

INTERGOVERNMENTAL AGREEMENT
Between
LAKE HAVASU CITY
And
The ARIZONA BOARD OF REGENTS
on behalf of the University of Arizona, and
its Water Resources Research Center
Arizona Project WET Program

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement"), by and between Lake Havasu City, Arizona, located at 2330 McCulloch Boulevard North, Lake Havasu City, AZ 86403 ("City"), and the Arizona Board of Regents, on behalf of the University of Arizona ("University"), which is authorized to enter into agreements for the conduct of projects under A.R.S. § 15-1625 and to collect fees for services under A.R.S. § 35-148, is entered into pursuant to A.R.S. §§ 11-951, et seq.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Agreement.

1. Definitions

The following definitions shall apply to the terms used in this Agreement, except where the context necessarily requires otherwise.

- A. "Project" or "Program" means the work, or any portion thereof described in Section 3. A and B of the Agreement.
- B. "Agreement" means this Intergovernmental Agreement between the City and the University.
- C. "Subcontractor" means any contract between the University and a third party to provide all or a specified part of the services or items which the University has contracted with the City to provide.
- D. "University" means the Arizona Board of Regents, on behalf of the University of Arizona, which is the person, firm, or organization performing the services or delivering the items described in this Agreement.
- E. "City" means Lake Havasu City, Arizona.

2. Purpose

The purpose of this Agreement is to instill a deeper understanding of water in the earth system and Arizona's water resources in City students through a community Water Festival event and teacher-driven pre- and post-festival water unit.

3. Work Program and Deliverables

- A. During the Agreement, the University will:
 - 1. Work with City and school district specialists to schedule locations and participants for the Water Festival.
 - 2. Maintain equipment and supplies for use at the Water Festival.
 - 3. Train volunteers to facilitate Water Festival lessons prior to the Water Festival.
 - 4. Deliver all festival equipment and lead the set-up of the Water Festival.
 - 5. Conduct the Lake Havasu Water Festival for 4th grade teachers and their students.
 - 6. Evaluate student knowledge gains using established pre and post-assessments.
 - 7. Evaluate the Lake Havasu Water Festival using teacher and volunteer surveys.
 - 8. Alert City to any volunteers on site at the Water Festival that have not been cleared and verified through the City's volunteer process.

B. During this Agreement, City will:

1. Provide information to coordinate with Arizona Project WET tasks.
2. Assist in scheduling the Water Festival location.
3. Recruit volunteers to be trained and serve as facilitators at the Water Festival.
4. Communicate with the University via email or phone as needed.
5. Create and conduct a volunteer check in process, providing or checking approved name tags.
6. Provide volunteer approval process through the City's regular volunteer process. All volunteers for the Lake Havasu Water Festival must be cleared through the City's volunteer process.

4. Participant Evaluations

The University will secure evaluations from participants participating in the Program.

5. Reports

A. Within 30 business days of February 19, 2019, the University will provide a report of Agreement activities covering each of the Program deliverables to include:

1. Annual work volumes by Program deliverable (e.g., number of participating teachers, classes; students, and volunteers).

B. By the end of August 2019, the University will provide a full evaluation report that includes:

1. Two-page, full color impact report.

6. Recognition

University agrees to give recognition to City for its support of this Program when publishing Program-related articles, the Arizona Project WET website, and other written materials.

7. Project Funding

a. Amount. City agrees to pay University up to \$7,000 actual billed costs for the services outlined in this Agreement.

b. Availability of Funds. Payments made by City to University pursuant to this Agreement are conditioned upon the availability to City of funds authorized for expenditure in this manner and for the purposes herein. Notwithstanding any other provision of this Agreement, if City is unable to obtain sufficient funds for the purchase of these services, the Agreement shall be terminated upon written notice to University that funds are not available.

c. Payment. Within thirty (30) business days of February 19, 2019, the University shall submit an invoice to the City. If no funds are due to the University in any reporting period, an invoice is not necessary for that period.

1. Each educational invoice shall detail all labor, travel, and material costs, and shall have copies of University standard financial reports or other evidence of purchase attached and shall be separate from any other agreements with the contractor.
2. The costs included in the invoice shall conform to the annual budget approved by City.

3. The City will send payments to the University within 30 calendar days of receipt of the invoicing to the following address:

University of Arizona
University of Arizona Bursars Office
Sponsored Projects Services/Bursar
1303 E. University Blvd., Box 3
Tucson AZ 85719-0521

If sent by express delivery service:

888 N. Euclid Ave., Rm. 104
Tucson AZ 85719
Phone: (520) 621-1998

8. **Project Management**

Any correspondence, invoices and reports shall be sent to individuals designated below:

<p>The designated City project liaison for Arizona Project WET is: Mark Clark</p> <p>Invoices to be sent to: Accounts Payable 2330 McCulloch Blvd. N. Lake Havasu City, AZ 86403</p>	<p>The designated University Project Director is:</p> <p><u>Technical</u> Kerry Schwartz, Arizona Project WET Director Water Resources Research Center 350 North Campbell Avenue Tucson AZ 85719</p> <p><u>Administrative</u> Paul Sandoval, Director Sponsored Projects & Contracting Services University of Arizona P.O. Box 210158 Tucson AZ 85721-0158</p>
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9. **Personnel**

- a. The University represents that it has, or shall through this Agreement, secure all personnel required for the performance of the services under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with City.
- b. All of the services required hereunder shall be performed by the University or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under the state and local law to perform the services contemplated under this Agreement.

10. **Effective Date**

This Agreement shall become effective on the date it is signed by both parties.

11. **Duration**

This Agreement shall be for a period of ten (10) months from the effective date.

12. **Termination**

City and University may terminate this Agreement at any time by giving written notice to the other party, and specifying the effective date thereof, at least 30 calendar days before the effective date of such termination. If the Agreement is terminated by City, University shall be paid for all allowable costs incurred prior to the date of termination, subject to audit verification by City or its duly authorized representative, if City so desires.

13. **Non Assignment**

Neither party to this Agreement shall assign its rights under this Agreement without written

permission from the other party.

14. Construction of Agreement

- a. Entire Agreement. This instrument constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. Any exhibits to this Agreement are incorporated herein by this reference.
- b. Amendment. This Agreement may be modified, amended, altered or changed only by written agreement signed by both parties.
- c. Construction and interpretation. All provisions of this Agreement shall be construed to be consistent with the intention of the parties.
- d. Captions and headings. The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.
- e. Severability. In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.
- f. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511.

15. Legal Jurisdiction

This Agreement will be interpreted pursuant to the laws of the State of Arizona. Any arbitration or litigation between the parties will be conducted in Pima County, Arizona, and City hereby submits to venue and jurisdiction in Pima County, Arizona. This Agreement may be subject to mandatory non-binding arbitration in accordance with applicable law.

16. No Joint Venture

It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between the University and any City employees, or between City and any University employees. Neither party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

17. No Third Party Beneficiaries

Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

18. Interest of Officers or Employees of the City and the University

No officer or employee who exercises any function or responsibility in review or approval of the undertakings or carrying out of the project shall participate in any decision relating to this Agreement which affects their interest or personal interest or the interest of any corporation, partnerships, or associations in which they are directly or indirectly interested, or have any interest, direct or indirect, in this Agreement or proceeds thereof.

19. Compliance with Laws

A. The parties shall comply with all applicable federal, state and local laws, rules, regulations,

standards and executive orders, without limitation to those designated within this Agreement.

1. **Anti-Discrimination.** The provisions of A.R.S. § 41-1463 and Executive Order Number 2009-09 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.
2. **Americans with Disabilities Act.** This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
3. **Workers' Compensation.** An employee of either party shall be deemed to be an "employee" of both public agencies, while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

20. Waiver

Waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

21. Force Majeure

A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state or national emergency, which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

22. Remedies

Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

23. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterpart may be removed from such counterpart and attached to a single instrument.

24. **Ownership of Information**

University shall have full and complete rights to the Arizona Water Festival model. Nothing in this paragraph shall be construed to justify or require violation of the provision of A.R.S. §§ 39-121, et seq., or other applicable public records law.

25. **Subcontractors**

- A. University shall not enter into any non-procurement subcontract and/or agreement utilizing City funds without the prior written approval by City.
- B. If approval to subcontract is granted, University shall provide City with a copy of each subcontract and/or agreement within thirty (30) calendar days of its effective date.

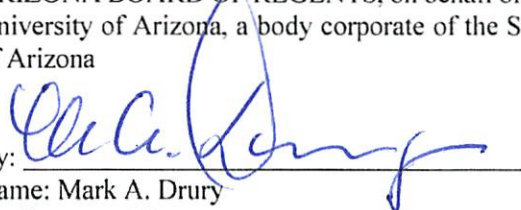
26. **Mutual Indemnity**

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, its officers, officials, agents, employees, or volunteers.

THIS AGREEMENT shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

IN WITNESS WHEREOF, University has executed or has caused this instrument to be executed by its proper officers hereunto duly authorized, and the City has caused this instrument to be executed by its proper officers thereunto duly authorized, all as of this day and year first above written.

ARIZONA BOARD OF REGENTS, on behalf of the
University of Arizona, a body corporate of the State
of Arizona

By: 
Name: Mark A. Drury
Its: Contracts Manager

LAKE HAVASU CITY, a municipal corporation.

By: _____
Name: Jess Knudson
Its: City Manager

ATTORNEY CERTIFICATION

The foregoing Intergovernmental Agreement between the Lake Havasu City and the Arizona Board of Regents has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Intergovernmental Agreement represented by the undersigned.

City Attorney



University Associate General Counsel