

When recorded, mail to:  
Clerk's Office  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE CITY OF FLAGSTAFF  
AND  
COCONINO COUNTY**

This Intergovernmental Agreement ("2018 Agreement") is made as of this 13<sup>th</sup> of November, 2018 by and between the City of Flagstaff ("City"), a political subdivision of the State of Arizona and Coconino County ("County"). The City and the County may be referred to in this Agreement collectively as the "Parties" and singularly as a "Party."

**RECITALS**

A. The Parties have had two prior Intergovernmental Agreements wherein the Parties agreed that households and small businesses within the County were permitted to bring hazardous wastes to the City of Flagstaff's Hazardous Products Center ("Center") for safe and proper disposal;

B. Pursuant to the terms of the Intergovernmental Agreement dated December 18, 2014 ("2014 Agreement"), annually the County would reimburse the City 15% of the Center's total labor cost as well as a percentage of the Center's total operation expenses;

C. The 2014 Agreement expired December 18, 2016; and

D. The Parties wish to enter into this 2018 Agreement under substantially similar terms.

**NOW, THEREFORE**, pursuant to A.R.S. § 11-952, authorizing contracts between public agencies for services for the joint exercise of powers to both the City and the County and in consideration of the premises and the mutual covenants contained in this 2018 Agreement, the Parties agree as follows:

**1. CITY'S ACCEPTANCE OF HAZARDOUS WASTES**

The City agrees to accept hazardous wastes from County households and small businesses located within the County at the Center.

**A. Hours of Operation**

The County shall be responsible for informing its residents of the Center's hours of operation. Operational hours are Monday through Saturday from 8:00 AM to 3:00 PM. Household hazardous waste will not be accepted outside the Center's designated hours of

operation. The City shall have the right to modify the days and hours during which the Center will operate. The City shall immediately notify the County of any changes in the Center's hours of operation. Notwithstanding this subsection, the Center shall not operate on any official state holidays.

**B. Residency**

- i. Residential households within the County may deposit hazardous wastes at the Center free of charge, and will be required to show proof of residency within the County. Proof of residency or domicile within the County shall be shown by a valid Arizona Driver's License, state-issued identification card, or a current utility bill which reasonably substantiates current residence or domicile within the County.
- ii. Small businesses using the Center shall provide proof of business residency within the County by a verifiable business license issued by the County or a City within the County. In addition, small businesses must be qualified as a Conditionally Exempt Small Quantity Generator ("CESQG") according to the United States Environmental Protection Agency. According to the Code of Federal Regulations (40 CFR 261.5), a CESQG is a generator (business owner) that meets the following criteria:
  - 1) Generates less than 220 pounds of hazardous waste (defined by the Resources and Conservation Recovery Act ["RCRA"]) in a calendar month; and
  - 2) Accumulates at any time or generates less than 2.2 pounds of acute hazardous waste in a calendar month (acute hazardous waste begins with an Environmental Protection Code of "P" or the following "F" codes F020, F021, F022, F026, and F027); and
  - 3) Accumulates no more than 2,200 pounds of hazardous waste (defined by RCRA) at any one time.

**2. EXPENDITURES AND ACCOUNTING**

**A. Reimbursement**

The County shall reimburse the City for 15% (fifteen percent) of the City's total labor costs incurred as a result of operating the Center. In addition, the County shall reimburse the City for a percentage of the Center's total operational expenses. Average County residential usage from Fiscal Year 2018 will be used to bill the County for Fiscal Year 2019. Each year residential County usage will be re-calculated and the new usage percentage will be used for the subsequent year. The County's operational expense percentage shall be based on the ratio of Coconino County households that use the Center to the total number of households using the Center multiplied by total operational expenses (e.g. if thirty-nine County households use the Center and sixty-one non-County households use the Center, the County shall reimburse the City 39/100 or 39% of the City's total residential operational expenses). Operational expenses shall

reflect the actual cost for the services provided including, but not limited to: transportation, disposal costs, containers, equipment rental, advertising and other expenses directly related to the Center's operation. The City shall submit to the County reports which include, but are not limited to, the number of County households that use the Center, total number of households using the Center, total labor costs and total operational expenses. The City shall provide reports generated pursuant to this section to the County on a quarterly basis including total amounts of hazardous waste generated. Said reports shall be submitted quarterly with an invoice. A sample of the invoice is attached as Exhibit A.

#### **B. Small Businesses**

Small businesses located within Coconino County that qualify as a CESQG using the Center shall pay a yearly registration fee in the amount of \$50.00 (Fifty Dollars) due when hazardous waste is brought to the Center. The fee will be valid for one year after the date of payment. In addition, small businesses using the Center shall pay a disposal fee at the time of delivery. Disposal fees shall reflect the actual cost of disposal plus related operational expenses. Disposal fees for small businesses shall be posted on the City's website and made available at both the Center and Flagstaff City Hall.

### **3. AUTHORITY TO CONTRACT**

Each Party represents and warrants that it has full power and authority to enter into this 2018 Agreement and perform its obligations hereunder and has taken all required acts or actions necessary to authorize the same.

### **4. NOTICES**

Unless otherwise specified herein, any notice or other communication required or permitted to be given under this 2018 Agreement will be in writing and sent to the address given below for the party to be notified, or to such other address notice of which is given in compliance with this Section:

**If to the City:**

**Public Works Director  
City of Flagstaff  
211 West Aspen  
Flagstaff, AZ 86001**

**If to Coconino County:**

**Solid Waste Manager  
Coconino County  
Public Works Department  
5600 East Commerce Avenue  
Flagstaff, AZ 86004**

### **5. TERM**

This 2018 Agreement shall be effective on the date first set forth above and shall continue in force and effect for a period of one (1) year from the date of its execution unless otherwise terminated prior to that date by either Party. This 2018 Agreement may be terminated by either Party upon sixty (60) days written notice of termination delivered to the other Party.

**6. INTEGRATION; MODIFICATION**

Each of the Parties acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties, except as expressed herein, and that this 2018 Agreement constitutes the parties' entire agreement with respect to the matters addressed in the 2018 Agreement. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are hereby superseded and merged in the 2018 Agreement. This 2018 Agreement may be modified or amended only by written agreement executed by both of the Parties and duly filed with the Coconino County Recorder. Any such modification or amendment will become effective no earlier than the date of such filing.

**7. WAIVER**

No failure to enforce any condition or covenant of this 2018 Agreement will imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other provision, nor will any waiver by either Party of any branch of any one or more conditions or covenants of this 2018 Agreement constitute a waiver of any succeeding or other breach.

**8. SEVERABILITY**

In the event that a court of competent jurisdiction holds any part or provision of this 2018 Agreement void or of no effect, the remaining provisions of this 2018 Agreement will remain in full force and effect to the extent that the continued enforcement of the remaining terms continue to reflect substantially the intent of the Parties.

**9. GOVERNING LAW**

This 2018 Agreement will be governed, interpreted and enforced in accordance with the laws of the State of Arizona. Coconino County shall be the venue for any litigation arising out of this Agreement.

**10. DISPUTE RESOLUTION**

The Parties may seek appropriate remedies at law or in equity. Disputes under this 2018 Agreement will be resolved pursuant to A.R.S. § 12-1518 and the use of arbitration when subject to mandatory arbitration pursuant to A.R.S. § 12-133. The cost of arbitration will be shared equally by the Parties, however, each Party shall bear its own attorney fees and costs.

**11. NON-DISCRIMINATION**

The Parties agree to comply with Arizona State Executive Order No. 2009-09 and all other Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

**12. CONFLICT OF INTEREST**

The Parties agree that this 2018 Agreement may be cancelled for a conflict of interest in accordance with A.R.S. § 38-511.

### 13. INDEMINIFICATION

To the fullest extent permitted by law, each Party to this 2018 Agreement shall indemnify, defend and hold harmless the other Party, their members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses, of whatever kind and nature whatsoever, that may arise or result from any act, action, or omission of the other under this 2018 Agreement. This indemnification shall survive any termination of this 2018 Agreement or the termination of the participation of any of its Parties.

IN WITNESS WHEREOF, the Parties have caused this 2018 Agreement to be executed as of the day and year written below.

City of Flagstaff

Coconino County Board of Supervisors

By: \_\_\_\_\_, Mayor

  
By: Art Babbott, Chairman

ATTEST:

ATTEST:


\_\_\_\_\_  
City Clerk

  
Clerk of the Board, Lindsay Daley

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

  
Deputy County Attorney, Rose Winkeler