



City of Brighton

REPORT FROM THE CITY MANAGER TO CITY COUNCIL

September 21, 2017

SUBJECT: CONSIDER APPROVAL OF CONTRACT FOR "SOFT RECYCLING" WITH GREAT LAKES RECYCLING

ADMINISTRATIVE SUMMARY

Simple Recycling, a private, waste management and recycling company, approached City Staff about the recycling services they offer to residents of communities across the U.S. Simple Recycling provides curbside pickup and recycling of household items such as clothing, kitchen utensils, and small appliances, at no cost to the resident or municipality. Simple Recycling currently operates their program in 25 Michigan communities including Howell, Milford, and Lansing.

For Brighton, Simple Recycling will offer the curbside pickup service on the same day as the resident's general waste and recycling collection day. Program participants will be issued special bags from Simple Recycling that they can fill with recyclable items and place at the curb for pickup as needed. Simple Recycling will service all single family residential households and can service multi-family residential buildings as long as they have curb access along a main road or street. Community members will be mailed their first set of bags as well as instructions on program participation. Staff will work with Simple Recycling to educate and make the public aware of the program.

Simple Recycling's service will be an addition to the current waste and recycling services offered to Brighton residents. Simple Recycling will allow residents to recycle items in addition to the recycling stream collected by Waste Management and an opportunity to recycle items that cannot be recycled by Waste Management. The City of Brighton will maintain its current contracts with other waste haulers like Waste Management.

The City of Brighton will receive a rebate from Simple Recycling at a rate of \$0.01/pound (\$20/ton).

Approval of this contract will not affect the budget and the attached contract has been reviewed and approved by the City Attorney.

RECOMMENDATION

Staff recommends the City of Brighton's participation in the Simple Recycling program and the approval of the contract with Simple Recycling.

Prepared by: Lydia Macklin-Camel, Communications and Community Engagement Assistant

Approved by: Nate Geinzer, City Manager

AGREEMENT FOR COLLECTION OF SOFT RECYCLABLES

This Agreement for the Collection of Soft Recyclables (“Agreement”) is made and entered into this ___ day of _____, 20____, (the “Date of Execution”) by and between City of Brighton, a municipal corporation with an address at 200 N First Street Brighton, MI 48116 (herein referred to as “CITY”), and Great Lakes Recycling, Inc. d/b/a Simple Recycling, an Ohio corporation with a business address at 5425 Naiman Parkway, Solon, OH 44139 (together which with its successors and assigns, herein referred to as "Contractor").

W I T N E S S E T H:

WHEREAS, Contractor represents that it is skilled and experienced in the collection and efficient recycling and disposition of Soft Recyclables; and

WHEREAS, CITY desires to limit and restrict the quantity of Soft Recyclables which are deposited in the landfill; and

WHEREAS, CITY has selected Contractor to collect, identify, haul, recycle and/or dispose of Soft Recyclables in the CITY’S Service Area; and

WHEREAS, Contractor can provide such services and is in the business of and has the expertise, experience, resources and capability to perform the collecting, identifying, packaging, hauling, recycling and/or disposing of Soft Recyclables; and

Now, THEREFORE, in consideration of the premises and material promises set forth below and other consideration the receipt and sufficiency of which is hereby acknowledged by the parties, Contractor and CITY (herein collectively called the “Parties”) hereby agree as follows:

1. **Term.** This Agreement shall begin upon the Date of Execution and continue for an initial term of four (4) years (the “Initial Term”). At the end of the Initial Term Contractor and CITY have the right to renew for an unlimited number of additional four (4) year terms upon mutual agreement (such term an “Extension Term” and collectively, the “Term”).

2. **Collection Procedures.** During the Term and after the Date of Commencement, Contractor shall collect all acceptable Soft Recyclables set-out for recycling and collection by Residential Customers in approved Containers. The decision of what is an "acceptable" Soft Recyclable shall be made in the sole reasonable discretion of Contractor. However, in no event shall Contractor be required to accept any Excluded Items (excluded items include, but are not limited to the following items: garbage, hazardous waste, carpet, newspapers, mattresses, large furniture, large appliances, yard waste) and in no event shall Contractor provide service to Commercial Customers. Contractor shall not be responsible for collecting Soft Recyclables which have fallen or been placed Curbside but are not in a Container. Contractor agrees to operate collection vehicles in such a manner to prevent materials from being blown from the vehicle. If at any time during collection and transport, Soft Recyclables are spilled onto a street, sidewalk, or private property, Contractor shall clean up and place in the collection vehicle all Soft Recyclables before the vehicle proceeds to the next stop on the collection route or shall

promptly make all other reasonably necessary arrangements for the immediate clean-up of spilled Soft Recyclables. Contractor agrees to remove and dispose of all Soft Recyclables at no cost to CITY.

3. **Ownership.** Soft Recyclables physically collected by Contractor shall be deemed acceptable Soft Recyclables for the purposes of its obligations under this Agreement.

4. **Set Out Procedures.** Residents shall place Soft Recyclables into Containers and place Containers at Curbside for collection. Overflow material shall be placed adjacent to the Container(s) in plastic bags or other easily handled container. Soft Recyclables shall not be set out in tied bundles. Contractor must collect all Soft Recyclables that are set out in this manner and are placed within seven (7) feet of the Curbside. Containers shall be placed in a manner that will not interfere with or endanger the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Containers shall be placed as close as practicable to an access point for the collection vehicle. Contractor may decline to collect any Soft Recyclables not set out in accordance with this paragraph.

5. **Contamination and Improper Set Out.** If Contractor encounters any improperly packaged Soft Recyclables or other contaminants in the Container, Contractor may leave those materials in the Container or remove them from the Container and leave them Curbside. Contractor must place a tag on the contaminant(s) that is not collected, collect the acceptable items, and leave contaminants at Curbside.

6. **Collection Schedule.** Contractor shall divide the Service Area into collection areas to coincide with CITY collection dates. Collections shall be made from Service Recipients on a regular schedule in accordance with the existing CITY recycling pickup schedule; however, Contractor reserves the right to alter the frequency of the scheduled pickups on an as needed basis.

Contractor shall not be required to perform any service under this Agreement on Holidays. Contractor may interrupt the regular schedule and quality of service because of street repairs, snow or other closures of public routes, which in Contractor's sole reasonable discretion makes the pick-up of the Soft Recyclables from a Service Recipient impracticable under the circumstances.

7. **Missed Collections and Complaints.** Service Recipients that contact the CITY shall be instructed by CITY to report missed collections and complaints to Contractor. The Program Brochure and other program information shall include contact information for the Contractor to facilitate communication from Service Recipients. Contractor shall give prompt and courteous attention to all reported missed collections and complaints.

8. **Inventory of Containers.** During the term of this Agreement, Contractor shall purchase (at its sole cost) and maintain an inventory of acceptable and approved Containers for distribution to Service Recipients. Prior to commencement of service under this Agreement, Contractor shall provide new Containers to each Service Recipient. Containers shall initially be delivered to Service Recipients with an informational brochure on the recycling collection program described herein that is produced and printed by the contractor and approved by CITY, which approval shall not be unreasonably withheld (the "Program Brochure").

9. **Contractor's Fee.** Contractor shall pay to CITY a contract fee of One Cent (\$0.01) per pound of gross receipts of Soft Recyclables in the CITY'S portion of the Service Area. Payments shall be made to CITY not more than thirty (30) days following the close of each calendar month during the term of this Agreement. Weight shall be collected and documented upon completion of each collection day. Under no circumstance will CITY, its residents or Service Recipients incur any fees, charges or assessments to the Contractor for Contractor's delivery of services under this Agreement.

10. **Public Information and Education Program.** CITY may provide public information in the course of existing City communication channels including, but not limited to social media, website and/or newsletters to inform Service Recipients of this recycling program. Nothing in this section shall be construed so as to require the City to incur cost in providing the foregoing information, or to acquire new communication platforms. The content and timing of CITY public information shall be coordinated with and approved by Contractor, with the exception of brief social media posts, answers to general program inquiries, and other minor communications as defined by the CITY. Contractor may prepare and distribute its own promotional materials subject to CITY approval, which approval shall not be unreasonably withheld. Contractor shall participate in CITY directed promotion and education efforts as outlined below:

- a. During the course of the routine recycling pick up, provide and distribute notices regarding rejected materials and proper set out procedures.
- b. Training of employees to deal courteously with customers on the telephone and on-route to promote the collection service and explain proper material preparation.
- c. Coordinate with CITY for distribution of written promotional and instructional materials directly to Service Recipients.
- d. Provide advice to CITY on promotion and education material content and presentation.

11. **Telephone and Customer Service.** Contractor shall maintain and staff a local toll-free telephone number where complaints of Service Recipients shall be received, recorded and handled by Contractor, between the hours of 9:00 AM and 4:30 PM Monday through Friday, excluding Holidays. Typically, all "call backs" shall be attempted a minimum of one time prior to 6:00 p.m. on the day of the call.

12. **Marketing and Disposition of Recyclable Material.** Contractor shall be solely responsible for the marketing and sale of collected Soft Recyclables, and shall be solely responsible for the storage and disposition of the Soft Recyclables in the event it is unable to sell the Soft Recyclables in a timely manner.

13. **Insurance.** During the term of this Agreement Contractor agrees to keep in force, with an insurance company licensed to transact business in the state of Michigan, an "occurrence basis" insurance policy or policies indemnifying, defending and saving harmless CITY from all damages (except for damages caused by CITY's own negligence, willful misconduct or failure) which may be occasioned to any person, firm, or corporation, whether damages are by reason of

any willful or negligent act or acts on part of Contractor, its agents or employees, with limits no less than:

a. General Liability: One Million and no/100 Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage.

b. Vehicle Liability: Two Million and no/100 Dollars (\$2,000,000.00) combined single limit per accident for bodily injury and property damage.

c. Worker's Compensation/Industrial Insurance: Limits as required by the State of Michigan.

The general liability provisions in automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) CITY, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor.
- (ii) Contractor's insurance coverage shall be primary insurance as CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- (iii) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers.
- (iv) Contractor's insurance shall apply separate to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, nor reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to CITY.

14. **Taxes.** Contractor agrees to save CITY harmless from any and all taxes or assessments of any kind or nature levied by any political subdivision upon Contractor by reason of services rendered for Soft Recyclables and disposal for CITY.

15. **Employee Conduct.** All Contractor personnel must maintain a courteous and respectful attitude toward the public at all times. At no time may they solicit, request or receive gratuities of any kind. Contractor must direct its employees to avoid loud and/or profane language at all times during the performance of duties. Any employee of Contractor who engages in misconduct or is incompetent or negligent in the proper performance of duties or is disorderly, dishonest, intoxicated, or discourteous must be removed from service under this contract by Contractor.

16. **Monthly Reports.** Contractor shall provide monthly project status reports. These reports will be due within fifteen (15) days of the close of the month being reported. At a minimum, the reports shall include detailed data to allow analysis of collection and processing efficiencies including pounds of Soft Recyclables collected in the prior month and the payment of the required fee to CITY.

17. **Inspections.** Upon reasonable advance request to Contractor, CITY may inspect the facilities, equipment and operations of Contractor to assure itself of the appearance and compliance with provisions of this Agreement. Upon reasonable advance request, CITY may review the records kept on the Soft Recyclables collected under the terms of this Agreement to

test and validate the weights claimed. CITY agrees to notify Contractor, in writing, at least forty-eight (48) hours prior to any such inspection.

18. Meetings and Communications. In order to minimize misunderstanding and to provide thereafter a forum for discussing and resolving any issues that may arise, the parties agree to meet on a regular basis and hereby adopt communications procedures as follows:

Meetings After Collection Begins. After Collections begin, meetings shall be held no less frequently than a quarterly basis, unless otherwise mutually agreed, between representatives of the parties. Such meetings will be held for the purpose of reviewing and discussing day-to-day operations, promotion, public information and public relations.

Designation of Representatives. Each party shall send at least one representative to each meeting. CITY shall send to each meeting at least one staff member with operation expertise. Each party shall designate one, and only one, representative as its Lead Representative. If a party sends only one representative to any meeting, that person shall be conclusively presumed to be its Lead Representative.

No discussions held pursuant to this section shall be considered amendments of this Agreement unless such amendments are adopted by the procedure set forth in paragraph 26, below.

19. Compliance with Laws and Regulations. Contractor agrees that, in performance of work and services under this contract, Contractor will qualify under and comply with any and all applicable federal, State and local laws and regulations now in effect, or hereafter enacted during the Term, which are applicable to Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

20. Termination and Breach. In the event of a breach of the terms and conditions of this Agreement by either Party hereunder, the non-breaching Party may elect to terminate this Agreement by providing the defaulting Party with a written notice of such default, and allowing the breaching Party a period of thirty (30) days from and after the date of such notice to cure the breach complained of to the satisfaction of the non-breaching Party. In the event said breach is not cured within the thirty (30) day period, this Agreement shall be terminated (for-cause) as of the last day of the period. In the event CITY is the non-defaulting party, Contractor agrees to furnish services under this Agreement until such time as another Soft Recyclables collection and disposal contractor can be selected by CITY.

21. Severability. Should one or more of the provisions of this Agreement be held by any court to be invalid, void or unenforceable, the remaining provisions shall nevertheless remain and continue in full force and effect, provided that the continuation of such remaining provisions does not materially change the original intent of this Agreement.

22. Independent Contractor Status. In the performance of services pursuant to this Agreement, Contractor shall be an independent contractor and not an officer, agent, servant or employee of CITY. Contractor shall have exclusive control over the details of the service and work performed and over all persons performing such service and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, Contractors and subcontractors, if any. Neither Contractor nor its officers, agents, employees or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other

benefits which accrue to CITY employees and Contractor expressly waives and claim it may have or acquire to such benefits.

23. **No Assignment.** This Agreement, or any interest herein, shall not be transferred, sold, nor assigned by either party to any person, firm, or corporation, without the prior written consent of the other party.

24. **Definitions.**

a. Commercial Customer: The term "Commercial Customer" means non-residential customers, including businesses, public or private schools, institutions, governmental agencies and all other users of commercial-type Garbage collection services.

b. Container: The term "Container" means a bag, supplied by Contractor for use by the Residential Customer to set out Soft Recyclables.

c. Curb or Curbside: The words "Curb" or "Curbside" relate to the homeowners' property, within five (5) feet of the Public Street or Private Road without blocking sidewalks, driveways or on-street parking. If circumstances preclude, a Curbside shall be considered a placement suitable to the resident, convenient to Contractor's equipment, and mutually agreed to by CITY and Contractor.

d. Excluded Items: The term "Excluded Items" means Garbage, Hazardous Waste, large furniture, large appliances such as refrigerators, stoves, washers and dryers, magazines, newspapers, car seats, cribs, mattresses, paint, tires, cleaners, etc. and any item heavier than fifty (50) pounds.

e. Garbage: The term "Garbage" means all putrescible and non-putrescible solid and semi-solid wastes, including, but not limited to, rubbish, ashes, industrial wastes, grass, yard debris, leaves, swill, demolition and construction wastes, dead animals piles of debris, car parts, construction or demolition debris, any item that would be considered Hazardous Waste, or stumps.

f. Hazardous Waste: The term "Hazardous Waste" means any hazardous, toxic or dangerous waste, substance or material, or contaminant, pollutant or chemical, known or unknown, defined or identified as such in any existing or future local, state or federal law, statute, code, ordinance, rule, regulation, guideline, decree or order relating to human health or the environment or environmental conditions, including but not limited to any substance that is defined as hazardous by 40 C.F.R. Part 261 and regulated as hazardous waste by the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act ("RCRA") of 1976, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments ("HSWA") of 1984; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; or any other federal statute or regulation governing the treatment, storage, handling or disposal of waste imposing special handling or disposal requirements similar to those required by Subtitle C of RCRA or any Michigan statute or regulation governing the treatment, storage, handling or disposal of wastes and imposing special handling requirements similar to those required by federal law.

g. Holiday: The term "Holiday" means the following days: New Year's Day, Martin Luther King's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day, unless otherwise specified by the CITY recycling holiday schedule.

h. Residential Customer: The term “Residential Customer” means an individual or individuals residing in a living space rented, leased or owned.

i. Service Area: The Service Area will encompass all of CITY’S curbside, residential trash and recycling collection area, as it may be amended from time to time.

j. Service Recipients: The term “Service Recipients” means Residential Customers of CITY in the Service Area.

k. Soft Recyclable: The term “Soft Recyclable” means items of an individual weight less than fifty (50) pounds and can be carried by one person. Soft Recyclables include primarily men’s, women’s and children’s clothing as well as items such as jewelry, shoes, purses, hats, toys, pictures, mirrors, blankets, drapes and curtains, pillows, rags, sewing scraps, sleeping bags, small furniture, small appliances, irons, radios and audio equipment, TVs and video equipment, cameras, lamps, hairdryers, tools, toasters, microwaves, coffee makers, computers and household or consumer electronics, silverware, dishes, pots and pans, glasses and the like. The definition of Soft Recyclable is subject to modification in the discretion of Contractor based upon experience gained during the term of this Agreement.

25. **Service Modifications.** To avoid confusion with the CITY’S existing collector for trash and recycling, the Parties agree that the Contractor will not collect any material set outside of the Container, such as small furniture, small appliances, televisions and other items which do not fit into the Container. The Contractor and CITY agree to discuss this service modification at the quarterly meetings set forth under Section 20 herein, with a goal of allowing the Contractor to collect and recycle these materials for the CITY as soon as practicable.

26. **Amendment.** This Agreement may not be modified, replaced, amended or terminated without prior written consent of the City of Brighton City Council and Great Lakes Recycling, Inc.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the Date of Execution first written above.

CITY

By: _____

Its: _____

Great Lakes Recycling, Inc. d/b/a Simple
Recycling

By: _____

Adam Winfield, President