

DOCUMENT TRACKING FORM

Please submit to Deputy City Clerk

Document(s) will not be processed until form is complete

Submitted for: Signatures Completed Original for scanning/filing CHANGES (include Index #)

REMINDERS

- ◆ Fill in all dates/blanks
- ◆ Outside parties should sign first (when possible)
- ◆ Tab signature/notarization lines
- ◆ Include one (1) original for City Clerk's Office
- ◆ Attach all exhibits
- ◆ Legal must review/approve prior to routing

DOCUMENT TYPE: Contract Development Agreement IGA Grant
 Lease/Property License Agreement MOU Reclaimed Water
 Other _____ Intergovernmental Agreement _____

Change Order/Amendment to: _____ Prior Index No. _____ C.O./Amend. No. _____

Document Title _____

Parties _____
 City of Flagstaff/ Arizona Board of Regents

Project/Subject _____

Amount: _____ Eff. Date: _____ Expires: _____

Approved by Council? Yes No If yes, date of meeting: 7/5/2017
2/19/2016 (Attach copy of approved staff summary)

LEASE/PROPERTY USE ONLY

Execution Date: _____ Term. Notice: _____ Adjustment Date: _____

Index Factor: _____ MR Billing/Acct. #: _____ Revenue Acct: _____

Maintenance: Lessee Lessor Other _____ Reports: Annual Semi-Annual Other _____

Automatic Renewals? Yes No If renewal(s) available, City Attorney's Office must complete following box

Conditions of renewal(s) including authority _____

INSURANCE? Yes No If yes, attach Certificate of Insurance approved by Risk Management

Warranty? Yes No N/A If yes, length of time? _____ Expiration Date: _____

Submitted By: Charity Lee Date Submitted: _____ No. of Originals: _____

Key Contact: Charity Lee Department: _____ Extension: _____

Comments: Please obtain the Mayor's signature and return to the Real Estate Manager for routing to ABOR.

** Need ABOR Signatures **

DELIVERABLES? No Yes (If yes, attach deliverables sheet)

CITY CLERK'S OFFICE USE ONLY

DATE RECEIVED: 7/11/17

To City Attorney: _____

Date Signed: _____

To City Manager: _____

Date Signed: _____

To Mayor: 7/11/17

Date Signed: 7/11/17

To City Clerk: 7/11/17

Date Signed: 7/11/17

To Recorder: _____

Date Returned: _____

No. of Originals Returned: _____

Date Scanned: _____

Returned to: _____

Signature

Date

INTERGOVERNMENTAL AGREEMENT

Related to Consolidation of University Campus and Road Projects

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter "Agreement") is entered into this **5th day of July, 2017** by and between CITY OF FLAGSTAFF, a municipal corporation of the State of Arizona ("CITY"), and ARIZONA BOARD OF REGENTS, a body corporate with perpetual succession pursuant to the laws of the State of Arizona, for and on behalf of Northern Arizona University, a public institution of higher education ("hereafter the Arizona Board of Regents shall be referred to as UNIVERSITY").

RECITALS:

WHEREAS, CITY has authority to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 41-2632 and the Flagstaff City Charter, Article I, Section 3; and

WHEREAS, UNIVERSITY has authority to enter into this Agreement pursuant to A.R.S. §§ 11-952 and Arizona Board of Regents Policy 3-808; and

WHEREAS, the purpose of this Agreement is to memorialize and describe several past, present, and future transactions between the parties wherein valuable consideration is, has, or will be exchanged in order to build a better community;

AGREEMENT:

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

1. TERM

This Agreement shall commence on **August 5th, 2017** and continue for a term of ten (10) years, unless sooner terminated as provided herein. This Agreement may be renewed or extended by mutual agreement of the parties.

2. GENERAL CONDITIONS FOR TRANSFERS OF CITY RIGHTS-OF-WAY ("ROW")

The following general conditions will apply to all CITY transfers of CITY ROW pursuant to this Agreement:

- a. CITY will follow its procedures for abandonment, exchange, and/or disposition of real property as set forth in City Code and the City Charter. The property transfers will be subject to Council approval at a public meeting.
- b. CITY will convey property to UNIVERSITY by Special Warranty Deed. A form of

- c. UNIVERSITY will pay for its own due diligence and title insurance for the property being acquired.

3. HUMPHREYS STREET PROJECT – TRANSFER OF CITY ROW

Design and construction work for the repair of Humphreys Street (“the Humphreys Street Project”) is described in Exhibit B.

CITY will transfer the Humphreys ROW north of West Dupont Avenue and south of West Butler Avenue, as set forth in this Section 3 and subject to Section 2 of this Agreement, to UNIVERSITY. A Special Warranty Deed, legal description and map are attached hereto as Exhibit C, referred to as parcel 1.

- a. Transfer of Humphreys ROW. CITY will transfer Humphreys ROW to UNIVERSITY prior to issuance by UNIVERSITY of a notice to proceed for the Humphreys Street Project.
- b. The Humphreys Street Project. UNIVERSITY is responsible for procuring the design and construction for the Humphreys Street Project in accordance with Arizona Board of Regents (ABOR) procurement code. UNIVERSITY will not alter the location of the curb, gutter and sidewalk on the east side of Humphreys Street, so long as there is a need for private property access.
- c. Humphreys Street Project Costs. UNIVERSITY shall include CITY in the procurement process for design and construction. UNIVERSITY shall pay upfront for all costs of the Humphreys Street Project design, construction, and all related fees, estimated at \$150,000. CITY shall reimburse UNIVERSITY fifty percent (50%) of such cost within 30 days from receipt of the UNIVERSITY’S invoice.
- d. Humphreys/DuPont/Alley/Ellery Public Utility Easement. UNIVERSITY shall grant CITY a Public Utility Easement that runs through Humphreys Street, DuPont Avenue, an alley in Block 158 of Normal School Addition subdivision, and Ellery Avenue. A form of easement, legal description and map are attached hereto as Exhibit D. CITY has paid for costs of the legal description and map. The easement will be reserved for any City utility facilities and any existing utility company facilities in the right-of-way. This easement shall be recorded immediately following recordation of the Special Warranty Deed for transfer of the Humphreys ROW to UNIVERSITY.
- e. Humphreys Street Access Easement. UNIVERSITY shall grant an access easement for “ingress and egress for public or emergency vehicles, all property owners, property owner guest and invitees and persons lawfully conducting business on the land” (hereafter referred to as “public ingress and egress”) for all real properties abutting the public road being conveyed to UNIVERSITY. Such easement shall be in effect as long as there is a need for public access. A form of easement, legal description and map is attached hereto

as Exhibit E. This easement shall be recorded immediately following recordation of the Special Warranty Deed for transfer of the Humphreys ROW to UNIVERSITY. UNIVERSITY will notify the CITY at such time the access easement is extinguished, and will ensure the non-motorized access through this corridor or an alternative corridor is maintained if requested by CITY after good faith discussions and review with UNIVERSITY.

- f. Humphreys Street Maintenance. UNIVERSITY shall maintain Humphreys Street and sidewalks located within the Humphrey ROW in good condition. This paragraph shall survive termination or expiration of the Agreement.

4. ALLEYS – TRANSFER OF CITY ROW

CITY will transfer the alleys as set forth in this Section 4 and subject to Section 2 of this Agreement, to UNIVERSITY.

- a. Alley under Drury Inn. A 16' wide strip, located in Block 140 of the Normal School Addition subdivision was an alley between two former streets (Kendrick and Sitgreaves) abandoned by CITY and transferred to UNIVERSITY. Such strip is now located under the Drury Inn. A Special Warranty Deed, legal description and map of the strip under Drury Inn is attached hereto as Exhibit C, referred to as parcel 3.
- b. Alley under High Country Conference Center. A 16' wide strip, located in Block 139 of the Normal School Addition subdivision was an alley between two former streets (Kendrick and Humphreys) abandoned by CITY and transferred to UNIVERSITY. Such strip is now located under the High Country Conference Center. A Special Warranty Deed, legal description and map of the strip under High Country Conference Center is attached hereto as Exhibit C, referred to as parcel 2.
- c. Portion of Verde Street under Mountain View Dormitory. A 50' wide strip, located in Flagstaff Townsite subdivision, was a portion of the former Verde Street. Such strip is located under the Mountain View dormitory operated by UNIVERSITY. A Special Warranty Deed, legal description and map of the strip under Mountain View dormitory are attached hereto as Exhibit F.

5. UNIVERSITY DRIVE EASEMENT

- a. Public Utility Easement along University Drive from Milton Road to approximately 600 feet east. CITY deeded University Drive to UNIVERSITY, which occurred without reserving an easement for the existing CITY sewer line and or other public utilities. UNIVERSITY will grant an easement to CITY, subject to Section 6 of this Agreement. The form of easement, legal description and map are attached hereto as Exhibit G. This easement shall be recorded immediately following execution of this Agreement.

6. GENERAL CONDITIONS FOR TRANSFER OF UNIVERSITY PROPERTY

The following general conditions will apply to all UNIVERSITY transfers of property pursuant to this Agreement:

- a. UNIVERSITY will follow all ABOR policies and procedures for any sale, purchase, exchange or easement of UNIVERSITY property. UNIVERSITY will seek approval as appropriate, however if approval is requested, but is not obtained, UNIVERSITY shall have no liability to the CITY for such non-approval.
- b. UNIVERSITY will transfer the properties (other than easements) to CITY by Special Warranty Deed. A form of Special Warranty Deed is attached hereto as Exhibit A.
- c. CITY will pay for all surveys, title insurance, Phase 1 environmental assessments, legal descriptions and maps, and all other due diligence if desired by CITY. CITY will provide copies of all due diligence documentation to UNIVERSITY.

7. LONE TREE CORRIDOR PROJECT – TRANSFER OF UNIVERSITY PROPERTY

The Lone Tree Corridor Project is a CITY project to obtain land for widening Lone Tree Road. CITY also desires to promote safe use of the Flagstaff Urban Trail System (FUTS) trail that runs alongside the road. The project is proceeding in phases.

- a. Along west side of Lone Tree from Woodland Drive to Kinsey Elementary School. UNIVERSITY will transfer approximately 1.5 acres to CITY along the west side of Lone Tree Road across Coconino County Assessor Parcel No. 103-18-004A from Woodland Drive to Kinsey Elementary School. (“West Side Property”). A Special Warranty Deed, legal description and map attached hereto as Exhibit H.
- b. Contingency: CITY requires a Public Utility Easement along the west side of Lone Tree Road. UNIVERSITY will grant this easement to CITY in the event the easement is required by CITY prior to transfer of the West Side Property. The form of easement, legal description and map of the easement property is attached hereto as Exhibit I. CITY has a waterline project underway, the CITY at its cost will pave the area behind a newly installed guard rail after the CITY water line construction is completed.
- c. CITY will support UNIVERSITY efforts to obtain an agreement with FUSD allowing public parking at Kinsey Elementary School during non-school hours.

8. MILTON ROAD – ROAD CONSTRUCTION, DEDICATION OF UNIVERSITY PROPERTY and FENCE / SIGNAGE CONSTRUCTION

German Dobson CVS, LLC (CVS) has purchased significant property along the east side of Milton Road at the intersection of West Route 66. CVS is in the final project review stages for their CVS Pharmacy #5985 and associated public improvements by the CITY and Arizona

Department of Transportation (ADOT). CVS has announced its plans to be under construction in the summer of 2017. Additionally, CVS and CITY are negotiating a development agreement whereby CVS will permit, engineer and construct Milton Road improvements along UNIVERSITY's Milton Road frontage.

As a condition of ADOT's approval, CVS will be widening Milton Road to 3 north-bound lanes along its entire frontage. UNIVERSITY property immediately adjacent to the north of CVS is impacted by the widening of Milton Road. CVS's widening of Milton Road would leave approximately 300 feet of Milton Road, along UNIVERSITY's frontage, as a 2-lane facility before it, once again, widens to the existing 3-lane facility to Butler Avenue. The above described condition may lead to traffic congestion and safety issues for the motoring public.

In an effort to alleviate traffic congestion and related safety issues that may be created along Milton Road, CITY and UNIVERSITY agree to the following:

- a. CITY will be responsible for funding the ADOT permit, CVS engineering and CVS construction of the additional lane, and utility relocations along the NAU Milton Road frontage.
- b. UNIVERSITY will grant an easement for public roadway or right-of-way to ADOT for an additional right turn lane along NAU's Milton Road Frontage. A legal description and map are attached hereto as Exhibit J. UNIVERSITY will also grant a temporary construction easement (TCE) to the City/ CVS/ADOT for construction. See Exhibit K for the legal description and map.
- c. CITY will be responsible for funding the design and construction of a sandstone "Northern Arizona University" sign on UNIVERSITY property. UNIVERSITY will procure design and construction of such sign in accordance with ABOR procurement policies and CITY will pay for the sign after construction and within 30 days of receipt of UNIVERSITY's invoice. The City will fund a sign of the approximate size and type as the existing sign in front of the Drury Inn.

This Section of the Agreement shall apply only if CITY and CVS execute a Development Agreement and the developer proceeds with its development. UNIVERSITY will have the opportunity to review the form of Development Agreement prior to CITY execution.

9. FRANKLIN AVE. LIGHT POLES PROJECT – MAINTENANCE

The Franklin Ave. Light Poles Project is complete and this Agreement memorializes party obligations. In 2016 UNIVERSITY installed three (3) street lights along the south side of Franklin Avenue between San Francisco Street and Beaver Street ("Franklin Lights") as part of the UNIVERSITY Aquatic and Tennis Complex project. The Franklin Lights are 1) owned by UNIVERSITY, 2) located within CITY right-of-way, 3) connected to UNIVERSITY's electric grid system. See Exhibit L, overview map.

- a. UNIVERSITY is responsible for paying for energy for the Franklin Lights.
- b. UNIVERSITY is responsible for maintenance of the Franklin Lights. CITY will consider accepting responsibility for maintenance of the Franklin Lights in the future in the event Franklin Lights conform to CITY lighting standards. The parties will continue a dialogue concerning maintenance responsibility and ownership as a CITY lighting standards study moves forward.

10. PINE KNOLL DRIVE – STREETLIGHTS AND SIDEWALK

A sidewalk/streetlight project from the Southeast corner of San Francisco Street and Pine Knoll Dr. to the Southwest corner of Pine Knoll Dr. and Lone Tree was completed in the summer of 2016 and this Agreement memorializes the parties' responsibilities. See Exhibit M, overview map.

- a. UNIVERSITY is responsible for maintenance of the sidewalk and landscaping in the CITY right of way.
- b. CITY is responsible for maintenance of CITY-owned poles and lamps.
- c. CITY is responsible for paying energy costs for poles and lamps.

11. TERMINATION

Either party may terminate this Agreement for budgetary reasons or for convenience upon providing 180 days prior written notice to the other party. This Agreement may also be terminated by a non-breaching party following written notice to the breaching party and reasonable opportunity to cure.

12. INDEMNIFICATION:

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 performance of this IGA but only to the extent that such claims are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officer, officials, agents, employees, or volunteers.

13. NONAPPROPRIATION

If appropriation of funding by either party is unavailable or is terminated for whatever reason, the obligation of the parties to this Agreement will also be terminated regarding funding

14. INSURANCE

Each party shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability arising from the performance of this Agreement, and the acts and omissions of the party's employees or agents.

15. NO BOYCOTTS OF ISRAEL

Pursuant to A.R.S. §§ 35-393 and 35-393.01, the parties certify that they are not currently engaged in and agree, for the duration of the Agreement, to not engage in a Boycott of Israel.

16. THIRD PARTY BENEFICIARIES

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

17. CONFLICT OF INTEREST

This Agreement may be cancelled for conflict of interest in accordance with A.R.S. § 38-511.

18. NON-DISCRIMINATION


The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration (Executive Order 13465 – Employment Eligibility Verification, E-Verify; 73 FR 67704), nondiscrimination (Executive Order 11246), and affirmative action. CITY and UNIVERSITY shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

19. 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. This Agreement is conceptual in nature. All amendments or modifications of the Agreement shall be in writing and approved by the parties. The parties may agree to more specific development agreements, real estate purchase contracts, deed related and referencing this Agreement.

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

NORTHERN ARIZONA UNIVERSITY



Print name: Rita Hartung Cheng

Title: President

Approved as to form:



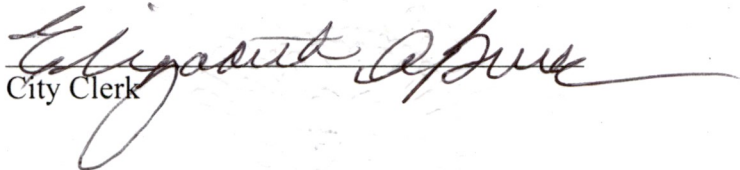
Michelle G. Parker, General Counsel

CITY OF FLAGSTAFF



Coral Evans, Mayor

Attest:



City Clerk

Approved as to form:



City Attorney's Office