COOPERATIVE PURCHASING
INTERGOVERNMENTAL AGREEMENT

THIS COOPERATIVE PURCHASING INTERGOVERNMENTAL AGREEMENT (hereafter "Agreement") dated May 15, 2025 by and between the **ARIZONA BOARD OF REGENTS for and on behalf of NORTHERN ARIZONA UNIVERSITY** (hereafter "NAU") and **CITY OF FLAGSTAFF** (hereafter "Public Agency"), each a "Party" and collectively the "Parties", is to permit the Collaborators, defined below, to pursue a range of clean energy projects to meet carbon neutrality goals.

RECITALS

1. WHEREAS, public agencies in the state of Arizona including Northern Arizona University, Arizona State University, City of Flagstaff, City of Sedona, and the City of Tempe (each a "Collaborator" and collectively the "Collaborators"), share common goals of reaching carbon neutrality for purchased electricity; and

2. WHEREAS, this Agreement is designed to assist Public Agency and NAU to reach their carbon neutrality goals for purchased electricity by utilizing the economies of scale between the Collaborators to procure clean energy through 1) a future Virtual Power Purchasing Agreement ("VPPA") and/or 2) clean energy opportunities in Arizona with regulated utilities; and

3. WHEREAS, NAU will enter into an intergovernmental agreement with each of the other Collaborators; and

4. WHEREAS, NAU intends to prepare and conduct a Request for Proposal ("RFP") for an offsite energy project where each Collaborator will participate in sharing criteria, reviewing candidate submittal information, and selecting an approved vendor that meets procurement criteria to deliver a project pursuant to a negotiated VPPA; and

5. WHEREAS, the Collaborators intend that any such negotiated VPPA resulting from the RFP will provide or allow that each interested Collaborator may enter into the resulting VPPA for a portion of clean energy; and

6. WHEREAS, the Collaborators intend that each Collaborator will be given the opportunity to include specific terms in the RFP and during the negotiation process of the VPPA; and

7. WHEREAS, the Collaborators desire to work together to request carbon free energy options that can be provided through regulated utility providers in Arizona, concurrent with issuing the RFP; and

8. WHEREAS, in furtherance of achieving the Collaborators' clean energy objectives in a cost-effective manner, and in the event a viable transaction is selected through the RFP process, the Collaborators who desire to move forward with the selected VPPA project will jointly retain qualified legal counsel ("Joint Counsel") to provide legal advice and represent the Collaborators in the negotiation and drafting of a VPPA for their collective use.

9. WHEREAS, the Collaborators will equally share in the payment of legal costs related to Joint Counsel.

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

ARTICLE 1 – AUTHORITY AND LAWS

1. NAU is a State of Arizona public institution of higher education and is authorized to enter into this Agreement pursuant to Arizona Revised Statutes ("A.R.S.") §11-952, A.R.S. §15-1625, A.R.S. §41-2632, and Arizona Board of Regents Policy 3-808.

2. Public Agency is a municipal corporation organized and existing under the laws of the State of Arizona and is authorized to enter into this Agreement pursuant to A.R.S. §11-952 and §41-2632 and **CITY OF FLAGSTAFF** authority to enter into this agreement (Resolution 2025-49).

3. Additional entities – not currently identified in Recital 1 - may become Collaborators upon entering into an intergovernmental agreement with NAU, where the new party is a public agency in accordance with A.R.S. §11-951, *et seq.* and agrees to all material terms and conditions contained herein. NAU shall notify each Collaborator in writing prior to entering into any such agreement and allow each Collaborator to object. If any Collaborator objects in writing within three (3) business days following such notification, NAU shall not enter into an agreement with the prospective Collaborator.

4. This Agreement shall be construed under the laws of the State of Arizona and shall incorporate by reference all laws governing the intergovernmental agency agreements, cooperative purchase agreements, and mandatory contract provisions of state agencies required by statute or executive order.

5. All statutes and regulations referenced in this Agreement are incorporated herein as if fully stated in its entirety in this Agreement. Each Party agrees to comply with provisions, the statutes, and the regulations set out in this Agreement. The recitals are also incorporated into this Agreement as if fully set forth herein.

ARTICLE 2 - TERM

1. The term of the Agreement is one (1) year effective from the date of final signature of the Parties.

2. Upon mutual consent of the Parties, this Agreement may be extended through an amendment signed by the Parties. Each extension term may not exceed one (1) year.

ARTICLE 3 - PURPOSE

The purpose of this Agreement is to maximize and improve the options available to each Collaborator to reach its carbon-free and clean energy goals. In particular, this Agreement supports the Collaborators' goals to support new clean energy projects to be built on the grid in a cost-effective way. This Agreement is beneficial to each Collaborator as it increases purchasing power through economies of scale and reduces cost by sharing expenses. Collaborators will look for a project that is cost effective, supports new clean energy power sources, and will generate clean power ahead of 2030 targets.

ARTICLE 4 – COSTS, EXPENSES, AND BUDGETING

1. Costs and Expenses Specific to One Party - The costs and expenses of activities that are specific only to each Party shall be funded by such Party including but not limited to the cost of internal counsel used during the RFP and VPPA negotiation process or ongoing legal costs incurred specific to its individual needs.
2. NAU Costs and Expenses–External expert consultant costs of seventy thousand dollars ($70,000.00) associated with development, drafting, and issuance of the RFP and the qualitative analytic evaluation of RFP responses shall be borne solely by NAU.
3. VPPA Legal Costs – The Collaborators who choose to move forward with the selected VPPA project will equally share in the payment of legal fees and expenses associated with Joint Counsel's services that are conducted after selection of one or more projects through the RFP (Such services include drafting and negotiation of a VPPA and legal advice). The expected total amount of such shared costs ("Shared Costs"), which will be equally split among Collaborators is, sixty thousand dollars ($60,000). Joint Counsel will enter into an engagement letter with each Collaborator that will outline shared costs and Collaborator specific expenses. Joint Counsel will invoice each Collaborator for their portion of the shared costs and any additional expenses incurred by the Collaborator.
4. Budgeting - The Parties agree to make good faith efforts to budget funds necessary to carry out the terms of this Agreement.

5. No Additional Fiduciary Obligations - This Agreement does not create any additional fiduciary or other obligations between the Parties, except for those obligations expressly and specifically set forth herein.

ARTICLE 5 - TERMINATION

In addition to termination by expiration of the term, the Agreement may be terminated as follows:

1. Public Agency may terminate this Agreement, upon providing written notice of termination to NAU, provided however, that Public Agency shall be responsible for its share, if any, of Shared Costs accrued up to termination. Upon termination, Public Agency will no longer be a Collaborator. NAU will update the Collaborator list by providing notice to all Collaborators.
2. The Parties understand that this Agreement may be cancelled at any time by action of any successor legislative or other governing body including cancellation for lack of funding, without further obligations of the cancelling party. In addition, such cancelling Party shall be liable for its prorated share of any Shared Costs up to the date of termination.
3. The Parties agree that this Agreement may be cancelled for conflict of interest in accordance with A.R.S. §38-511.

ARTICLE 6 – RESPONSIBILITIES OF EACH PARTY

1. The Parties agree to work together in aiding NAU in issuing an RFP to solicit qualified vendors to provide one or more VPPAs concerning an offsite clean energy project that each Collaborator can join.
2. The Parties agree to work together in reviewing criteria for and responses to the RFP.
3. Each Party shall appoint a single representative from its organization to serve as a committee member to participate in the RFP work under this Agreement. However, each Party may also include additional internal representatives to participate in certain aspects of the procurement to aid in evaluation of the RFP, but only the committee member shall function on the RFP and such internal representatives will be required to sign an evaluation committee form. If a committee member is unable to serve in their capacity, such committee member may be replaced in accordance with the RFP committee rules. Each representative will ensure that its organization's needs are represented.
4. The Parties shall pay their share of the legal costs as outlined in Article 4, Section 3, subject to the termination provisions outlined in Article 5.
5. The Parties will jointly work to concurrently solicit comparable clean energy opportunities available through Arizona's regulated utility providers.

6. The Parties acknowledge that participation by each Collaborator is essential to achieving economies of scale; and exiting this Agreement or not continuing with the RFP and the resulting VPPA could result in higher costs for the remaining Collaborators. Each Party is committed to serious consideration of the economies of scale when deciding its participation or non-participation in this process and this Agreement formalizes such commitment.
7. The Parties will work jointly on the key objectives and obligations as outlined in the attached Exhibit A, incorporated herein by reference.
8. As the primary coordinator among the Collaborators and the issuer of the RFP intended to benefit the Collaborators, NAU shall coordinate among the Collaborators and keep Public Agency informed of ongoing efforts and issues related to the collaboration, including:
    a. NAU shall timely notify Public Agency when any Collaborator has terminated its agreement with NAU.
    b. NAU shall timely notify Public Agency when a new Collaborator request is received.
    c.
    d. Once Shared Costs begin to accrue, NAU shall provide monthly accounting of such Shared Costs to Public Agency.

ARTICLE 7 – INSURANCE, LIABILITY, AND INDEMNIFICATION

1. Each Party shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability that could arise from the acts and omissions of the Party's employees or agents.

2. Each Party shall be solely responsible for liability due to an act or omission of its employees or its agents under this Agreement.

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 and costs) (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.

4. Nothing in this Agreement shall be construed to modify, alter, or amend the authorities, duties, responsibilities or obligations of either Party under applicable law.

ARTICLE 8 – NONDISCRIMINATION

The Parties agree to comply with all applicable state, and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act.

ARTICLE 9 - DISPUTES

The Parties agree to work cooperatively and in good faith to resolve any disputes that may arise under this Agreement. If a dispute is not resolved, then the Parties agree to negotiate with each Party's chief executive to try to resolve the dispute.

ARTICLE 10 - ARBITRATION

Pursuant to A.R.S. § 12-1518, the Parties acknowledge and agree that the Parties will 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.

ARTICLE 11 – RECORDS RETENTION

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

ARTICLE 12 – RELATIONSHIP OF THE PARTIES AND MARKS

Each Party is an independent contractor and is independent of the other Party. Under no circumstances shall any employee of one Party be deemed the employee of the other Party for any purpose. This Agreement does not create a partnership, joint venture, or agency relationship between the Parties of any kind or nature. No Party shall have any right, power, or authority under this Agreement to act as a legal representative of the other Party, and no Party shall have any power to obligate or bind the other Party or to make representations, expressed or implied, on behalf of or in the name of the other Party in any manner or for any purpose whatsoever. Each Party acknowledges that the relationship of the Parties hereunder is non-exclusive. In addition, no 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 prior written authorization from such Party.

ARTICLE 13 – NO THIRD-PARTY BENEFICIARIES

No person or entity, whether or not mentioned or referred to in this Agreement, other than each Party 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.

ARTICLE 14 – 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.

ARTICLE 15 – NOTICES

All notices to be given under any of the provisions of this Agreement will be in writing and will be sent via registered or certified mail, overnight courier, or email with delivery receipt, and notice will be deemed given (i) if mailed, when deposited, postage prepaid, in the United States mail, (ii) if sent by overnight courier, one (1) business day after delivery to the courier, (iii) if sent by email, when received. Notices shall be sent to a Party at the address listed on the signature line with a copy to Northern Arizona University, Contracts, Purchasing and Risk Management, PO Box 4124, 545 E. Pine Knoll Dr., Flagstaff, AZ 86011, NAU-Contracts@nau.edu.

ARTICLE 16 - COUNTERPARTS

This Agreement may be signed in counterparts. Each counterpart will constitute an original document and these counterparts taken together shall constitute one and the same Agreement. The exchange of copies of this Agreement and of signature pages by electronic means shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by electronic means shall be deemed to be original signatures for all purposes.

ARTICLE 17 – FINAL AGREEMENT

This Agreement represents the final agreement of the Parties and supersedes any prior written or oral agreements between the Parties. This Agreement may not be modified or amended except by written instrument signed by the authorized representatives of each Party.

IN WITNESS WHEREOF, the Parties hereto have read and agree to the terms and conditions herein and have executed this Agreement as of the last signature hereof:

(signature pages to follow)

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

Signature: _____

Name: Bjorn Flugstad

Title: Senior Vice President and Chief Financial Officer

Date: _____

PO Box 15099, 1100 S. Beaver St., Flagstaff, AZ 86011, Green@nau.edu

REPRESENTING NAU:

The undersigned counsel for NAU has reviewed this Agreement and determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to such public agency.

Signature: _____

Name: Michelle G. Parker

Title: Vice President for Legal Affairs & General Counsel

Date:_____

CITY OF FLAGSTAFF

Signature: Becky Daggett

Name: _____

Title: Mayor

Date: 10/28/25

211 W Aspen Ave, Flagstaff AZ 86001

REPRESENTING PUBLIC AGENCY:

The undersigned counsel for the City of Flagstaff has reviewed this Agreement and determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to such public agency.

Signature: Kevin Fincel signed on 10/24/2025 9:09:19 AM

Name: _____

Title: City Attorney's Office

Date: 10/28/25

Attest:

Stacy Gatlyburg

City Clerk

Exhibit A: Overview of Key Activities and Obligations

Phase	Description	Expected Financial Commitment for Phase
1: RFP Criteria set by RFP Committee	The RFP Committee led by NAU will set the RFP criteria	No Shared Costs for Collaborators by entering this Agreement during Phases 1-7
2A: NAU to Issue RFP to Vendors	NAU will release an RFP to qualified vendors requesting projects for a VPPA	
2B: Request to Arizona Utilities to provide options	Parties will reach out to its respective utilities to confirm the options that can be provided and the costs.	
3: Vendor Responses Received	Results returned from the RFP – Collaborators can opt to not select a project and not continue forward	
4: Short-list of Vendors	Top vendors are identified that will undergo further evaluation	
5: Review Arizona utilities options	Review options presented by Arizona utilities	
6: Internal Stakeholder Feedback	Collaborators seek internal feedback on projects.	
7: Diligence Project Short-list	Top projects are selected for further diligence and interviews with the vendors.	
8: Final Project(s) Selected	Final project(s) selected to move forward. Negotiation completed on the full VPPA with feedback provided to NAU by all Collaborators.	Shared Costs will be incurred during Phase 8 in accordance with Article 4.
9: Contracts Executed	Subject to each Collaborator's discretion, each Collaborator signs the negotiated VPPA.	