and performance of this Agreement shall be governed by the laws of the State of Missouri.
- 10.10. **Consent to Jurisdiction.** Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the State of Missouri in Cole County, Missouri, and by signing and delivering this Agreement to DED, Recipient hereby voluntarily and irrevocably accepts, generally and unconditionally, to the personal jurisdiction of the aforesaid courts.
- 10.11. **No Assignment.** Recipient shall not assign, including by merger (if Recipient is the disappearing entity), consolidation, dissolution, or operation of law, any of its rights or obligations under this Agreement, except with the prior written consent of DED. Any purported transfer in violation of this Section 10.11 will be void.
- 10.12. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective authorized successors and assigns.
- 10.13. **No Third-Party Beneficiaries.** This Agreement does not contemplate any third-party beneficiaries, nor shall it be construed to create any legal right nor authorize a cause of action by any person who is not a Party.
- 10.14. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected.
- 10.15. **Legal Capacity.** The signatories to this Agreement on behalf of the Parties represent that they have full capacity and authorization to sign this Agreement and bind their respective Parties.
- 10.16. **No Violation of other Contracts.** The signing, delivery, and performance of this Agreement by Recipient will not violate, conflict with, require consent under, or result in any breach or default under the provisions of any material contract or agreement to which Recipient is a party.
- 10.17. **Licenses, Permits, and Approvals.** Recipient has obtained, or is capable of obtaining, all material licenses, authorizations, approvals, consents, or permits required by applicable laws to conduct its business generally and to perform its obligations under this Agreement.
- 10.18. **Counterparts.** This Agreement may be signed by the Parties in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 10.19. **Electronic Signatures.** The Parties agree that electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this writing and have the same force and effect as a wet signature. Delivery of a copy of this Agreement or any other document contemplated by this Agreement bearing a wet or electronic signature by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing a wet or electronic signature.

- 10.20. **Electronic Documents.** Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

11. ENTIRE AGREEMENT

- 11.1. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter of this Agreement and supersedes all other agreements, whether written or oral, between the Parties.

Department of Economic Development

By:

Michelle Hataway, Acting Director

Date signed

City of Kansas City, Missouri

By:

Brian Platt, City Manager

Date signed