

AGREEMENT
among
FLAGSTAFF UNIFIED SCHOOL DISTRICT and
CITY OF FLAGSTAFF

THIS AGREEMENT (hereafter “Agreement”) is made and entered into effective the 11th day of September, 2020 by and between the CITY OF FLAGSTAFF, a political subdivision of the State of Arizona (hereafter “City”) and FLAGSTAFF UNIFIED SCHOOL DISTRICT (hereafter “District”). The City and District may be referred to in this Agreement individually as “Party” or together as “Parties,” as the case may be.

RECITALS

- A. WHEREAS, the Parties are members of a cooperative consortium known as the Alliance for the Second Century (hereafter the "Alliance") through an intergovernmental agreement of the same name dated September 16, 2014 (hereafter the "Alliance IGA"), formed to address area-wide issues in the greater Flagstaff area and better leverage the resources of Alliance members for the benefit of the community; and
- B. WHEREAS, the parties desire to enter into this Agreement to define the sharing of resources, their purpose, and the responsibilities of the parties in conjunction with the program commonly referred to as **Community-Wide After School Programs**, which the District provides primarily in concert with and through assistance from the FACTS Program (“FACTS”) and the Coconino Coalition for Children and Youth (“CCCY”); and
- C. WHEREAS, the Community-Wide After School Programs ("After School Programs"), provided primarily through FACTS and CCCY, have been created to provide children and youth with life skills, enrichment and academic support in a safe and drug-free environment and to assist the Flagstaff community in developing resilient youth who are less likely to engage in high risk behaviors and who are more likely to become healthy, well-rounded adults, able to contribute to society in meaningful ways. The After School Programs have particular focus for the latchkey child who has no adult at home before or after the regular school day and;
- D. WHEREAS, the District and the City wish to enter into this Agreement regarding the City's grant of funds for Fiscal Year 2021, through the District as the fiscal agent for the After School Programs, to be for After School Programs implementation costs and operational and administrative costs, including the salary of the FACTS Program’s Executive Director and the CCCY Program’s Executive Director, each of which function as full time employees of the District; and
- E. WHEREAS, the City has authority to enter into this Agreement pursuant to Arizona Revised Statute (“A.R.S.”) § 11-952 and the Flagstaff City Charter, Article I, Section 3; and
- F. WHEREAS, The District has authority to enter into this Agreement pursuant to A.R.S 11-952, 15-213, 15-341, 15-342, and 41-2632 and Governing Board action of _____, 2020.

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

AGREEMENT

1. CITY'S OBLIGATIONS

- 1.1 Contribution to After School Programs. The City agrees to provide up to Two Hundred Seventy-Two Thousand Three Hundred and Nineteen Dollars (\$272,319.00) to the District for all direct expenditures made for After School Programs. Any payments for the salary of the FACTS Program's Executive Director would come under this area of funding.

City will disburse funds to the District on a reimbursement basis only, conditioned upon receipt of proof of payment and applicable, accurate, and complete reimbursement documents, as deemed necessary by the City, to be submitted by the District. Payments will be contingent upon receipt of all reporting requirements of the District under this Agreement. The amount invoiced should be based on actual expenditures with all back up documentation provided.

The funds disbursed by the City under this Agreement shall be used only for the After School Programs described in this Agreement, including preparation for implementation of the After School Programs online and in person to address COVID-19 issues and restrictions. Any modification to quantity or scope of the After School Programs must be approved in writing by the City. The funds shall not be applied to Safe Learning Centers programs as they are considered educational programs instead.

- 1.2 Contribution to CCCY. The City agrees to provide an additional Nineteen Thousand Six Hundred and Sixty-Nine Dollars (\$19,669.00) to the District as soon as practicable following execution of this Agreement, as fiscal agent for the After School Programs, for use in connection with the District's obligations in this Agreement to pay the salary of the CCCY Program's Executive Director position. The District shall cause the CCCY Program's Executive Director to provide leadership in developing and advocating for community-wide strategies dedicated to enhancing the quality of life for all children and youth in the community.

2. DISTRICT'S OBLIGATIONS

- 2.1 After School Programs. The District shall be the host agency for the After School Programs and shall develop and implement comprehensive After School Programs, as well as provide staff qualified to coordinate, implement, and evaluate the After School Programs within the City of Flagstaff.

- 2.2 Fiscal Agent for After School Programs. The District agrees to serve as the fiscal agent for the After School Programs and shall administer payroll for payment of the FACTS Program's Executive Director and the CCCY Program's Executive Director. The District shall fund and provide workers' compensation insurance for each Executive Director, together with such employee benefits customarily provided its employees under the Northern Arizona Public Employees Benefit Trust and Arizona State Retirement Plan. Each Executive Director will be an employee of the District subject to the direction and control of the District. The District shall disburse to the After School Programs all funds received for such programs from the City and other sources that exceed those funds required to pay

the salary of each Executive Director. The District shall disburse these funds as soon as practicable following the end of the District's fiscal year.

2.3 Reporting and Overhead. The District shall provide financial reports to the After School Programs pertaining to such transactions. The District shall provide to the City such financial and other operational reports as the City may reasonably request during the term of this Agreement and will provide to the City, within ninety (90) days following termination of this Agreement, an accounting of all funds received and expended during the term of this Agreement. The District shall not charge administrative or overhead fees in connection with its services as fiscal agent for the After School Programs.

3. TERM AND TERMINATION

This Agreement will continue in force and effect until midnight on June 30, 2021, unless sooner terminated as provided in this Agreement. Upon Council approved monetary contributions and mutual written agreement between the City and District, this Agreement may be renewed for a maximum of four (4) additional one (1) year terms, subject to annual budget appropriations. Upon termination of this Agreement for any reason, the District must remit to the City any undistributed portion of the funds received from the City within forty-five (45) days after termination. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated by any party, without penalty or further obligation, in accordance with the provisions of Arizona Revised Statutes Section 38-511, in the event of the occurrence of any of the circumstances described in Arizona Revised Statutes Section 38-511.

4. NOTICES

Any notice or other communication required or permitted to be given under this Agreement must be in writing and sent by mail or personal delivery to the parties as follows, or to such other address or person as the party may designate in writing:

If to the City:

Greg Clifton
City Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

If to the District:

Michael A. Penca
Superintendent
Flagstaff Unified School District
3285 East Sparrow Avenue
Flagstaff, Arizona 86004

5. AUTHORITY

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

6. INTEGRATION AND MERGER

Each of the parties acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties, except as expressed in this Agreement, and that this Agreement constitutes the parties' entire agreement with respect to the matters the Agreement addresses.

7. WAIVER AND AMENDMENT

The failure to enforce any condition or covenant of this Agreement will not imply or constitute a waiver of the right to insist upon future performance of the condition or covenant, or of any other provision, nor will any waiver by a party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach under this Agreement. Any waiver or amendment of any of the provisions of this Agreement must be in writing and be executed by the party against whom enforcement of the same is sought.

8. GENERAL INDEMNIFICATION

To the extent permitted by Arizona law, the District agrees to indemnify, defend, save, and hold harmless the City, its officers, officials, agents, and employees from and against any and all claims, demands, actions, liabilities, damages, losses, or expenses, including court costs, attorney’s fees, and costs of claim processing, investigation and litigation (hereinafter collectively referred to as “Claims”) that arise out of any actual or alleged bodily injury to any person (including death) or property damage caused or alleged to have been caused, in whole or in part, by the acts, errors, omissions, or negligence of the District or any of District’s directors, officers, agents, employees, or volunteers in connection with or incident to the After School Programs and any other actions arising from this Agreement. This indemnity provision shall survive the termination, cancellation, or revocation, whether in whole or in part, of this Agreement.

9. FORCE MAJEURE

The parties acknowledge that there may be events that occur during the term of this Agreement that are beyond the control of all Parties, including events of war, natural disasters, acts of terrorism, government acts or orders, epidemics, pandemics, public health emergencies, forest fires, floods and other acts of God (“Force Majeure Event”). These events may result in a temporary modification of services provided and or funding allocation during the event.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

SIGNATURE PAGE FOLLOWS

City of Flagstaff

Paul Deasy, Mayor

Dated: _____

Attest:

City Clerk

Dated: _____

Approved as to form:

City Attorney

Dated: _____

Flagstaff Unified School District

Michael A. Penca

Superintendent

Dated:

Approved as to form:

Mangum Wall Stoops & Warden, PLLC

Legal Counsel for District

Dated:
