



# Staff Report

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Agenda Item:            **Sedona Recycles, Inc. Agreement for Contracted Services--**  
Approval of an agreement with Sedona Recycles, Inc. for recycling  
drop off services in the Town of Clarkdale.

Staff Contact:        Wayne Debrosky, Utilities Director

Meeting Date:        March 23, 2010

Background:

The Town of Clarkdale has contracted with Sedona Recycles, Inc. for drop off recycling services since 1999. Sedona Recycles, Inc. provides recycling bins in the Town and the hauling of these bins to their recycling center for separating and processing. The current agreement expires on March 31, 2010. Agreements for recycling are renewed on an annual basis. The only change in this year's agreement is the addition of Item 18, as recommended by Robert Pecharich, Town Attorney, which refers to cancellation.

This program is funded from revenue from the Sanitation fund and does not rely on General Fund monies.

Recommendation:    Staff recommends Council approve the Agreement for Contracted Services between Sedona Recycles, Inc. and the Town of Clarkdale.

## AGREEMENT FOR CONTRACTED SERVICES

This AGREEMENT is entered into by and between SEDONA RECYCLES, INC., a non-profit corporation of Sedona, Yavapai County, Arizona, hereinafter referred to as "RECYCLES" and the TOWN OF CLARKDALE, a municipal corporation, hereinafter referred to as "TOWN", this 23d day of March, 2010.

WHEREAS, the TOWN is a municipal corporation organized under the laws of the State of Arizona and entitled to provide services and enter into contracts for the purpose of obtaining services or benefits which it otherwise could not provide; and

WHEREAS, RECYCLES, is a non-profit corporation that provides services and programs that benefit the residents who reside within the local community; and

WHEREAS, the TOWN desires to contract for certain services for the benefit of the residents of the TOWN, and RECYCLES, desires to provide to the TOWN certain services for the benefit of the residents of the TOWN; and

NOW THEREFORE, in consideration of the mutual promises and covenants of the parties and to the good and valuable considerations, the parties agree as follows:

1. Containers & Signing. RECYCLES will provide containers in which recyclable materials are to be collected. All bins shall be of a design approved by the TOWN. It is the responsibility of RECYCLES to provide signing indicating the type of material and requirements of recycling that material on each bin. In addition, signing is required stating general information about the operation of the site. Signing must be pre-approved by the Utilities Director.
2. Subcontractors. Subcontracting the work shall not be allowed without approval of the TOWN.
3. Recycling Center. All materials collected shall be taken to RECYCLES facilities for the purpose of collecting, separating and processing various materials, including aluminum cans, steel cans, glass bottles and containers, cardboard, newspaper, and plastics. RECYCLES shall be responsible to pay the cost for operating said facilities.
4. Site & Site Maintenance. The site for collection of recyclable material will be supplied by the TOWN. All necessary site improvements are to be made by the TOWN. It is the responsibility of the TOWN to provide monitoring and clean-up of the site, including recyclable or non-recyclable materials left outside of the bins.
5. Fees. The TOWN shall reimburse RECYCLES for service. This amount shall be paid in twelve (12) monthly installments of \$250.00 per month for a total annual payment of

\$3,000.00.

6. Hauling Frequency. Hauling frequency will be as needed (when the bins are full). Bins must be returned within four hours of removal.
7. Reports. For each monthly billing period, a report must be submitted by RECYCLES stating the quality of each material taken to the recycle center. This will be in a format approved by the TOWN. Documentation also may be requested by the TOWN to verify actual cost.
8. Cancellation. Either party may cancel this Agreement, without penalty, upon thirty (30) days written notice to the other party.
9. Term. The term of this agreement is from April 1, 2010, to March 31, 2011. At the TOWN's option and with the approval of RECYCLES, this contract may be extended for one additional year. An increase in the unit cost shall be negotiated and approved by the Town Council at the start of the extended contract period.
10. ADA& Anti-discrimination. RECYCLES acknowledges its responsibility to conform to the American with Disabilities Act of 1990 (ADA) and the Rehabilitations ACT of 1973 as amended. This includes prohibiting discrimination against the handicapped in employment, programs, services and activities and making reasonable accommodations to allow their full and equal access to all such employment, programs, services and activities.
11. Permits, Fees, and Licenses. RECYCLES will secure and pay for all applicable Federal, State, County and local permits and licenses, including a TOWN business license and comply with all Federal, State, County and local laws, codes, ordinances, regulations, and safety standards.
12. Entire Agreement. This instrument contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written contract shall be valid or binding. This instrument may be amended only in writing agreed to by the parties.
13. Binding. This Agreement shall insure to the benefit of and be binding on the parties, their heirs, executors, administrators, assignees and successors.
14. Independent Contractor. The parties agree that RECYCLES provides specialized services and enters into this contract with the TOWN as an independent contractor.

Nothing in this contract shall be construed to constitute RECYCLES, nor any of its personnel, volunteers, or directors, as being agents, employees or representatives of the TOWN. As an independent contractor, RECYCLES is solely responsible for all labor and expenses in connection with this Agreement and for any and all damages which may arise during the operation of this Agreement.

15. Insurance & Liability. RECYCLES shall carry appropriate insurance in insurance limits sufficient to protect the TOWN in the event a claim is made against the TOWN. RECYCLES assumes and agrees to hold harmless, indemnify and defend the TOWN, its officers, agents and representatives from and against all losses, claims, demands payments, suits, actions for recovery, judgments and all liability of every kind, nature and description for injury to persons including wrongful death or damage to property or both, occurring during, or in consequence, of the performance by the bidder of this contract where such injury or damage is due to any defect in goods delivered hereunder, or to the action or negligence of RECYCLES, its employees, subcontractor, or agents. The TOWN assumes no liability, obligation, or responsibility of any nature, whatsoever, in connection with this contract except the payment of price of consideration as stated or referred to herein.
  
16. Dispute Resolution. If a dispute arises out of or relates to this Agreement, or breach thereof, and if the dispute cannot be settled through negotiations, the parties agree first to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within ten (10) days, either party may request the Presiding Judge of the Superior Court of Yavapai County to assign a mediator from a list of real estate experienced mediators maintained by the Arizona Municipal Risk Retention Pool.
  
17. Legal Arizona Workers Act Compliance. RECYCLES hereby warrants that it will, at all times during the term of this Contract, comply with all federal immigration laws applicable to RECYCLES employment of its employees, and with the E-Verify requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR shall further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

RECYCLES agrees and warrants that TOWN shall have the right at any time to inspect the books and records of RECYCLES and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws. RECYCLES agrees that any act by the RECYCLES or subcontractor that result in the impediment or denial of access of the books and records of RECYCLES or subcontractor shall be a material breach of the Contract on the part of the RECYCLES.

Nothing herein shall make RECYCLES or subcontractor an agent or employee of the TOWN. Nothing herein shall act to establish privity of contract between the TOWN and any subcontractor.

Any breach of RECYCLES or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting RECYCLES to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, RECYCLES shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor (subject to TOWN approval) as soon as possible so as not to delay project completion and at no additional expense to the TOWN. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of RECYCLES.

RECYCLES shall advise each subcontractor of TOWN's rights and the subcontractor's obligations under this Article by including a provision in its contract with each subcontractor in the following form:

SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the E-Verify requirements of A.R.S. §23-214(A). SUBCONTRACTOR further agrees that the Town of Clarkdale may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract.

18. The parties agree that this agreement may be cancelled pursuant to the provisions of A.R.S. Section 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement the 23d day of March, 2010.

**TOWN OF CLARKDALE**

**SEDONA RECYCLES, INC.**

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Doug Von Gausig, Mayor  
PO Box 308

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Jill McCutcheon, Administrative Manager  
2280 Shelby Drive

Clarkdale, AZ 86324  
(928) 639-2400  
ATTEST:

Sedona, AZ 86336  
(928) 204-1185

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Kathy Bainbridge, Town Clerk

Approved as to Form:

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Robert Pecharich, Town Attorney  
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