

REIMBURSEMENT AGREEMENT FOR CURBSIDE RECYCLING COLLECTION

THIS AGREEMENT is made and entered into this ____ day of _____, 2015, by and between the **CITY OF HELENA, MONTANA**, a municipal corporation organized under the laws of the State of Montana, hereinafter referred to as “City,” and **HELENA RECYCLING, LLC**, P.O. Box 6020, Helena, Montana 59604, hereinafter referred to as “Helena Recycling.”

For and in consideration of the mutual promises and agreements contained herein, the City and Helena Recycling mutually agree as follows:

I. DEFINITIONS: The following terms are defined as set forth:

“Qualified residential property” is any property that is assessed for City of Helena residential solid waste service and is current on assessments, charges, and fees owed to the City.

“Qualified residential subscriber” is any property owner that lives in a qualified residential property and has signed a subscriber agreement for curbside recycling collection from Helena Recycling.

II. REIMBURSEMENT AGREEMENT: The City agrees to reimburse Helena Recycling \$10.95 per month per qualified residential subscriber for the first 1000 properties to which it provides every other week curbside recycling collection. The City agrees to reimburse Helena Recycling \$9.95 per month per qualified residential subscriber for all qualified residential properties beyond the first 1000 properties to which it provides every other week curbside recycling collection.

III. TERM OF AGREEMENT: This Agreement is effective upon execution by both parties and shall be in full force and through January 2, 2018, unless previously terminated as herein provided. At the end of the term, this agreement is automatically extended each year until 2022, unless either party is notified in writing and within ninety (90) days of the end of the applicable agreement term of its intention not to extend the term for the next calendar year.

IV. DUTIES OF HELENA RECYCLING: Nothing herein obligates Helena Recycling to provide curbside collection of recyclable materials. However, if Helena Recycling does provide such service to qualified residential subscribers, Helena Recycling agrees to meet the following obligations and standards in order to be eligible for reimbursement by the City:

A. Store recycling containers associated with its curbside recycling collection services at its property and at its own cost.

B. Provide to the City copies of City-approved curbside recycling subscription agreements signed by the owners of the qualified residential properties being served. The curbside recycling subscription agreements must include the names, property addresses, billing addresses, phone numbers, and level of agreed collection services for each qualified residential subscriber to whom Helena Recycling provides curbside recycling collection. The subscriber agreements must

contain language obligating the qualified residential subscribers to be responsible for the cost of curbside recycling collection and the cost of any damaged, lost, or stolen containers.

C. Provide a list of current qualified residential subscribers to the City who are qualified residential subscribers of Helena Recycling. Provide a monthly excel spreadsheet showing all qualified residential subscribers' names, property addresses, billing addresses, phone numbers, City billing account numbers, and level of agreed collection service for each qualified residential subscriber to whom Helena Recycling provides curbside recycling collection. A list of new qualified residential subscribers must be provided to the City by the 20th of each month to be billed for that month.

D. Purchase and deliver curbside recycling containers to qualified residential subscribers who desire curbside recycling collection. Provide to the City, on a monthly basis, a count of containers that have been delivered to qualified residential subscribers.

E. Coordinate curbside recycling collection for qualified residential properties to avoid conflicting with City solid waste collection days.

F. Be responsible for all communication between potential customers and qualified residential subscribers for curbside recycling collection.

G. Provide the City with monthly diversion totals that are categorized by each commodity collected.

H. Deliver all commodities collected from qualified residential properties to a recycling processing facility.

I. Allow only advertising and promotion of the partnership with the City on Helena Recycling's website as well as other promotional advertising initiated by Helena Recycling with respect to qualified residential property curbside recycling collection.

J. Agrees that the City does not control, and has no responsibility for, the curbside recycling services provided by Helena Recycling. Helena Recycling agrees to indemnify, defend, and save the City, its officers, agents, and employees harmless from any and all losses, damage, and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Helena Recycling or its agents or employees. For this purpose, Helena Recycling shall provide the City with proof of Helena Recycling's liability insurance issued by a reliable company or companies for personal injury and property damage in an amount not less than \$1.0 million per occurrence. The insurance must be in a form suitable to City.

K. Not discriminate in any way or manner for or against any person, firm, corporation, institution, organization, group, or individual on account of race, color, religion, creed, political ideas, sex, sexual orientation, gender identity or expression, age, marital status, physical or mental

disability, or national origin.

Helena Recycling further agrees that any and all hiring done by it must be on the basis of merit and qualifications and there may not be discrimination on the basis of race, color, religion, creed, political ideas, sex, sexual orientation, gender identity or expression, age, marital status, physical or mental disability, or national origin. Qualifications mean such abilities as are genuinely related to competent performance of the particular occupational task.

This agreement is contingent upon Helena Recycling's assurance that no person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity on the basis of the non-discrimination provisions of this agreement. Compliance is also assured with the Americans with Disabilities Act.

L. Provide the City with any records and reports the City deems necessary to verify the conscientious discharge of Helena Recycling's responsibilities pursuant to this agreement.

M. Maintain and certify that it is covered by a workers' compensation insurance program with either the State of Montana, a private insurance carrier, or an approved self-insurance plan in accordance with Montana law, that said insurance will continue in effect during the term of this agreement, and that the City has no liability for Helena Recycling employees' compensation insurance or claims. Helena Recycling shall provide evidence of such insurance coverage to the City upon execution of this agreement.

V. RESPONSIBILITIES OF THE CITY:

A. Reimburse Helena Recycling for the actual costs of purchasing and providing up to three recycling containers for every new qualified residential property that subscribes for curbside recycling collection in an amount not to exceed fifteen dollars (\$15.00) for each container and forty-five dollars (\$45.00) total for all three containers. This is a one-time reimbursement for the initial costs of purchasing new containers for new qualified residential property subscribers.

B. Approve the size and type of recycling containers and any stamps or stickers placed on the containers to be used by Helena Recycling for curbside recycling collection for qualified residential properties. The City will own the containers purchased by Helena Recycling.

C. Verify that each property for which Helena Recycling desires compensation from the City for curbside recycling collection service is a qualified residential property.

D. Bill qualified residential subscribers for the actual cost of lost, stolen, or broken containers.

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E. Allow advertising of Helena Recycling qualified residential property curbside collection services on the City's website, as well as other promotional advertising initiated by the City.

VI. MODIFICATION AND WAIVER: This agreement may not be modified, altered, or changed, including but not limited to, reimbursement for monthly curbside collection service except by mutual written agreement signed by the parties hereto. A waiver of any term or condition of this agreement or of any breach of this agreement shall not be deemed a waiver of any other term or condition of this agreement or any part hereof or of any later breach of the agreement. Any waiver must be in writing.

Further, it is hereby acknowledged that the parties hereto may mutually agree at any time to reopen negotiations pertaining to this entire agreement or any provisions of this agreement.

VII. NON-ASSIGNABILITY: This agreement may not be assigned by Helena Recycling to any person or successor in interest without the express written consent of City.

VIII. TERMINATION: Both parties have the right to terminate this agreement by reason of the other party's default and for the reasons set forth herein. Notice of intent to terminate must be provided by written notice, ninety (90) days prior to termination, sent by registered or certified mail, return receipt requested, to the addresses provided below. Any notice of termination shall specify the basis thereof, including a full description of any alleged events creating the default.

City of Helena
316 North Park Avenue
Helena, MT 59623
ATTN: City Manager

Helena Recycling
P.O. Box 6020
Helena, MT 59604

Upon receipt of written notice of termination and/or alleged events of default, the recipient shall have thirty (30) days to cure any default. Failure to cure may result in termination of this agreement. The availability of this remedy shall not bar any action by either party for specific performance of the provisions of this agreement or any other remedy.

Notwithstanding the right to terminate for default, both parties have the right to terminate and withdraw from this agreement for any reason. Notice of intent to terminate and withdraw for any reason other than default must be provided by written notice, one (1) year prior to termination and withdrawal.

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IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the day and year first above written.

CITY OF HELENA

HELENA RECYCLING, LLC

By _____
Ronald J. Alles, City Manager

By _____
John Hilton, Managing Member

Approved as to Form:

By _____
Thomas J. Jodoin, City Attorney