

RESOURCE USE AND SHARING AGREEMENT

THIS RESOURCE USE AND SHARING AGREEMENT (hereafter “Agreement”) is made and entered into this 5th day of March, 2025 by and between the CITY OF FLAGSTAFF, a political subdivision of the State of Arizona (hereafter “City”) and ARIZONA BOARD OF REGENTS for and on behalf of NORTHERN ARIZONA UNIVERSITY (hereafter “NAU”). The City and NAU 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 procurement agreement known as the Flagstaff Alliance for the Second Century (hereafter the "Alliance") through an intergovernmental agreement dated November 19, 2020 (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, through the Alliance IGA, the Parties are permitted to enter into additional agreements for the purpose of using and sharing resources and facilities in a manner consistent with the terms set forth within the Alliance IGA; and
- C. WHEREAS, City of Flagstaff City Council adopted the Water Conservation Strategic Plan in 2020 that includes fixture retrofits at schools and institutions as part of the Optimized Conservation Program, and
- D. WHEREAS, City of Flagstaff City Council adopts an annual budget that supports the Water Conservation Program staff and budget for these programs, and
- E. WHEREAS, City desires to provide materials and labor to upgrade water fixtures on NAU’s Flagstaff campus to reduce water use and the Parties desire to enter into this Agreement in accordance with the Alliance IGA and therein define the resource, the purpose, and the responsibilities of the Parties in conjunction with the project or resource commonly referred to as **Water Conservation**; and
- F. WHEREAS, the City has authority to enter into this Agreement pursuant to Arizona Revised Statutes (“A.R.S.”) §§ 11-952 and 41-2632 and the Flagstaff City Charter, Article I, Section 3; and
- G. WHEREAS, NAU has authority to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 15-1625 and Arizona Board of Regents Policy 3-808.

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

AGREEMENT

1. TERM

This Agreement shall commence on June 1, 2025 and shall end on June 1, 2026 and may be terminated, with or without cause, upon ninety (90) days’ notice to the other Party. This Agreement may be renewed through an addendum signed by both Parties so long as both Parties remain a Party to the Alliance IGA. This Agreement will terminate upon termination of the Alliance IGA.

2. PROJECT DESCRIPTION

- a. City will be upgrading various water fixtures on NAU’s Flagstaff campus including but not limited to sink aerators, showerheads, sprayer heads, and toilets with low water use fixtures to aid both Parties in water conservation efforts. Typical flow rates for these fixtures are as follows:

Sink aerators	0.5 gallons per minutes (gpm)
Showerheads	1.5 gpm
Pre-rinse spray valves	1.1 gpm

- b. The City is providing all labor and materials at no cost to NAU since this project serves a dual purpose of helping the City’s customers conserve water. NAU will provide the City with a targeted list of buildings that are known to have fixtures that are high in water use. Once the new fixtures are installed, the fixtures will require little to no maintenance and any future maintenance will be the responsibility of NAU.
- c. The project will be ongoing during the term of this Agreement and the City is expecting to be on NAU’s Flagstaff campus for two (2) hours every week working through a pre-planned schedule of buildings that need various water fixture upgrades. Scheduling will be mutually agreed upon by the Parties.

3. COSTS

The City shall be responsible for its costs for performance of its respective obligations under this Agreement which includes but is not limited to purchasing and provision of materials including the fixtures and related supplies, labor, and installation of fixtures. NAU shall be responsible once the new fixtures are installed for all future repairs, maintenance, inspection and replacement of these fixtures.

4. FIXTURES

The various water fixtures are described in the materials attached hereto as Exhibit A. City shall be responsible for the purchase and installation of the various water fixtures per manufacturer specifications. City will be responsible or liable for any damaged, missing, or stolen fixtures prior to such installation, regardless of the cause, including any damage to NAU property during such installation. NAU will reasonably assist City with any and all water shut-off necessary during installation.

5. INSTALLATION

- a. Coordination. The City shall coordinate with NAU for installation of the fixtures.

- b. Installation. The installation of new fixtures including any sink aerators, showerheads, sprayer heads, and toilets shall be the responsibility of the City. NAU shall be responsible for the maintenance and upkeep on the newly installed fixtures.
- c. Damages. The City shall promptly notify NAU of any damages to NAU's property during installation. If such damage was due to an act or omission of the City, the City may repair such damages at the City's own cost or NAU may repair the property and send an invoice to the City for reimbursement NAU will determine in its sole discretion whether the City or NAU will make such repairs. Damages that occur due to NAU's property being faulty are excluded from this damage clause and shall be the sole responsibility of NAU to repair.

6. PERSONNEL

Each Party's personnel will not for any 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. Each Party shall use qualified personnel in performance of work on installation of the new fixtures.

7. THIRD-PARTY BENEFICIARY

No person or entity, whether or not mentioned or referred to in this Agreement, other than City and NAU and each Party's permitted successors and assigns, shall be considered to be a third-party beneficiary of or entitled to assert any rights under this Agreement.

8. FORCE MAJEURE

Neither Party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the Party whose performance is interfered with, and which by the exercise of reasonable diligence, said Party is unable to prevent ("force majeure event"), including but not limited to acts of God, epidemics, pandemics, war, civil disturbance, terrorism, disaster, fire, earthquakes, hurricanes, known or suspected threats of illness, or government regulation.

9. ENTIRE AGREEMENT, GOVERNING LAW, AND TERMS

This Agreement represents the entire agreement and understanding of the Parties with regards to this subject matter of this Agreement and supersedes any prior written or verbal agreements between the Parties. This Agreement and all claims arising out of or relating to this Agreement shall be governed exclusively by the laws of the State of Arizona. The terms and conditions of the Alliance IGA shall govern this Agreement and are incorporated herein by reference. All amendments or modifications of this Agreement shall be in writing and approved by the Parties.

(signature page to follow)

IN WITNESS WHEREOF, the Parties hereto have read and agree to the terms and conditions herein and have executed this Agreement as of the day and date first above written.

City of Flagstaff

**Arizona Board of Regents for and on
behalf of Northern Arizona University**

Emily McBride, Interim Director, Contracts
and Risk Management

Dated: _____

Dated: _____

Attest:

City Clerk

Approved as to form and as to authority
granted by law:

City Attorney

Exhibit A

List of Fixtures