



**OFFICE OF THE
CHIEF FINANCIAL OFFICER**
Office of Development and Grants

Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 1026
Detroit, Michigan 48226

Phone 313•628•1258
Fax 313•224•0542
www.detroitmi.gov

February 13, 2024

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

**RE: Request to Accept and Appropriate the BNA Constructors Canada GP
Community Benefits Agreement**

BNA Constructors Canada GP has awarded the City of Detroit Department of Public Works with the BNA Constructors Canada GP Community Benefits Agreement for a total of 1,000,000.00 million Canadian dollars or approximately \$743,375.00, subject to change based on the exchange rate at the time of transaction. There is no match requirement. The total project cost is approximately \$743,375.00, subject to change based on the USD to CAD exchange rate at the time of transaction.

The objective of the agreement is to make transportation improvements in Southwest Detroit. The funding allotted to the department will be utilized to pay for contractual services to create a safe connection to future bicycle facilities on Jefferson Avenue and Campbell Street. The facilities will be reconstructed by the Gordie Howe International Bridge project and will also connect to the future Joe Louis Greenway route.

If approval is granted to accept and appropriate this funding, the appropriation number is 21381.

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

Sincerely,

DocuSigned by:
Terri Daniels
4D2BEEE23C8D489...

Terri Daniels
Director of Grants, Office of Development and Grants

CC:
Sajjiah Parker, Assistant Director, Grants

DocuSigned by:
Donald R. Johnson
34E9071313554A4

Office of Budget

DocuSigned by:
Cheryl Smith-Williams
B8CAE73E1C57487

Agreement Approved as to Form
By the Law Department



Office of Development and Grants

RESOLUTION

Council Member _____

WHEREAS, the Department of Public Works is requesting authorization to accept a funding agreement from BNA Constructors Canada GP, for approximately \$743,375.00, to create a safe connection to future bicycle facilities on Jefferson Avenue and Campbell Street; and

WHEREAS, BNA Constructors Canada GP is a Canada based company and will award 1,000,000.00 million Canadian dollars or approximately \$743,375.00, subject to change based on the exchange rate at the time of transaction; and

WHEREAS, the Law Department has approved the attached agreement as to form; and

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

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

BE IT FURTHER RESOLVED, that the Department of Public Works is authorized to accept a Community Benefits Agreement in the amount equivalent to 1 million Canadian dollars or the equivalent USD rate at the time of the transaction between the funder and the City; and

BE IT FINALLY RESOLVED, that the Budget Director is authorized to establish Appropriation number 21381, for approximately \$743,375.00, subject to change based on the exchange rate at the time of transaction, for the BNA Constructors Canada GP Community Benefits Agreement.

MEMORANDUM OF AGREEMENT FOR THE DELIVERY OF COMMUNITY BENEFITS

**Community Benefits
Memorandum of Agreement
between
BNA Constructors Canada GP
and
City of Detroit**

This **MEMORANDUM OF AGREEMENT** (the “**Agreement**”), dated December 1, 2023, is entered into between BNA CONSTRUCTORS CANADA GP (“**BNACAGP**”), a general partnership with an office located at 35 Prospect Avenue, Windsor, Ontario, Canada N9C 3G3, and CITY OF DETROIT (the “**Beneficiary**”), a Michigan municipal corporation with an office located at Coleman A. Young Municipal Center, 2 Woodward Avenue, Detroit, MI 48226. BNACAGP and Beneficiary are each a “**Party**” to this Agreement and are collectively referred to herein as the “**Parties**”.

I. PREAMBLE

WHEREAS BNACAGP, through its US subcontractor, is performing construction work on the portions of the Gordie Howe International Bridge Project located in Wayne County, Michigan, USA (the “**Project**”) which includes the responsibility to deliver the Community Benefits Plan for the Project, including the community benefits described in this Agreement;

AND WHEREAS Beneficiary is a municipal corporation, established for the purpose of, among other things, governance of the City of Detroit, including management of local infrastructure;

AND WHEREAS this Agreement has as its mission and/or objective the mutual collaboration and participation of the Parties with respect to the achievement of the goals/objectives, as described herein;

NOW THEREFORE the Parties wish to collaborate, cooperate, and participate in the achievement of such goals or objectives as follows:

II. GOALS / OBJECTIVES

BNACAGP will provide a funding contribution to the Beneficiary for the Beneficiary to apply towards payment of Beneficiary’s costs for local transportation improvements in Southwest Detroit. Funding will support Beneficiary’s goal to construct a bicycle facility on Jefferson Ave/Clark Street from Campbell Street to Clark Park by end of Summer 2024.

The facility will create a safe connection to future bicycle facilities on Jefferson Avenue and Campbell Street reconstructed by the Gordie Howe International Bridge project and will also connect to the future Joe Louis Greenway route. Any remaining funds will be used for pedestrian and bicycle safety treatments in the surrounding community along Christiancy Street and Porter Street. Beneficiary will maintain the facilities and improvements after completion through its Department of Public Works.

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BNACAGP will support the Beneficiary in its above goals/objectives by providing a funding contribution to the Beneficiary in the fixed amount of **\$1,000,000 (Canadian)**, which will be wired to the Beneficiary following the execution of this Agreement by both Parties and the Beneficiary's provision of its bank account wire transfer instructions. Payment in such amount will be wired to the Beneficiary after converting such amount to United States dollars (based on the applicable conversion rate).

III. COLLABORATION

Both parties agree to collaborate, as required, to enable BNACAGP to deliver funds to the Beneficiary in a timely manner.

IV. RESPONSIBILITIES OF BENEFICIARY

The Beneficiary shall, in good faith and undertaking good stewardship, accept and use the funding provided hereunder for the sole purpose of completely fulfilling the goals/objectives of the Beneficiary described herein.

Following the execution of this Agreement by the Parties, the Beneficiary shall provide upon request to BNACAGP any information reasonably needed by BNACAGP and the Windsor-Detroit Bridge Authority to verify that the goals/objectives set out above have been completed.

The Beneficiary shall provide semi-annual written report(s), images available for sharing with the public, press releases, and associated materials, stories or anecdotes.

V. RESPONSIBILITIES OF BNACAGP

BNACAGP's responsibility hereunder shall be to provide funding to the Beneficiary in the amount set out in paragraph II (Goals/Objectives) of this Agreement.

VI. DUE DILIGENCE

At any time following execution of this Agreement BNACAGP may, acting reasonably, request from the Beneficiary copies of documents (i) to verify that the Beneficiary validly exists and operates under the laws of the jurisdiction in which it was organized or incorporated, (ii) to establish that the Beneficiary is in compliance with applicable laws in relation to its responsibilities under this Agreement, and (iii) to verify that the Beneficiary meets appropriate standards relating to capability, capacity, competence, and financial accountability as may be required, as determined by BNACAGP acting reasonably, to achieve the goals and objectives set out in this Agreement.

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VII. PRINCIPAL CONTACTS

The principal contacts for each of the Parties in relation to this Agreement are as follows:

BNA Constructors Canada GP

Nicole Flippance, Communications Manager
35 Prospect Avenue, Windsor, Ontario, Canada N9C 3G3
nflippance@bnacagp.com
226.240.2737

Beneficiary:

City of Detroit
Ron Brundidge, Director of Public Works
Coleman A. Young Municipal Center, 2 Woodward Avenue, Detroit, MI 48226
Ron.Brundidge@detroitmi.gov
313.224.3905

With copy to:

Windsor-Detroit Bridge Authority

Heather Grondin, Vice President, Communications and Stakeholder Relations
400 - 100 Ouellette Avenue, Windsor, Ontario, Canada N9A 6T3
heather.grondin@wdbridge.com
519.946.4865

A Party's principal contact may be changed from time-to-time by notifying the other Party in writing regarding any such change.

VIII. PUBLIC ANNOUNCEMENTS

The Beneficiary or its personnel shall not make any public announcement in relation to this Agreement without the prior written approval of the Windsor-Detroit Bridge Authority. "Public Announcement" means public events, television, press, radio or internet appearances, media interviews, information releases through social media, or media/marketing releases generally, which includes website content or content for marketing or co-branding purposes, or a release of information through any other communication facility.

For promotional activities including media releases or events and public celebrations, the Community Benefits Plan for the Gordie Howe International Bridge shall be noted as the funder and the Windsor Detroit Bridge Authority and Bridging North America shall be invited to participate in related events.

The Beneficiary agrees to keep the contents of this Agreement confidential. BNACAGP, Bridging North America GP and the Windsor-Detroit Bridge Authority shall have the right in perpetuity, with prior written approval of the Beneficiary, to use the Beneficiary's name and contents of any report in connection with public announcements, advertising and publicity in relation to the Project and this Agreement.

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IX. EFFECTIVE DATES AND AMENDMENTS.

This Agreement shall take effect upon signing (execution) by both Parties and shall remain in effect unless terminated by BNACAGP. Neither Party may assign or transfer all or any portion of its rights or responsibilities under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

The provisions of this Agreement may be amended, waived, revoked, or terminated upon notice to Beneficiary at the sole and absolute discretion of BNACAGP, including in the event that the goals, objectives and/or responsibilities of the Beneficiary are unlikely to be met.

The individuals signing this Agreement on behalf of their respective Parties each represent and warrant (without personal liability therefor) that he or she has the requisite authority to bind such Party and hereby does bind the Party for purposes of entering into this Agreement.

X. FURTHER ASSURANCES

The Beneficiary shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as BNACAGP may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

XI. LIABILITY AND INDEMNIFICATION

The Beneficiary shall save harmless and fully indemnify the Windsor-Detroit Bridge Authority, Infrastructure Canada and Communities, Michigan Department of Transport, BNA Constructors Canada GP, Bridging North America GP and their respective officers, employees, servants and agents, affiliates, successors and assigns from and against all claims, liabilities and demands arising directly or indirectly from any [use,] negligent act or omission of the Beneficiary, any breach of this Agreement by the Beneficiary, any claims, liabilities and demands from third parties, and from any claims, liabilities and demands that may arise from the Beneficiary entering into any loan, capital lease or other long term obligation, all under or in respect of this Agreement. This indemnity will cover reasonable legal costs.

XII. NO LEGAL PARTNERSHIP OR JOINT VENTURE

The Parties acknowledge and agree that they are not entering into a legal partnership, joint venture or other such business arrangement by entering into or in connection with this Agreement. Neither Party will refer to or treat the arrangements under this Agreement as a partnership or joint venture under the laws of the State of Michigan or otherwise, nor shall either Party act or take any action that is inconsistent with such acknowledgement and agreement.

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XIII. DISPUTE RESOLUTION

The Parties agree that in the event of any dispute between the Parties relating to this Agreement, they shall first seek to resolve the dispute through informal good faith discussions. In the event any dispute cannot be resolved informally within sixty (60) calendar and consecutive days, the Parties agree that the dispute will be negotiated between the Parties through mediation, if they can agree on a mediator. The costs of mediation shall be shared equally by the Parties. Notwithstanding the foregoing, neither Party waives its legal rights to file a complaint, or a legal claim, in order to adjudicate any dispute arising under or in connection with this Agreement in a court having jurisdiction over the Parties relating thereto.

XIV. ASSIGNMENT

BNACAGP may assign this Agreement or any of its rights, interests, or obligations hereunder without the need for approval of the Beneficiary without invalidating this Agreement, however, except with respect to any assignment of this Agreement to BNACAGP’s US subcontractor, BNA Constructors USA JV, an assignment shall not occur to any other party without first obtaining the prior written consent of WDBA, such consent not to be unreasonably withheld or delayed. The covenants, terms and conditions contained in this Agreement will apply to and bind the successors and permitted assigns of the Parties. No assignment, whether or not WDBA’s consent is required or provided, will relieve the Beneficiary from its obligations for the observance and performance of the covenants, terms and conditions of this Agreement.

XV. ENTIRE AGREEMENT

This Agreement embodies the entire and complete understanding and agreement between the Parties relating to the subject matter described herein and the Parties agree that no amendment to this Agreement will be binding or effective unless signed by both Parties. This Agreement may be executed by a Party and then sent to the other Party by e-mail in a Portable Document File (PDF) format. The execution of this Agreement by such Party shall be effective on the date that such e-mail is received by the other Party.

THIS AGREEMENT IS ACCEPTED AND EXECUTED BY THE PARTIES:

City of Detroit

BNA Constructors Canada GP

DocuSigned by:
Ron Brundidge
243AF2B3C7EE448

Ron Brundidge
Director of Public Works

José Luis Méndez
Project Manager

Date: 11/28/2023

Date: _____