

GENERAL SERVICES CONTRACT

Contract No. TER-2025-228-AG2

This Contract by and between the City of Flagstaff, a political subdivision of the State of Arizona, and Restoration Soils, LLC, Arizona limited liability company ("Contractor") shall be effective as of the date of the last signature below. The City and Contractor may be referred to as "Party" or jointly as "Parties."

RECITALS

WHEREAS, the City desires to receive Residential Food Scrap Drop-Off; and

WHEREAS, Contractor is able to provide certain services; and

NOW, THEREFORE, in consideration for the mutual promises contained herein, the Parties agree as follows:

AGREEMENT

1. Scope of Work

1.1 General Description

Contractor will provide the services generally described as: Residential Food Scrap Drop-Off Program.

1.2 Specific Purchase

The specific requirements of the services to be purchased are identified in the Scope of Work, attached hereto as Exhibit A.

2. Term and Renewal

2.1 Contract Term

The initial term is for a period of two (2) year[s] unless terminated pursuant to the provisions of the Contract. The Contract will be effective as of the date signed by both parties. The City Council has the authority to amend the term of the Contract.

2.2 Renewal

The Contract may be renewed for up to three (3), one (1)- year additional terms by mutual written consent of the parties. The City Manager or his/her designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

2.3 Unilateral Extension

The Contract may be unilaterally extended for one (1) 90-day period. The City Manager or his/her designee (the Purchasing Director) shall have the authority to approve the extension on behalf of the City. Contractor will be provided written notice of the Unilateral Extension prior to expiration of the Contract.

3. Compensation

3.1 Compensation

Contractor shall be paid for satisfactory performance of the Contract in an amount not to exceed **thirteen thousand three hundred dollars (\$13,300), annually**, including fees and taxes, based on an hourly rate or other measurement made in accordance with the Scope of Work, attached hereto as Exhibit A.

3.2 Price Adjustment

Price adjustments may be negotiated annually, at the date of the execution of the original Contract, at the discretion of the City. Any request for a price increase must be submitted no later than thirty (30) days in advance of the execution date and include supporting documentation demonstrating that the increase in contract price is based on an increased cost to the Contractor and that the proposed pricing is still competitive in the marketplace.

3.3 Formal Amendment Required

Any price adjustment must be approved by mutual written consent of the parties through a formal amendment. The City Manager or his/her designee may approve an amendment if the total amount of the Contract, as amended, is less than \$100,000; otherwise, City Council approval is required.

4. Termination and Cancellation Clauses

4.1 Non-Appropriation

The City may terminate the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

4.2 For Convenience

Either Party may terminate the Contract for any reason by giving the other Party written notice of such termination no less than thirty (30) days prior to the date of termination. If the Contract is so terminated, the City's only payment obligation under the Contract shall be for those Services completed prior to the effective date of the termination.

4.3 Conflict of Interest

The Contract is subject to the terms of A.R.S. § 38-511.

4.4 Payment Upon Termination

Upon termination of the Contract, the City shall pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

5. Insurance

5.1 Minimum Scope and Limits of Insurance

The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

5.2 Commercial General Liability - Occurrence Form

General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000

5.3 Umbrella Coverage

Umbrella Coverage	\$2,000,000
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5.4 Automobile Liability

Any Automobile or Owned, Hired, and Non-owned Vehicles Combined Single Limit Per Accident for Bodily Injury & Property Damage	\$1,000,000
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5.5 Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$1,000,000
Disease - Each Employee	\$1,000,000
Disease - Policy Limit	\$1,000,000

5.6 Other Insurance Requirements

The insurance policies shall contain, or be endorsed to contain, the following provisions:

- A. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.
- B. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.
- C. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.
- D. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- E. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.

F. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

6. Indemnity

6.1 Indemnity

Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the City, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorneys' fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns. This indemnification shall survive termination or expiration of the Contract.

7. Warranty

All work shall be of good quality and free of defects, and performed in a diligent and professional manner. Contractor warrants all work for a period of one (1) year following final acceptance by the City. This warranty shall survive termination or expiration of the Contract.

8. Employees, Assignment, and Subcontractors

8.1 Assignment/Subcontracting

Contractor was selected for its special knowledge, skills, and expertise and shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities of this Contract, in whole or in part, without the City's prior written approval which may be withheld.

8.2 Independent Contractor

Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, compulsory Workers' Compensation laws of the State of Arizona under A.R.S. § 23-901 (et. seq.) and/or unemployment insurance laws.

8.3 Nondiscrimination

Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides Services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, and/or familial status and represents and warrants that it complies with all applicable federal, state, and local laws, ordinances and executive orders regarding employment.

8.4 Drug Free Workplace

The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.

8.5 Immigration Laws

Pursuant to A.R.S. § 41-4401, Contractor hereby warrants that it and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and/or federal immigration laws and regulations shall constitute a material breach of the Contract.

8.6 Forced Labor of Ethnic Uyghurs

Contractor hereby certifies that it does not use the forced labor of ethnic Uyghurs in the People's Republic of China as defined in A.R.S. § 35-394, et seq.

9. Invoicing and Payment After Delivery

9.1 Payment

Unless otherwise stated in the Scope of Work, payment is due within thirty (30) days of the date of the Contractor's delivery of the materials and/or services conforming to the Contract and receipt of the Contractor's invoice, whichever is later.

9.2 Invoice

Contractor should invoice the City by an itemized list of charges. The City's Purchase Order Number and/or the Contract Number should be referenced on each invoice. Invoices shall include the Contract and/or Purchase Order number and dates when the work has been performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory Services received and accepted by City.

9.3 Taxes

Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of performance of the Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees.

9.4 Exception

The City will pay any taxes which are specifically identified as a line-item dollar amount in Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the award process. Such taxes shall be identified as a separate line item in Contractor's invoices.

10. General Terms

10.1 Governing Law and Venue

The Contract shall be governed by and construed in accordance with the laws of the State of Arizona. In the event of litigation, exclusive venue arising under this Contract is Coconino County, Arizona.

10.2 Attorneys' Fees

If any action at law or in equity is necessary to enforce the terms of the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees, and expenses.

10.3 Public Records

The Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law. A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential," the City will endeavor to notify Contractor prior to release of such information.

10.4 Inspection

The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.

10.5 Cooperative Use

If Contractor agreed during the procurement process, Contractor may enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell the services identified in the

Scope of Work and accompanying documents to any member of a cooperative group under the same pricing, terms, and conditions of the Contract awarded to the Contractor.

10.6 No Boycott of Israel

Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents (\$100,000), the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

10.7 Compliance with Laws

Contractor shall comply with all applicable federal, state, and local laws, regulations, standards, codes, and ordinances, including acquiring the requisite insurance, licenses, permits, and approvals, required to perform the Contract, and provide copies to City upon request.

11. Amendment

The Contract is intended to be the complete and final agreement of the Parties. The Contract may be amended through a formal written amendment Parties. A “change order” is not a sufficient mechanism for amending the Contract.

12. Notice

Any formal notice under the Contract shall be in writing via certified mail and email as follows:

<p><u>To the City:</u> Steven Thompson Sustainability - Neighborhood Engagement/Volunteer Services City of Flagstaff 211 W. Aspen Ave. Flagstaff, AZ 86001 Email: steven.thompson@flagstaffaz.gov Phone: (928) 213-2144</p>	<p><u>To Contractor:</u> Art Babbott Restoration Soils 2684 E Huntington Dr Flagstaff, AZ. 86004 compost@restorationsoils.com</p>	<p><u>With a copy to:</u> Teddy Callan City of Flagstaff 211 W. Aspen Ave. Flagstaff, AZ 86001 Email: teddy.callan@flagstaffaz.gov</p>
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IN WITNESS WHEREOF, the City and Contractor, by their duly authorized representatives, have executed this Contract effective as of the date of the last signature below.

CONTRACTOR

CITY OF FLAGSTAFF

SIGNATURE

SIGNATURE

FULL NAME

FULL NAME

TITLE

TITLE

DATE SIGNED

DATE SIGNED

ATTEST:

SIGNATURE

Stacy Saltzburg

FULL NAME

City Clerk

TITLE

DATE SIGNED

APPROVED AS TO FORM:

SIGNATURE

FULL NAME

City Attorney's Office

TITLE

DATE SIGNED

Exhibits List

A - Exhibit A - Proposal

Exhibit A

Exhibit A - Proposal

Proposal for City of Flagstaff Residential Food Scrap Hub Services

Restoration Soils operates a permitted industrial composting, soil amendment, and organics recycling business in Flagstaff, Arizona. They utilize thermophilic composting practices to transform organic waste problems into productive soil regeneration products. Restoration Soils works with residential, commercial, and industrial customers to help divert organics from the waste stream, meet carbon neutrality goals, regenerate soils, and support our region's forest restoration objectives. Restoration Soils is the only ADEQ permitted composting facility in Flagstaff. In terms of producing a positive climate impact, it is important to locate the organics processing facility where the actual waste is being generated, Restoration Soils is building a circular organic waste stream right here in Flagstaff!

Restoration Soils will provide the following "Scope of Services" to the City of Flagstaff for the Residential Food Scrap program:

1. Restoration Soils to pick up bins at identified City of Flagstaff Residential Food Scrap gallon bins weekly.
2. City of Flagstaff to supply bins, locks and lids for the program. Each site will have a maximum of ten 12 gallon bins per site. Maintenance and cleaning of bins on an as needed basis.
3. The cost for weekly pickup is \$325 per month per site.
4. Households will register exclusively through the City of Flagstaff Residential Food Scrap Drop-Off page. If compost bins are consistently full with program participants' organic waste, City may choose to expand the number of bins available at an additional cost of \$35 for up to an additional 4 bins.
6. Restoration Soils may cross promote programs and services with the City of Flagstaff through social media, website and community outreach.
7. Restoration Soils will enter estimated weights of organic waste collected on a weekly basis into a City linked spreadsheet.
8. Restoration Soils will submit invoices to the City two times per year.
9. Restoration Soils will provide finished 5/8" minus compost for City of Flagstaff managed Community Gardens for 25% off retail prices. This ensures that organic waste generated in Flagstaff is returned to our gardens to improve soil health, retain moisture and regenerate our soils.

Restoration Soils

Building a Circular Waste Stream in Northern Arizona

compost@restorationsoils.com