

## **INTERGOVERNMENTAL AGREEMENT**

### **Flagstaff Water Education Program Between Arizona Board of Regents for and on behalf of University of Arizona and the City of Flagstaff**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the CITY OF FLAGSTAFF, a municipal corporation of the State of Arizona (“City”), and the ARIZONA BOARD OF REGENTS, a body corporate with perpetual succession pursuant to the laws of the State of Arizona, for and on behalf of University of Arizona, a public institution of higher education (“University”).

#### **RECITALS:**

WHEREAS, the City has authority to enter into this Agreement pursuant to Arizona Revised Statutes (“A.R.S.”) § 11-952 and the Flagstaff City Charter, Article I, Section 3; and

WHEREAS, the University has authority to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 15-1625; and

WHEREAS, the City is wanting to collaborate with the University of Arizona, Arizona Project WET (APW) to educate K-12 students about their interconnected water resources and their importance to Flagstaff’s future. Effective water education lessons will also inspire students to adopt water conservation practices; and

WHEREAS, the University of Arizona, Arizona Project WET program develops water stewardship and STEM literacy by providing teacher professional development that evolves instructional practice and deepens content knowledge, direct student outreach that delivers and extends classroom learning, and community engagement; and

WHEREAS, the parties intend to develop and deliver targeted programs relevant to the Flagstaff area that assist teaching in meeting one or more of the new Arizona science standards, per targeted grade level, while providing real world relevancy for student engagement.

#### **AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

The purpose of this Agreement is to cover the activities related to the Flagstaff Water Education Program.

#### **TERM AND TERMINATION:**

This Agreement will begin upon full execution and continue for five (5) years (“Initial Term”). At the end of the Initial Term, the parties will determine if an extended period of time is needed to gather information regarding the composition of the program, and may enter into an

amendment to renew the Agreement for one (1) additional five (5) years (“Renewal Term”). The Initial Term and Renewal Term, if exercised, will cover the duration of the pilot program period. At the end of the pilot program period, the parties will determine whether or not to enter into an agreement for a long term program which will establish the specific responsibilities, costs and payment obligations between the parties.

Notwithstanding the foregoing, either party may terminate this Agreement for convenience by providing the other party ninety (90) days’ prior written notice.

## **RESPONSIBILITIES:**

City shall be responsible for the following activities:

1. Provide funding in the amount of up to **\$15,000** per year on a reimbursement basis for water education lessons facilitated through inquiry and exploration within the City of Flagstaff service area, see scope of work Exhibit A.
2. The City agrees to waive the indirect cost so that the total funding provides a greater direct benefit to the project.
3. Work with Arizona Project WET staff and others to ensure educational content is pertinent to the City of Flagstaff service area.
4. Analyze evaluation data and metrics collected by Arizona Project WET to ensure school district staff and participants find the Arizona Project WET trainings effective and helpful in meeting the Arizona science standards per targeted grade level.

University shall be responsible for the following activities:

1. Provide educator professional development that evolves instructional practice and deepens content knowledge.
2. Work with the Water Services staff and school district to identify grade level specific lessons for interested teachers.
3. Immerse educators in the use of Systems Thinking.
4. Deepen educator’ understanding of Arizona’s water resources and water science.
5. Provide an impactful STEM unit that enables educators to engage students in STEM learning focused their own water resources and protection of it.
6. Support educators in the delivery of STEM unites by assisting with the logistical planning and delivery of key curriculum components.
7. Direct student-directed learning experiences that extend classroom learning.
8. Evaluate student and educator knowledge and skill gains using assessment tools.
9. Engage the community in learning about water resource challenges and issues pertinent to the Flagstaff area.

10. The University agrees to waive the indirect cost so that the total funding provides a greater direct benefit to the project.

**PERSONNEL:**

Except for the purposes of A.R.S. § 23-1022 D., personnel of either party will not for any other purpose be considered employees or agents of the other party. Each party assumes full responsibility for the actions of its personnel while performing activities and services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including but not limited to withholding of income taxes and social security), workers' compensation and disability benefits.

**INSURANCE AND INDEMNIFICATION:**

1. University shall maintain adequate insurance (through the Arizona Department of Administration Risk Management Division, which is a self-insurance program) to cover any liability arising from the acts and omissions of University employees or agents participating in the pilot program. University shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of City employees or agents.
2. City shall maintain adequate insurance (which may include a bona fide self-insurance program) to cover any liability arising from the acts and omissions of City employees or agents participating in the pilot program. City shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of University employees or agents.
3. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, indemnitor's officer, officials, agents, employees, or volunteers.

**NONAPPROPRIATION:**

If the City's performance under this Agreement depends upon the appropriation of funds by the City Council or the University's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the City Council or the Arizona Legislature, respectively, fails to appropriate the funds necessary for performance, then either the City or the University may provide written notice to the other party and immediately cancel this

Agreement without further obligation of either party. Appropriation is a legislative act and is beyond the control of the parties.

**RECORD INSPECTION AND RETENTION:**

The parties agree to retain all books, accounts, reports, files and other records relating to the Agreement and to make such records available at all reasonable times for inspection and audit by the University or Auditor General of the State of Arizona, or their agents, during the term of and for a period of five (5) years after completion of this Agreement.

**CONFLICT OF INTEREST:**

In accordance with A.R.S. § 38-511, this Agreement may be cancelled for conflict of interest within three (3) years after its execution, without penalty or further liability.

**NON-DISCRIMINATION:**

The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, non-discrimination, including the Americans with Disabilities Act, sexual orientation, or gender identity or expression.

**THIRD PARTY BENEFICIARIES:**

This Agreement is intended for the exclusive benefit of the parties hereto. Nothing herein is intended to create any rights or responsibilities to third parties.

**ASSIGNMENT:**

Neither party shall have the right to assign this Agreement without prior written consent of the other party.

**MANNER OF FINANCING:**

Each party to this Agreement shall be responsible for its own costs and budgeting for performance of their respective obligations.

**DISPUTES AND ARBITRATION:**

In the event of a dispute between the parties to this Agreement, the parties shall attempt to resolve the disagreement on an informal, good faith basis. If that fails, pursuant to A.R.S. §12-1518, the parties acknowledge and agree that they may be required to make use of mandatory arbitration of any legal action that is filed in the Arizona Superior Court concerning a controversy arising out of this Agreement if required by A.R.S. § 12-133.

**RELATIONSHIP AND USE OF MARKS:**

Except as otherwise agreed in writing, the parties acknowledge that the relationship created by this Agreement is limited to a pilot program. Neither party shall make any representations stating or implying the parties engage in broader transactions or that a party is otherwise associated with the other without first obtaining express written permission from the other party. In addition, neither party shall use any trade name, trademark, service mark, logo, domain name, nor any other distinctive brand feature owned or used by the other party without its express written authorization.

**NOTICES:**

To City of Flagstaff:  
City Manager  
City of Flagstaff  
211 W Aspen Ave  
Flagstaff, AZ 86001

To University of Arizona:  
Sponsored Projects & Contracting Services  
University of Arizona  
PO Box 210158, Room 515  
Tucson, AZ 85721-0158

with copy to:

Water Conservation Specialist  
City of Flagstaff  
211 W Aspen Ave  
Flagstaff, AZ 86001

**GENERAL PROVISIONS:**

1. Both parties agree to meet monthly during the term of this Agreement to discuss the quantity and quality of the material being delivered by the University, as well as the costs incurred under the pilot program.
2. No payments beyond those identified in RESPONSIBILITIES above will be exchanged between the parties during the term of this Agreement. If the determination is made to

enter into a long term program at the conclusion of the pilot program period, any costs associated with the long term program will be identified in a subsequent agreement between the parties.

**COUNTERPARTS:**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

**AMENDMENTS AND RELATED AGREEMENTS:**

This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof as of the date of execution. All amendments or modifications of this Agreement shall be in writing and approved by the parties.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have set forth their hands, through representatives duly so authorized, the day and date first above written.

**ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF  
UNIVERSITY OF ARIZONA**

\_\_\_\_\_  
Mark A. Drury, Contracts Manager                      Date  
Sponsored Projects & Contracting Services

The undersigned has determined that the foregoing Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Arizona Board of Regents.

\_\_\_\_\_  
Josh Estavillo, Associate General Counsel                      Date

**CITY OF FLAGSTAFF**

\_\_\_\_\_  
Coral Evans, Mayor                      Date

Attest:

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

The undersigned has determined that the foregoing Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the City of Flagstaff.

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