

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF FLAGSTAFF
AND
THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF
NORTHERN ARIZONA UNIVERSITY
FOR TESTING PAPER MILLINGS

This Intergovernmental Agreement (“Agreement”) is entered into this 13th day of July, 2015, between the City of Flagstaff (“City”) and the Arizona Board of Regents for and on behalf of Northern Arizona University (“University”),” for the provision of contracted services pursuant to A.R.S. 11-952 et seq. The City and the University may be referred to in this Agreement collectively as the “Parties” and singularly as a “Party.”

RECITALS

WHEREAS, In 2012 the City of Flagstaff partnered with Northern Arizona University’s (“NAU”), a public institution of higher education under the laws of the State of Arizona, College of Engineering, Forestry, and Natural Sciences (“CEFNS”) Capstone Design Four Practice (Capstone) in successfully developing a mix design for the implementation of paper pulp millings (“PPS”) as a component of a landfill cap; and

WHEREAS, The City is seeking further to assistance from CEFNS to determine the structural and physical properties of alternative materials incorporated with elastic polymer-based admixtures and CEFNS desires to perform such services upon and subject to the terms and conditions hereinafter set forth; and

WHEREAS, the Parties wish to strengthen the partnership that has already been established between the City and the University; and

WHEREAS, this project will benefit the City by allowing the City to explore alternative methods of landfill construction, while providing sustainable and financially viable means of disposal, thereby saving the City costs and extending the life of the landfill.

NOW THEREFORE, the Parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide the terms and conditions by which the University will provide the testing of paper millings for use as a cap at the City's landfill.

2. Scope.

The Parties agree that the University shall perform the activities as described in the Scope of Work ("Scope of Work"), attached hereto as EXHIBIT A.

3. Term.

The term of this Agreement shall begin on July 13, 2015 and end on July 12, 2017, unless earlier terminated as provided herein.

4. Termination.

Either Party may terminate this Agreement by providing the other Party thirty (30) days written notice of its intent to terminate.

5. Mutual Indemnification.

To the extent permitted by A.R.S. 41-621 and 35-154, law, 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 arising out of this Agreement, but only to the extent that such claims are caused by the negligent, reckless, or intentional acts or omissions of the Indemnitor, its officers, officials, agents, employees, or volunteers during the performance of this Agreement..

6. Insurance.

Each Party shall determine for itself an appropriate level of insurance coverage and maintain such coverage. Nothing in this Agreement shall be construed as a waiver of any limitation on liability that may apply to a Party.

7. Costs.

In accordance with the attached budget (Exhibit B,) the City shall provide funding to the University in the amount of \$23,878.54 for performance of Exhibit A.

7.1 Invoicing. NAU shall submit invoices on a quarterly basis to:

City of Flagstaff Cinder Lake Landfill
Attn: Matt Morales, Project Manager
211 West Aspen Avenue

Flagstaff, AZ 86001
O: 928-213-2123
F: 928-527-4678
Email: mmorales@flagstaffaz.gov

8. Special Provisions.

8.1. Obligations of the City:

8.1.1. The City will, upon receipt of invoices from the University, pay to the University, the amounts expended for the services provided by the University, in accordance with Exhibit B.

8.2. Obligations of the University:

8.2.1. Reporting Requirements. Reports by the University shall include:

Progress Reports. The University shall provide quarterly programmatic reports to the City within five (5) working days of the last day of the month in which services are provided. The University shall use the form provided by the City to submit quarterly programmatic reports. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project

9. Non-discrimination.

The Parties agree to comply with Executive Order 2009-09 and all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

10. Cancellation for Conflict of Interest.

The Parties agree that this Agreement may be cancelled for conflict of interest in accordance with A.R.S. § 38-511.

11. Cancellation for Nonappropriations.

The continuation of this Agreement beyond the initial fiscal year is dependent on and subject to the appropriation and availability of funding by the State of Arizona for each Party in each subsequent fiscal year. If sufficient funding is not made available to allow a Party to

continue meeting its contractual obligations under this Agreement, that Party shall so notify the other Party and either Party may cancel this Agreement and have no further obligation to the other Party. In the alternative, the Parties may by mutual written agreement, modify this Agreement to reduce the level of services or other consideration provided.

12. Inspection and Audit.

To the extent required by [A.R.S. §35-214](#), all books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the Arizona Board of Regents, the University, the City of Flagstaff, or the Auditor General of the State of Arizona, or their agents for five (5) years after completion of this Agreement. Such records shall be produced at Northern Arizona University, or such other location as designated by the University, upon reasonable notice to the City, or at the City upon reasonable notice to the University.

13. Independent Parties.

Personnel of the other party to the Agreement will not for any purpose be considered employees or agents of NAU and that the other party assumes full responsibility for the actions of its personnel while performing services under the agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.

14. Applicable Law.

This Agreement shall be governed and interpreted by the laws of the State of Arizona.

15. Arbitration.

With regard to disputes arising out of or relating to this Agreement, the Parties agree to use arbitration in accordance with A.R.S 12-1518 and 12-133.

16. Entire Agreement.

This Agreement embodies the entire understanding of the parties and supersedes any other agreement or understanding between the parties relating to the subject matter. The parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the parties.

17. Waivers.

No waiver, amendment, or modification of this Agreement shall be valid or binding unless written and signed by the parties. Waiver by either party of any breach or default of any clause of this Agreement by the other party shall not operate as a waiver of any previous or future default or breach of the same or different clause of this Agreement.

18. Assignment.

Neither party may assign any rights hereunder without the express, written, prior consent of both parties.

19. Notices.

All notices under this Agreement given by either party to the other shall be in writing and shall be sent by U.S. Postal Service, first class, facsimile, or e-mail. Addresses are as follows:

For the University:

Office of Grant and Contract Services
Northern Arizona University
1298 S. Knoles Dr.
ARD Bldg. 56, Ste. 240
Flagstaff, Arizona 86011-4130

Attn: Jackie Hinton
e-mail: jackie.hinton@nau.edu
Phone: (928) 523-5529
Fax: (928) 523-1075

For the City:

City of Flagstaff
Cinder Lake Landfill
211 West Aspen Avenue
Flagstaff, AZ 86001

Attn: Matt Morales, Project Manager
e-mail: mmorales@flagstaffaz.gov
Phone: (928) 213-2123
Fax: (928) 527-4678

20. Arizona Public Records.

The Parties acknowledge that the University and the City are public entities subject to the provisions of the Arizona Public Records Laws, A.R.S. § 39-121. et seq.

The undersigned have read the foregoing Agreement and, as duly authorized signatories of their respective entities, hereby agree to be bound by its requirements, terms and conditions.

**The Arizona Board of Regents for and on
Behalf of Northern Arizona University**

City of Flagstaff

By: _____
Wilma G. Ennenga
Assistant Vice President for Res. Admin.

By: _____
Jeff Meilbeck
Interim City Manager

Date: _____

Date: _____

Attest:

City Clerk

Approved as to form:

City Attorney

Pursuant to [A.R.S. § 11-952](#), the foregoing agreement has been submitted to Counsel to the Arizona Board of Regents for and on behalf of Northern Arizona University. The undersigned has determined that said agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Board of Regents for and on behalf of Northern Arizona University.

NORTHERN ARIZONA UNIVERSITY
OFFICE OF GENERAL COUNSEL

By _____

General Counsel