

## 2016 Litter Management Grant Agreement

This Agreement is made and entered into by and between the Director of the Ohio Environmental Protection Agency, hereinafter referred to as the **Agency**, and **City of Hudson**, hereinafter referred to as the **Grantee**.

WITNESSETH THAT:

WHEREAS the **Grantee**, as authorized under Ohio Revised Code (ORC) Chapter 3736, has applied to the **Agency** for program funding to implement a 2016 Litter Management Grant, hereinafter referred to as the 2016 LMG; and

WHEREAS ORC 3736.05 authorizes the Director, to make grants from the recycling and litter prevention fund created in ORC 3736.03. ORC 3736.05 further authorizes the director to enter into this agreement; and

WHEREAS the **Grantee** agrees to perform in compliance with the terms, promises, conditions, and assurances as outlined in the **Grantee's** 2016 LMG Managers Manual and the 2016 LMG Application, a copy of which is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein; and

WHEREAS the 2016 LMG funds in the amount of **\$2,700.00** have been encumbered. Obligations of the State of Ohio are subject to the provisions of ORC Section 126.07.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto, the parties agree as follows:

- I. The **Agency** hereby awards to the **Grantee** a grant not to exceed **\$2,700.00**, for the purpose of implementing the project detailed in the **Grantee's** application. Costs incurred by the **Grantee** for items that are not part of the approved budget as contained in the **Grantee's** application, or costs in excess of amounts specified in the approved budget as contained in the **Grantee's** application will not be reimbursed by the **Agency**. Any grant-related expenditures made prior to the effective date of the grant agreement will not be reimbursed. The **Grantee** agrees to maintain and expend the required match, detailed in the **Grantee's** application.
- II. The **Agency** shall pay to the **Grantee**, subject to cash availability, fifty percent (50%) of its total grant award, to be used for project costs according to the **Grantee's** approved budget as contained in the **Grantee's** application. A final payment of fifty percent (50%) of the grant award will be withheld to reconcile the grant account at the end of the grant period or the closeout of the grant. The parties understand and agree that all payments made under this grant award are based on actual costs and are made based upon **Grantee's** satisfactory performance of **Grantee's** obligations under this grant agreement.
- III. **Nondiscrimination:** The **Grantee** shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability as defined in the Americans with Disabilities Act (ADA). The **Grantee** shall not, in any manner, discriminate, intimidate or retaliate against any employee on account of race, color, religion, sex, sexual orientation, military status, national origin, disability, age or ancestry. The **Grantee** shall take affirmative action to ensure that employees are treated during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, including apprenticeship.

Ohio Environmental Protection Agency

- IV. **Drug-Free:** The **Grantee** agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way. The **Grantee** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **Agency** setting forth the provisions of this nondiscrimination clause. Furthermore, the **Grantee** agrees to comply with all pertinent provisions of ORC Section 125.111, 4112.02, and the Drug Free Workplace Act.
- V. The **Grantee** shall, in all solicitations or advertisements for employees placed by or on behalf of the **Grantee**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, military status, or any disability, as defined in the ADA.
- VI. The **Grantee** shall comply with the State Equal Employment Opportunity guidelines, and any direction as set forth by officials or agencies of the State or Federal Government that seek to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under this Agreement. Before and during performance, the **Grantee** shall promptly comply with all requests and direction from the State of Ohio or any of its officials and agencies.
- VII. Upon the **Grantee's** noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated or suspended in whole or in part, and the **Grantee** may be ineligible for further state contracts and such other sanctions may be imposed and remedies instituted as otherwise provided by the law.
- VIII. It is fully understood and agreed that neither **Grantee** nor any of its employees or other personnel shall at any time or for any purpose, be considered as agents or employees of the Ohio EPA or the State of Ohio. The **Grantee** certifies that neither the **Grantee** nor its employees or other personnel are public employees of the **Agency** under federal or state law for tax, Workers' Compensation, and retirement deduction purposes.
- IX. **Compliance Assurance:** The **Grantee** shall carry out and administer the project according to all applicable federal, state, and local laws, rules, regulations, ordinances and the terms of this Agreement, as outlined in the **Agency's** 2016 LMG Application and Manager's Manual.
- X. The **Agency** shall at any reasonable time have the right of access to and the right to audit all books and records, financial or otherwise, pertinent to the administration and operation of this project. The **Grantee** shall keep said books and records in a manner consistent with generally accepted accounting procedures in a common file to facilitate audits and inspections. In the event of a special audit, the **Grantee** will be responsible for the actual cost of the audit. Said costs shall be determined by the State of Ohio.
- XI. The **Grantee** by signature on this document, certifies that it: (1) has reviewed and understands the Ohio ethics and conflict of interest laws, including the requirements found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (2) **Grantee** is currently in compliance with and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws. The **Grantee** understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio. No personnel of Contractor or public official, employee or member of the governing body of any locality in which work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior

## Ohio Environmental Protection Agency

to the completion of the work, voluntarily acquire any personal interest that is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out the work. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such personal interest, shall immediately disclose his or her interest to Ohio EPA in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless Ohio EPA determines in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to public interest.

- XII. The **Grantee** affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions in excess of the amounts specified in ORC 3517.13, to the Governor or to his campaign committees.
- XIII. The **Grantee** affirmatively represents and warrants to **Agency** that it is not subject to a finding for recovery under ORC 9.24 or otherwise qualifies under that section. The **Grantee** agrees that if this representation or warranty is deemed to be false, the Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by **Agency** hereunder immediately shall be repaid to **Agency**, or an action for recovery immediately may be commenced by **Agency** for recovery of said funds. The **Grantee** affirmatively represents and warrants to **Agency** that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or ORC 125.25. If this representation and warranty is false, this Agreement is void *ab initio* and **Grantee** shall immediately repay to the State any funds paid under this Agreement.
- XIV. Implementation of the approved 2016 LMG project as outlined in the **Grantee's** 2016 LMG Approved Application and this Agreement shall not commence until the Agreement is signed by all parties or **July 1, 2016**, whichever is later. The **Agency** shall not be responsible for any costs incurred by the **Grantee** prior to the effective date of this Agreement.
- XV. This Agreement shall remain in effect until **June 30, 2017**. The **Agency** reserves the right, at any time after execution of this Agreement, and with or without cause, to terminate, revise, or extend the grant in whole or in part, upon written notification to the **Grantee**. The **Grantee**, upon receipt of notice of termination, shall not incur any new obligations and shall take all necessary and appropriate steps to limit disbursements and minimize costs and obligations, including cancelling as many outstanding obligations as possible. In the event of such termination, the **Grantee** will be paid for approved expenditures incurred prior to termination and for any noncancellable obligations properly incurred by the **Grantee** prior to termination. If requested by the **Agency**, the **Grantee** shall promptly furnish a report that describes the status of all work under this Agreement as of the date of receipt of the termination notice. The **Grantee** agrees to waive any right to, and shall no claim for, additional compensation against the **Agency** by reason of such termination.
- XVI. The **Grantee** reserves the right, at any time after execution of this Agreement to terminate the program, in whole or in part, upon a thirty (30) day written notification to the **Agency**. In the event of such termination by the **Grantee**, the **Grantee** shall not incur any new obligations and shall make a good faith effort to cancel as many outstanding obligations as possible.
- XVII. All unspent funds and unallowed expenditures shall be returned to the **Agency** within forty-five (45) days of receiving notification of any termination of the grant or program. Any payment not received within forty-five days of the due date may be turned over to the Attorney General for collection as a delinquent claim, and the **Grantee** agrees to pay the **Agency** all costs the **Agency** incurs for delinquent collections by the Attorney General's office.



Ohio Environmental Protection Agency

XVIII. The **Grantee** affirms to have read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich and signed and completed the Standard Affirmation and Disclosure Form (Exhibit B) and shall abide by those requirements in the performance of this Agreement and perform no services required under this Agreement outside of the United States. Notwithstanding any other terms of this agreement, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided to the State in this contract. The Executive Order is provided as an attachment (Exhibit C) and also is available at the following website:  
<http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>

The **Grantee** also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the **Grantee** or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside of the United States.

If the **Grantee** or any of its subcontractors perform services under this Agreement outside of the United States, the performance of such services shall be treated as a material breach of the Agreement. The State is not obligated to pay and shall not pay for such services. If **Grantee** or any of its subcontractors perform any such services, **Grantee** shall immediately return to the State all funds paid for those services. The State may also recover from the **Grantee** all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the **Grantee** performing services outside the United States.

The State may, at any time after the breach, terminate the Agreement, upon written notice to the **Grantee**. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement and costs associated with the acquisition of substitute services from a third party.

The State, in its sole discretion, may provide written notice to **Grantee** of a breach and permit the **Grantee** to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the **Grantee** any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the **Grantee's** cure of the breach, the State does not waive any of its rights and remedies provided the State in this Agreement, including but not limited to recovery of funds paid for services the **Grantee** performed outside of the United States, costs associated with corrective action, or liquidated damages.

XIX. Until termination of this contract (expiration date – see condition XV) and for a period of three years following termination, the **Agency** may require repayment of any funds, up to the full amount that has been distributed, upon a finding by the director that **Grantee** or the cooperating enterprise is not in substantial compliance with environmental laws or rules or has become subject to a formal enforcement action by Ohio EPA or the Ohio Attorney General's Office. If the **Agency** terminates this agreement pursuant to this paragraph, any funds already distributed to Grantee, including funds that have already been spent, shall be returned to the **Agency** within forty-five (45) days of receiving notification of termination. Any payment not received within forty-five days of the due date may be referred to the Ohio Attorney General's Office for collection as a delinquent claim, and the Grantee agrees to pay the Agency all costs the Agency incurs for delinquent collections by the Ohio Attorney General's Office. Grantee shall require all contracts with subcontractors to include legal mechanisms (e.g., default judgments or liens) to recover funds pursuant to this paragraph.

Ohio Environmental Protection Agency

XX. Neither this Agreement, nor any rights, duties, nor obligations hereunder, may be assigned, delegated, or transferred in whole or in part by the **Grantee** without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

XXI. Each party shall be responsible for its own acts and omissions and will be responsible for any and all damages, costs, and expenses that arise out of the performance of this Agreement and that are due to that party's own negligence, tortious acts, or other conduct or that are due to the negligence, tortious acts, or other conduct of the party's respective agents, officers, or employees.

The effective date of this Agreement is the date when the Director of the Ohio Environmental Protection Agency signs this Agreement, or **July 1, 2016**, whichever date is later.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

**Grantee:** **City of Hudson**

**Award:** **\$2,700.00**

**(I, we) have the authority to sign this Agreement and do so in (my/our) respective capacities:**

**Grantee Signature**

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Authorized Official:** **Jane Howington, City Manager**  
**City of Hudson**

**Ohio Environmental Protection Agency Signature**

**Signed:** \_\_\_\_\_  
**Craig W. Butler, Director**  
**Ohio Environmental Protection Agency**