

CITY OF BROOK PARK, OHIO

P/C 6-20-23 Service
CA _____
1st R 6-20-23
2nd R _____
3rd R _____
B/C _____

ORDINANCE NO: 11344-2023

INTRODUCED BY: MAYOR ORCUTT

**AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT THE
2023 RECYCLE OHIO GRANT FOR TRASH/RECYCLING RECEPTACLES, AND
DECLARING AND EMERGENCY**

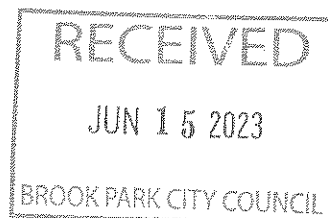
WHEREAS, the City of Brook Park applied for a grant with the Ohio Environmental Protection Agency (EPA) for the 2023 Recycle Ohio Grant and was awarded a grant in the amount of \$40,782.00.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: The Council of the Grantee (the "Council") finds and determines that it is in the best interest of the Grantee to enter into a Grant Agreement to accept the 2023 Recycle Ohio Grant in the amount of \$40,782.00 and authorize the Mayor to execute the Grant Agreement to accept the Ohio EPA funds (see Exhibit "A").

SECTION 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to authorize the Mayor to accept the Ohio EPA grant; therefore, provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.



PASSED: June 20, 2023

ATTEST: Carol Johnson
Clerk of Council

CERTIFICATE

Carol Johnson, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 11344-2023

passed on the 20 day of June 2023 by said council.

Carol Johnson
Clerk of Council

M. J. Vukobratovic
PRESIDENT OF COUNCIL

APPROVED: E. L. A. Smith
MAYOR

6-20-23
DATE

Carol Johnson, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at five of the most public places in said municipality as determined by Ordinance No. 4838-1975; location: City Hall 6161 Engle Road, Police Station 17401 Holland Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

commencing 6-22-23
Carol Johnson
CAROL JOHNSON
Clerk of Council

	Yea	Nay
Troyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Coyne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Polindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Salvatore	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS.

[Signature]
DIRECTOR OF LAW

**Ohio Environmental Protection Agency
2023 Community and Litter 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 the **The City of Brook Park**, hereinafter referred to as the **Grantee**. Agency and Grantee are collectively the "Parties" and each a "Party."

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 2023 Community and Litter Grant, hereinafter referred to as the 2023 CLG; 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 and 3736.02(B) further authorize 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 2023 Grant Manual and the 2023 CLG 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 2023 CLG funds in the amount of **\$40,782.00** 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 **\$40,782.00**, 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 match funds required, either (1) in the dollar amount set forth in the Funding Request Details specified in the Grantee's application as "Match Funds Required", or (2) if the grant award is reduced, when reconciling the grant account at closeout as a result of reduced actual costs, then the dollar amount of the Grantee's match funds required may be proportionately reduced.
- II. The Agency shall pay to the Grantee, subject to cash availability, fifty percent (50%) of its total grant award after the effective date of this Agreement, 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. The Grantee shall not, in any manner, discriminate against, intimidate, or retaliate against

Ohio Environmental Protection Agency 2023 Community and Litter Grant Agreement

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 take affirmative action to ensure that employees are treated appropriately 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.

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 notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause in conspicuous places, available to employees and applicants for employment. Furthermore, the Grantee agrees to comply with all pertinent provisions of ORC Section 125.111, 4112.02, and the Drug Free Workplace Act.

- IV. 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.
- V. 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 related to this paragraph.
- VI. 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. Further, such other sanctions may be imposed and remedies instituted as otherwise provided by the law.
- VII. 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.
- VIII. 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 2023 CLG Application and Grant Manual.
- IX. 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

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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.

- X. 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 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.
- XI. 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.
- XII. 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.
- XIII. 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 2023 CLG project as outlined in the Grantee's 2023 CLG Approved Application and this Agreement shall not commence until the Agreement is signed by all parties or **July 1, 2023**, 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. Grantee represents and warrants that:

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1. It is not subject to any judgment or decree of a court of competent jurisdiction or governmental agency that would limit or restrict its right to enter and carry out this Agreement.
2. Neither the execution of this Agreement nor the consummation of its transactions will constitute a breach under any contract or agreement to which it is a party or by which it is bound.
3. It has made no false statements to the other party or any of its employees or agents in the process of obtaining this Agreement
4. It has the authority to execute this Agreement and perform their obligations under this Agreement.
5. It has received no written notice that any investigation, action or litigation is pending or threatened, which materially and adversely affects this Agreement.

XVI. This Agreement shall remain in effect until **June 30, 2025**. The Agency reserves the right, at any time after execution of this Agreement, 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 noncancelable 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 have no claim for, additional compensation against the Agency by reason of such termination.

XVII. 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.

XVIII. All unspent funds and unallowed expenditures shall be returned to the Agency within forty-five (45) days of sending notification to the Agency or receiving notification from the Agency 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.

XIX. The Grantee affirms to have read and understands Executive Order 2019-12D and Executive Order 2022-02D and shall abide by those requirements in the performance of this Agreement and shall perform no services required under the Agreement outside of the United States or purchase services from or investment in Russian institutions and companies. Notwithstanding any other terms of this Agreement, the State reserves the

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right to recover any funds paid for services the Grantee performs outside of the United States for which it did not receive a waiver or funds paid for services from or investments in Russian institutions and companies. The State does not waive any other rights and remedies provided to the State in this Agreement. The Executive Orders are available at:

<https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d>

<https://governor.ohio.gov/media/executive-orders/Executive-Order-2022-02D>

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 is/are outside of the United States.

If the Grantee or any of its subcontractors perform services under this Agreement outside of the United States, or purchase services from or investments in Russian institutions and companies, 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 or purchases of services from or investments in Russian institutions and companies.

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 to the State in this Agreement, including but not limited to recovery of funds paid for services the Grantee performed outside of the United States, purchases of services from or investments in Russian institutions and companies, costs associated with corrective action, or liquidated damages.

- XX. Until termination of this contract (expiration date – see condition XVI) 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

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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.

- XXI. 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. This Agreement represents the complete and final agreement between the Parties and supersedes any previous writing or understanding.
- XXII. 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, including those 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.

**Ohio Environmental Protection Agency
2023 Community and Litter Grant Agreement**

The effective date of this Agreement is the date when the Director of the Ohio Environmental Protection Agency signs this Agreement, or **July 1, 2023**, whichever date is later.

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

Grantee: The City of Brook Park
Award: \$40,782.00

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

Grantee Signature

Signed: _____ Date: _____

Authorized Official: Edward Orcutt, Mayor
The City of Brook Park

Ohio Environmental Protection Agency Signature

Signed: _____ Date: _____

Dan Sowry, Assistant Chief
On behalf of Anne M. Vogel, Director, per 5/10/2023 Delegation of Authority
Ohio Environmental Protection Agency