



## Legislation Text

File #: 22-0734, Version: 1

**Dept/ Agency:** Recreation, Cultural Affairs and Senior Services

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Contract with Non-Profit Organization

**Purpose:**

1) To enter into and effectuate the terms of a Memorandum of Agreement under the Adopt-a-Park Statute for safety, cleaning, accessibility, and the management and operations of the Downtown Parks:

- a) Mulberry Commons; and
- b) Riverfront Park; and
- c) Military Park; and
- d) Washington Park; and
- e) Lincoln Park

2) To authorize City Parks Foundation, Inc., a New Jersey Non-profit Corporation as a sub-recipient to disburse funds received by the City of Newark from the U.S. Department of the Treasury and other State funding sources on behalf of the City in connection with the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds for purposes of addressing Newark communities and neighborhoods exacerbated by the COVID-19 Pandemic.

**Entity Name:** City Parks Foundation, Inc.

**Entity Address:** 920 Broad Street, Room 216, Newark, New Jersey 07102

**Grant Amount:** \$2,500,000.00

**Funding Source:** American Rescue Plan Act, Coronavirus State and Local Fiscal Recovery Funds

**Contract Period:** Commencing upon full execution of the Memorandum of Agreement and shall continue for an initial term of five (5) years and the Sub-Recipient Agreement shall be for a term of (365) days commencing upon full execution of the Sub-Recipient Agreement

**Contract Basis:** ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS

( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant (X) Sub-recipient ( ) n/a

**Additional Information:**

**WHEREAS**, Municipal Council adopted Resolution 7R11-a on January 26, 2021 authorized the City of Newark (the "City") to form the City Parks Foundation, Inc., (the "Foundation" ), a New Jersey non-profit corporation to be classified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

**WHEREAS**, the purpose of the Foundation is to closely coordinate with, assist and support the City with issues relating to safety, cleaning, and accessibility, and the management, promotion and operations of the Downtown Parks, which includes the following public parks and open spaces that are within or in close proximity to the City's Downtown/Central Business District: (1) Mulberry

Commons, (2) Riverfront Park, (3) Military Park, (4) Washington Park, and (5) Lincoln Park (collectively, the “Downtown Parks”), as specifically set forth in the Foundation’s amended Certificate of Incorporation filed on July 29, 2022; and

**WHEREAS**, the Foundation, through donations of interested stakeholders, residents, and the corporate community within the City, for the benefit of the Downtown Parks would provide significant financial and management assistance to the City and its effort to maintain and improve the Downtown Parks; and

**WHEREAS**, pursuant to N.J.S.A. 40:12-22 a local government unit may enter into an agreement with a business entity or non-profit organization located within or near the local government unit to provide for the maintenance, operation, or improvement of a park or any portion thereof located within the local government unit, at no cost to the local government unit except as provided N.J.S.A. 40:12-23; and

**WHEREAS**, N.J.S.A. 40:12-23 allows a local government to provide at no cost to a participating entity such equipment, materials, supplies, or services that the local government unit deems appropriate to assist the participating entity with its park maintenance , operation, or improvement responsibilities; and

**WHEREAS**, the Foundation has represented that it has the necessary skills and experience to perform such park management services and functions as provided herein as necessary to provide for the effective and efficient administration and operation of the Downtown Parks, in compliance with all the New Jersey Adopt-a-Park Statute and all applicable laws and governmental approvals); and

**WHEREAS**, the City and Foundation jointly recognizes the need for a public/private mutually beneficial partnership and wishes to effectuate the terms and enter into a Memorandum of Agreement to provide the maintenance, operation, improvement and safety of the Downtown Parks, and the management and operations of the Downtown Parks at no cost to the City as provided in N.J.S.A. 40:12-22; and

**WHEREAS**, on March 11, 2021, the American Rescue Plan Act (Public Law No: 117-2 (3/11/2021) (the “ARPA”) was signed into law by President Joseph R. Biden. Section 9901 of ARPA amended Title VI of the Social Security Act to add Section 602, which established the Coronavirus State Fiscal Recovery Fund, and Section 603, which established the Coronavirus Local Fiscal Recovery Funds (together, the “Fiscal Recovery Funds”). The Coronavirus Local Fiscal Recovery Funds was established to provide support to local governments to respond to the impacts of COVID-19 on communities, residents, and businesses; and

**WHEREAS**, the City has been notified by the U.S. Department of the Treasury of ARPA funding in the amount of \$176,667,606.00, payable in two (2) tranches. The City is in receipt of the first tranche in the amount of \$88,333,803.00; and

**WHEREAS**, pursuant to Resolution 7R1-a adopted on June 22, 2021, by the Municipal Council, the City authorized the application for and receipt of these funds; and

**WHEREAS**, ARPA and the Fiscal Recovery Funds authorize local government recipients to

transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities including, among others, private non-profit organizations. Entities that receive funds from local governments or sub-recipients will receive a sub-award from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding; and

**WHEREAS**, the COVID-19 pandemic has disrupted many aspects of human social life, limiting recreational opportunities. As a result, people have had to seek out alternative means of recreation, both for themselves and for their children, and of managing their mental and physical health Public parks have always served a critical function as free recreational spaces particularly for low-income and immigrant communities; and

**WHEREAS**, parks and green spaces more generally are known to have positive impacts on mental health with demonstrated mental health benefits. Also, parks can be quite expansive, allowing for safe enjoyment while maintaining social distancing. As such, parks may serve an important-and as of yet unquantified-function for people in coping with the COVID-19 pandemic. The program will focus on the City of Newark downtown parks, which include: Mulberry Commons; Riverfront Park; Military Park; Washington Park, and Lincoln Park. The City may also include additional city parks in need of revitalization and capital improvement; and

**WHEREAS**, the City wishes to the award a sub-contract in the amount of Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00) to the Foundation as a Sub-recipient to assist it in administering, dispersing, and implementation of capital improvements and replacements in the Parks to the extent approved by the City, in compliance with all provisions of federal, state and local laws, rules and regulations (as they may be amended from time to time) applicable to the Foundation's performance under this Agreement, including, but not limited to, ARPA, the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") Final Rule, as amended from time to time (31 CFR Part 35), the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds, as amended from time to time (Version 3.0 released by the U.S. Department of the Treasury on February 22, 2022), the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200), as amended from time to time, the SLFRF Final Rule: Frequently Asked Questions, as updated from time to time (updated version released by the U.S. Department of the Treasury on April 27, 2022), the U.S Department of the Treasury SLFRF Award Terms and Conditions applicable to the ARPA Funds, the reporting requirements set forth in Newark Municipal Code 2:3-1.13 and 2:4-19-3, the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.), and all applicable City and State of New Jersey laws, rules, ordinances and regulations (collectively, hereinafter referred to herein as "Applicable Laws and Guidance").

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Municipal Council hereby authorizes the Mayor of the City of Newark and/or his designees, the Business Administrator and the Director of the Department of Recreation, Cultural Affairs and Senior Services to enter into and execute a Memorandum of Agreement with City Parks Foundation, Inc., for the purpose of assisting and supporting the City with issues relating to safety, cleaning, and accessibility, and the management, promotion and operations of the Downtown Parks, which includes the following public parks and open spaces that are within or in close proximity to the City's

Downtown/Central Business District: (1) Mulberry Commons, (2) Riverfront Park, (3) Military Park, (4) Washington Park, and (5) Lincoln Park (collectively, the “Downtown Parks”). Attached hereto as Exhibit A, for the period beginning on Agreement shall be effective as of the date the Agreement is fully executed by the Parties (the “Commencement Date”) and shall continue for an initial term of five (5) years, with two (2) possible five-year renewals.

2. The Foundation is willing to undertake these responsibilities and obligations on behalf of the City in the spirit of public service and to establish a mutually beneficial partnership with the City in the manner prescribed by the New Jersey Adopt-a-Park Statute that will result in the Downtown Parks being better maintained, operated, and improved for the use and enjoyment of the public.
3. This Memorandum of Agreement is pursuant to N.J.S.A. 40:12-20 and is not subject to the requirement and provisions of the “Local Public Contracts Law.”
4. The Municipal Council hereby authorizes the Mayor of the City of Newark and/or his designees, the Business Administrator and Director of the Department of Recreation, Cultural Affairs and Senior Services to enter into and execute a Sub-recipient Agreement with City Parks Foundation, Inc., located at 920 Broad Street, Room 216, Newark, New Jersey 07102 in the amount of Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00) to disperse and implement capital improvements and replacements in the Park, to the extent provided for and approved by the City, The program will focus on the City of Newark Downtown Parks, which include: Mulberry Commons; Riverfront Park; Military Park; Washington Park; and Lincoln Park. The City may also include additional city parks in need of revitalization and capital improvement commencing upon fully executed Agreement by the Parties and shall continue for one (1) calendar year, a copy of which is attached hereto as Exhibit B.
5. Attached hereto are Certifications of Funds from the Director of the Department of Finance, which state that there are sufficient funds for the purpose set forth hereinabove; and (2) the line appropriation of the official budget, which shall be charged is as follows:

Bus Unit	Dept. ID	Div/Proj.	Activity	Account #	Bud Ref.
NW051	G21	ARPA0	A	94710	B2021
NW051	G22	ARP2T	A	71280	B2022
NW025	25T	5T25	A	96320	B2022

6. There shall be no amendment or change of this contract without the approval of the Municipal Council by Resolution.
7. A copy of the fully executed Memorandum of Agreement, herein authorized shall be filed in the Office of the City Clerk by the Director of the Department of Recreation, Cultural Affairs and Senior Services and or Business Administrator.

8. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of the adoption of this Resolution.

### **STATEMENT**

This Resolution authorizes the Mayor of the City of Newark and/or his designees, the Business Administrator and the Director of the Department of Recreation, Cultural Affairs and Senior Services to enter into and execute a Memorandum of Agreement with City Parks Foundation, Inc., for an initial term of five (5) years to assist and support management, promotion, and operations of the Downtown Parks, pursuant to N.J.S.A. 40:12-20. This Resolution also authorizes the Mayor of the City of Newark and/or his designees, the Business Administrator and the Director of the Department of Recreation, Cultural Affairs and Senior Services to enter into and execute a Sub-recipient Agreement with City Parks Foundation, Inc., in the amount of \$2,500,000.00 commencing upon fully executed Agreement by the Parties and shall continue for one (1) calendar year.