

# 2<sup>nd</sup> Annual Downtown Helena Community Amateur Photo Competition

**NO PURCHASE NECESSARY TO ENTER**

**VOID WHERE PROHIBITED**

THIS IS A SKILL COMPETITION

***Competition Begins: April 10, 2019, and***

***Competition Ends: October 12, 2019***

The Downtown Helena photography competition is open!

DOWNTOWN HELENA INC. AND HELENA BUSINESS IMPROVEMENT DISTRICT (collectively, “*Sponsors*”) have partnered to sponsor a competition that is open to amateur photographers. All amateur photographers are encouraged to submit an 8x10 landscaped photo for a chance to be featured in the 2<sup>nd</sup> Annual Downtown Helena Amateur Photo Competition.

**Categories and Theme:** Helena community in abstract, architecture, cityscapes, fine art, portrait, people, nature, landscape, street, urban, wildlife.

**Eligibility:** This competition is open to all amateur photographers aged 18 or older at the time of Competition entry. Competition entry is limited to residents of the State of Montana.

**How to Entry:** Submit a high resolution 8x10 landscape photo (whether black & white or color) with your first and last name, email address, phone number, and \$10 (per photo) entry fee to Micky Zurcher, HBID/DHI Photo Competition, 318 Fuller Ave, Helena, MT 59601.

Photos must be submitted by September 25, 2019. You must also send a digital photo to [mzurcher@helenabid.com](mailto:mzurcher@helenabid.com).

Photos that are not submitted both digitally and in an 8x10 format will not be included in the Competition. By entering this competition (“*Competitor(s)*”), you agree to your photo being published in our calendar. Checks can be made to HBID.

**Community Votes:** Public voting to select the top 12 photos will be available at 318 Fuller Ave beginning **September 30 – October 11, 2019**. The public will also be able to vote at Kids Fall Fest on **October 12, 2019**.

**Winner Announcements:** Winners will be notified via email once voting concludes. Names of the winners will be posted on our social media sites and website.

Each winner will receive a Downtown Helena gift basket with a complimentary calendar and a \$25 gift card to Silver Star (the "Reward").

**General Competition Conditions.** Subject to applicable law, Sponsors reserve the right to change these rules at any time. At the sole discretion of Sponsors, all entries are subject to verification. Anti-fraud detection devices may be used to verify winners. No more than one winner will be selected. Sponsors are not responsible for any electronic or typographical error in the printing or reproduction of these Official Rules, administration of the Competition or in the announcement of the Competition's Winner and/or the Rewards. Sponsors' failure to enforce any term of these Official Rules shall not constitute a waiver of that provision.

**Competitors Warranties and Representations.** Each Competitor:

**Rights Ownership.** Warrants and represents that s/he own/owns all rights to the Photograph(s) he/she is submitting, including, without limitation, the display rights associated with each Photograph;

**Permissions Obtained.** Warrants and represents that with respect to any person or persons, living or dead, portrayed in an Photograph, that the Competitor has obtained all requisite permissions, as necessary, to portray or depict such person(s) image in such Photograph, and grants and conveys to the Sponsors such right, and promptly will make such permissions available to Sponsors upon request;

**Exclusive Work.** Warrants that s/he is the sole creator and owner of her/his Photograph, or has full permission to use copyrighted components, and further warrants that the Photograph contains no information considered by Competitor's employer, place of business, or any third party to be confidential.

**Document Delivery.** Agrees to execute and deliver to Sponsors, in a prompt and commercially reasonable manner, any and all documents necessary to effectuate the assignment of her/his/their Photograph, and rights thereto, to Sponsors.

**No Infringement.** Warrants and represents that: (i) his/her Photograph(s) is/are original and have been legally obtained and created, and do not infringe the intellectual property rights or any other legal or moral rights of any third party;

**Assignment of Rights.** Without any promise to pay or payment of monetary consideration whatsoever irrevocably grants to Sponsors and their affiliates, legal representatives, assigns, agents and licensees, the worldwide, royalty-free, exclusive, sub-licensable, unconditional, perpetual and transferable right and license to copyright (only as applicable), reproduce, encode, store, modify, copy, transmit, publish, post, broadcast, display, publicly perform, adapt, exhibit and/or otherwise use or reuse (without limitation as to when or to the number of times used), the Competitor's name, address, image, voice, likeness, statements, biographical material and Photograph(s), including, but not limited to, any photographic or digital images respecting in any way the Competition, as well as any photographic images, video images, interviews or other materials relating to the Competitor and arising out of his/her participation in this

Competition (with or without using the Competitor's name) (all collectively, the "*Additional Materials*") (in each case, as submitted or as edited/modified in any way, whether by the Sponsors, their licensees, or assigns, in the Sponsors' sole discretion) in any media throughout the world for any purpose, without limitation, and without additional review, compensation, or approval from the Competitor or any other party.

***Promotional Rights.*** Irrevocably grants to Sponsors the worldwide, royalty-free, exclusive, sub-licensable, unconditional, perpetual and transferable right and license to use the Photograph for advertising, promotional or commercial purposes, including without limitation, the right to publicly display, perform, reproduce and distribute the Competitor's Photograph or Additional Materials (collectively the "*Competition Elements*") in any media format or medium and through any media channels.

***Compensation.*** Acknowledges and agrees that (i) Sponsors have access to and/or may create or have created literary, film, tape and/or other materials or concepts which may be similar or identical to the Photograph in theme, idea, design, theme and/or other respects; (ii) except for the Reward awarded to the winning Competitors, or collateral agreements in writing expressly involving the Competitor(s) and Sponsors, the Competitor will not be entitled to any compensation or other consideration whatsoever because of the use by Sponsors of any such similar or identical material, ideas, designs, and/or concepts; and (ii) Sponsors' use of material containing elements similar to or identical with those contained in any Photograph shall not obligate Sponsors to negotiate with nor entitle Competitor to any compensation or other claim;

***Indemnification.*** Agrees to indemnify and hold the Sponsors and their respective affiliates, officers, directors, agents, co-branders or other partners, and any of their employees (collectively, the "*Indemnitees*"), harmless from any and all claims, damages, expenses, costs (including reasonable attorneys' fees at trial and on appeal) and liabilities (including settlements), brought or asserted by any third party against any of the Indemnitees arising out of or in connection with (a) Competition Elements (including, but not limited to, any and all claims of third parties, whether or not groundless, based on the submission of such other material); (b) any breach by Competitor of any warranty, agreement or representation contained in the Official Rules or terms of use or in any documentation submitted by Competitor; (c) the Competitor's conduct during and in connection with this Competition, including but not limited to trademark, copyright, or other intellectual property rights, right of publicity, right of privacy or defamation; or (d) the acceptance of any prize.

***Errors, Malfunctions, Etc/Fraud/Tampering.*** The Sponsors are not responsible for any incorrect or inaccurate entry information; human errors; technical malfunctions; failures, including public utility outages; omissions, interruptions, deletions or defects of any telephone network, computer online systems, computer equipment, servers, providers, or software, including without limitation any injury or damage to participant's or any other person's computer, cell, or wireline telephone, relating to or resulting from participation in

this Competition; inability to access the Website or any web pages of the Sponsors; theft, tampering, destruction, or unauthorized access to, or alteration of Competition Elements; or data that is processed late or incorrectly or is incomplete or lost due to telephone, computer or electronic malfunction or traffic congestion on telephone lines, or the Internet, or any service provider's facilities, or any website (including the Website) or for any other reason whatsoever, including typographical, printing or other errors, or any combination thereof. Without limiting the generality of the foregoing, the Sponsors are not responsible for incomplete, indecipherable, misdirected, misprinted, late, lost, damaged, stolen, or postage-due submissions, submission or prize or Rewards notifications; or for lost, interrupted, inaccessible or unavailable networks, servers, satellites, Internet Service Providers, websites, or other connections; or for miscommunications, failed, jumbled, scrambled, delayed, or misdirected computer, telephone or cable transmissions; or for any technical malfunctions, failures, difficulties or other errors of any kind or nature; or for the incorrect or inaccurate capture of information, or the failure to capture any information. The Sponsors also are not responsible for lost, late, incomplete, damaged, stolen, misdirected, or indecipherable content, registrations or Competition Elements; or miscommunications or other errors or malfunctions of any kind whether, human, mechanical, electronic or otherwise. **ANY ATTEMPT BY A COMPETITOR OR ANY OTHER INDIVIDUAL TO DELIBERATELY DAMAGE ANY WEBSITE (INCLUDING THE WEBSITE) OR UNDERMINE THE LEGITIMATE OPERATION OF THIS COMPETITION IS A VIOLATION OF CRIMINAL AND/OR CIVIL LAWS AND SHOULD SUCH AN ATTEMPT BE MADE, SPONSORS RESERVE THE RIGHT TO SEEK DAMAGES AND OTHER REMEDIES FROM ANY SUCH PERSON TO THE FULLEST EXTENT PERMITTED BY LAW.** Sponsors reserve the right at their sole discretion to disqualify any individual they find to be attempting to tamper with or undermine the entry process, the Website, and/or the legitimate operation of the Competition; to violate the Official Rules; or to act in an unsportsmanlike or disruptive manner or with the intent to annoy, abuse, threaten, or harass any other person. **All entries and Competition Elements become the property of Sponsors.**

***Official Rules are Final and Binding.*** By entering this Competition, Competitors acknowledge that they have read and understand these Official Rules and agree to be bound by and acknowledge compliance with these Official Rules including, without limitation, eligibility requirements, warranties, and by the decisions of Sponsors. **FAILURE TO COMPLY WITH THESE OR ANY OTHER OFFICIAL RULES WILL RESULT IN DISQUALIFICATION.** *All decisions of the judging public and Sponsors are final and binding on all matters relating to this Competition.*

***Disqualification.*** Sponsors reserve the right to disqualify any Competitor at any time as determined in Sponsors' sole discretion, should such person at any stage of the Competition: (a) fail to comply with these Official Rules; (b) supply any untruthful, inaccurate or misleading personal details and information; (c) refuse or fail to provide proof of identity and/or eligibility if requested by the Sponsors at any time; (d) engage in unlawful conduct or misconduct, including without limitation, harming or threatening to harm any other Competitor or Sponsors' personnel, exercising violent behavior, or potential or actual cheating; and (e) purposely impeding or acting to impede the work of Sponsors

and/or the implementation of the Competition. *The disqualification of a Competitor shall be final and not subject to appeal or review for any reason whatsoever.*

**Construction of Official Rules.** These Official Rules cannot be modified or amended in any way except in a written document issued in accordance with law by a duly authorized representative of Sponsors or the Sponsors. The invalidity or unenforceability of any provision of these rules shall not affect the validity or enforceability of any other provision. In the event that any provision is determined to be invalid or otherwise unenforceable or illegal, these rules shall otherwise remain in effect and shall be construed in accordance with their terms as if the invalid or illegal provision were not contained herein. The headings of the paragraphs in these Official Rules are for the convenience of reference only, and do not form a part hereof, and in no way define, limit, describe, modify, interpret or construe the meanings of Sponsors, the scope of these Official Rules, or the intent of any paragraph hereof. Sponsors' failure to enforce any term of these Official Rules shall not constitute a waiver of that provision. Proof of sending or submission will not be deemed to be proof of receipt by Sponsors.

**Clarification.** Unless the context of these Official Rules clearly requires otherwise, references to the plural include the singular and to the singular include the plural, references to any gender include any other gender, the part includes the whole, the term "including" is not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in these Official Rules refer to these Official Rules as a whole and not to any particular provision of these Official Rules. Any reference in or to these Official Rules or any ancillary agreements includes any and all permitted alterations, amendments, changes, extensions, modifications, renewals, or supplements thereto or thereof, as applicable.

**Nature of Relationship/Waiver of Equitable Relief.** Each Competitor hereby acknowledges and agrees that the relationship between the Competitor and the Sponsors is not a confidential, fiduciary, or other special relationship, and that the Competitor's decision to provide the Competitor's Competition Elements for purposes of this Competition does not place the Sponsors in a position that is any different from the position held by members of the general public with regard to elements of the Competitor's Competition Elements. Each Competitor understands and acknowledges that the Sponsors have wide access to ideas, designs, and other artistic materials, and that new ideas are being submitted to them in connection with this or other contests or promotional events, or are being developed by the Sponsors' own employees. Each Competitor also acknowledges that many ideas, designs, concepts, or renderings may be competitive with, similar or identical to a Competitor's Photograph and/or each other in design, theme, idea, lyrical imagery, design, format or other respects. Each Competitor acknowledges and agrees that such s/he will not be entitled to any compensation as a result of any Patron's use of any such similar or identical material. Each Competitor acknowledges and agrees that the Sponsors do not now and shall not have in the future any duty or liability, direct or indirect, vicarious, contributory, or otherwise, with respect to the infringement or protection of the copyright in and to any Competitor's Competition Elements respecting, in any manner or

context, this Competition. Further, Competitor agrees that s/he shall not bring, nor have a right to, equitable relief of any kind in connection with the Sponsors' use of Competitor's Competition Elements respecting, in any manner or context, this Competition. **Ownership of Competition Elements:** For the avoidance of doubt, upon creation all Competition Elements shall become and be Sponsors' property.

**Termination Provisions.** In the event an insufficient number of eligible submissions are received, or if Sponsors are prevented from conducting adjudications or awarding Rewards or continuing with the Competition as contemplated herein by any event beyond its control, including but not limited to fire, flood, natural or man-made epidemic, earthquake, explosion, labor dispute or strike, act of God, public enemy or terrorist, or due to satellite or equipment failure, riot or civil disturbance, terrorist threat or activity, war (declared or undeclared) or any federal state or local government law, order, or regulation, public health crisis (*e.g.* SARS or a communicable disease pandemic), order of any court or jurisdiction, or other cause not reasonably within Sponsors' control (each a "Force Majeure" event or occurrence), then (subject to any governmental approval that may be required) Sponsors shall have the right to modify, suspend, or terminate this Competition. If the Competition is terminated for a Force Majeure before the designated Competition End Date, Sponsors will (if reasonably possible or feasible) select the Competition Winner from all eligible, non-suspect submissions received as of the date of the event or Force Majeure giving rise to the termination of the Competition. If, for any reason, the Competition is not capable of running as planned, including infection by computer virus or bugs, tampering, unauthorized intervention, fraud, technical failures, or any other causes beyond the control of Sponsors, which corrupt or affect the operation, administration, security, fairness, integrity, or proper conduct of this Competition, Sponsors may, in their sole discretion, (i) void any suspect entry or (ii) suspend the Competition to address the impairment and then resume the Competition in a manner that best conforms to the spirit of these Official Rules up to the time of the impairment. Sponsors reserve the right to suspend, modify, or cancel this Competition at any time without notice or obligation. If such cancellation, termination, modification or suspension occurs, Sponsors will make a commercially reasonable effort to post notice of such on the Website.

**Identity Conflicts or Disputes.** In the event of a dispute as to the identity of a Competitor, the authorized account holder of the email address or telephone line that is used in connection with the entry will be deemed to be the registrant or participant. The "authorized account holder" is the natural person assigned a telephone number by a telephone company or wireless carrier, or an email address by an Internet service or access provider, online service provider, Internet service provider, or other organization responsible for assigning email addresses for the domain associated with the submitted address. A Competitor may be required to show proof of being the authorized account holder and/or a current UCLA Arts student or recent UCLA Arts alumni.

**Arbitration Provision.** By participating in this Competition, each Competitor agrees that any claim, dispute, or controversy (whether in contract, tort, otherwise) that it may have with, or claims it may have against, Sponsors or the Sponsors arising out of, relating to, or connected in any way with the Competition, the awarding or redemption of

any Rewards, prize or prizes, contract or the determination of the scope or applicability of this agreement to arbitrate, shall be resolved exclusively by private, final and binding arbitration administered by the National Arbitration Forum ("*Forum*") and conducted before a sole arbitrator pursuant to the Forum's Code of Procedure. Further, each Competitor agrees that: (a) This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act ("*FAA*"), 9 U.S.C. §§ 1-16; (b) the arbitration shall be held at a location determined by the Forum pursuant to the Code of Procedure (provided such location is reasonably convenient for Competitor), or at such other location as may be mutually agreed by the Competitor and Sponsors/Sponsors; (c) the arbitrator's decision shall be controlled by the terms and conditions of these Official Rules and any of the other agreements referenced herein that the applicable Competitor may have entered into in connection with the Competition; (d) the arbitrator shall apply Montana law consistent with the FAA and applicable statutes of limitations, and shall honor claims of privilege recognized at law; (e) there shall be no authority for any claims to be arbitrated on a class or representative basis; arbitration can decide only the Competitor's and/or Sponsors' individual claims and the arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated; and (f) the arbitrator shall not have the power to award punitive damages against the Competitor, Sponsors or Sponsors. Moreover, if any part of this arbitration provision is deemed to be invalid, unenforceable or illegal, or otherwise conflicts with the Code of Procedure established by the Forum, the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. For more information on the Forum and/or the Forum's Code of Procedure, please visit their website at [www.arb-forum.com](http://www.arb-forum.com) or contact the Forum at National Arbitration Forum, P.O. Box 50191, Minneapolis, MN 55405, (877) 655-7755.

***Choice of Law.*** All issues and questions concerning the construction, validity, interpretation and enforceability of these Official Rules, or the rights and obligations of the parties in connection with the Competition shall be governed by, and construed in accordance with, the laws of the State of Montana, U.S.A., without regard to choice of law or conflicts of laws principles under such Montana law.

***Releases; Indemnification.*** By participating in this Competition, each Competitor releases Sponsors and each of their parent companies, partners, stockholders, affiliates, subsidiaries, directors, officers, agents, employees, advertising agencies, suppliers, and all others associated with the development and execution of the Competition from and against any and all liability, claims or actions of any kind whatsoever in connection with Competition participation, or in the receipt, possession, ownership or use of any Rewards or prize awarded in connection with the Competition, or while traveling to or from any Competition event and/or participating in any prize-related activity with respect to or in any way arising from the Competition and/or acceptance or use of any stipend or prize, including, without limitation, liability for personal injury, damages or loss.

**Release of Claims.** Each Competitor agrees to (i) indemnify and hold Sponsors and the Sponsors, harmless from any and all liability resulting or arising from the Competition, and (ii) release all rights to bring any claim, action or proceeding against the Sponsors separately, or Sponsors collectively. All Competitors hereby acknowledge that the Sponsors have neither made nor are in any manner responsible or liable for any warranty, representation or guarantee, express or implied, in fact or in law, relative to any Rewards or prize. Some jurisdictions may not allow the limitations or exclusions of liability for incidental or consequential damages or exclusion of implied warranties, so some of the above limitations or exclusions may not apply. Each Competitor acknowledges that there is a possibility that, subsequent to his/her involvement with the Competition and adherence to these Official Rules s/he may discover facts or incur or suffer claims which were unknown or unsuspected at the time agreeing to these Official Rules, and which if known by her/him/them at that time may have materially affected his/her/their decision to participate in the Competition. Such Competitors acknowledge and agree that by reason of these Official Rules, and the releases contained in the preceding subsections, s/he is/are assuming any risk of such unknown facts and such unknown and unsuspected claims. Such Competitors acknowledge that they have read these Official Rules.

This release shall constitute a full release in accordance with its terms. Such Competitors knowingly and voluntarily waive any statute, law, or rule of similar effect, and acknowledge and agree that this waiver is an essential and material term of this release, and without such waiver s/he would not have been permitted to participate in the Competition or compete for or receive any Rewards or prize. Such Competitors acknowledge and understand the significance and consequence of this release and of this specific waiver of such laws.

**Publicity Release/Privacy.** By participating in the Competition, in addition to any other grants which may be granted in any other agreement entered into between or among Sponsors and any Competitor in connection with the Competition, each Competitor irrevocably grants the Sponsors and their respective successors, assigns and licensees, the right to use such Competitor's name, likeness and biographical information, and any individual(s) participating therein, in any and all media for any purpose, including without limitation, advertising and promotional purposes as well as in, on or in connection with the Website, Website or the Competition or other promotions conducted by Sponsors, and each such Competitor hereby releases Sponsors and Sponsors from any liability with respect thereto. Except as otherwise stated in these Official Rules, personal information collected in connection with this Competition will be used in accordance with the privacy policy found on the Website and with the consent given by a Competitor at the time of entry. Any communication or information transmitted to Sponsors and/or the Website by electronic mail or otherwise is and will be treated as non-confidential and nonproprietary. **IF YOU DO NOT WANT YOUR PERSONAL INFORMATION USED IN THE MANNER DESCRIBE HEREIN, DO NOT ENTER THIS COMPETITION.**

**Further Documentation.** If Sponsors shall desire to secure additional assignments, certificates or other documents as Sponsors may reasonably require in order to effectuate the purposes and intents of these Official Rules and the Competition, then each Competitor



agrees to promptly sign and deliver to Sponsors, individually or collectively, the same upon Sponsors' request therefor.

**Dates, Deadlines, Number of Competitors.** Due to the unique nature and scope of this Competition, Sponsors reserve the right, in addition to those other rights reserved herein, to modify any date(s) or deadline(s) set forth in these Official Rules. Sponsors are not able to accurately predict the number of entrants that will participate in this Competition.

**Winner's Disclosure.** For the names of the Competition winners, available at the conclusion of the Competition, visit the Website or, to obtain the name of the Competition Winners after **October 19, 2019**, send a self-addressed, stamped envelope marked "Winners" by no later than **December 30, 2019**, to the following address: 319 Fuller Avenue, Helena, MT 59601.

14. **Administrator and Sponsor.** The administrator of this Competition is Helena Business Improvement District, 319 Fuller Avenue, Helena, MT 59601.

## Distinctly Helena Uniquely Downtown