

FIRST AMENDMENT TO AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF MESA, ARIZONA
AND
THE ARIZONA BOARD OF REGENTS

This First Amendment to Amended and Restated Intergovernmental Agreement (“First Amendment”) is made to be effective as of _____, 2025 (the “First Amendment Effective Date”) between the City of Mesa, Arizona, an Arizona municipal corporation (“City”), and the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University (“ASU”). Each of City and ASU may be referred to in this First Amendment as a “Party,” or collectively as the “Parties.”

RECITALS

As background to this First Amendment, the Parties recite, state, and acknowledge the following, each of which is a material term and provision of this First Amendment:

- A. City and ASU entered into that certain “Amended and Restated Intergovernmental Agreement Between the City of Mesa, Arizona, and the Arizona Board of Regents” dated and effective as of July 9, 2024 (the “Agreement”) related to the potential development, operation and maintenance of post-secondary education facilities in downtown Mesa. The Agreement set forth three (3) City-owned sites of real property as Potential Development Sites for the potential development of ASU Facilities, including Site 1 located at 135 N. Center Street which has a current lease for a post office that is scheduled to expire May 31, 2025.
- B. Pursuant to the Agreement, each Potential Development Site has a Development Determination Period in which the City and ASU were to make certain determinations and agreements, including entering into and fully executing certain documents related to the development of the site, known as ASU Facility Documents. For Site 1, the Development Determination Period began on the Effective Date of the Agreement and is scheduled to expire on June 1, 2025.
- C. The City and ASU agree that additional time is needed for the Site 1 Development Determination Period.

TERMS AND CONDITIONS

- 1. Development Determination Period Extension. Section 6(a)(i) of the Agreement is amended as follows to extend the Development Determination Period for Site 1 (**bold and underlined text** reflects added language, ~~striketrough~~ text reflects struck language):
 - “i. Site 1 (Post Office): The Development Determination Period for Site 1 begins on the Effective Date and expires on June 1, 2026. The ASU Facility Documents for Site 1, which must be fully executed by the end of the Site

1 Development Determination Period, will include, at a minimum, requirements in the Site Lease that: (a) the construction for the project must be complete within five (5) years of the effective date of the Site Lease, which completion will be evidenced by the issuance of a final certificate of occupancy for the development; (ii) if requested by City, at its sole and absolute discretion, the ground floor of any development will include a retail component for use by, at a minimum, the U.S. Postal Service; and (iii) for a Joint Development of Site 1, language related to the requirements in Section 10(a)(iv) limiting the transfer of ownership of the improvements for a post office.”

2. Defined Terms. Terms in this First Amendment that are not defined herein, are defined by, and will be construed by using the definitions in the Agreement.
3. Severability. In the event any term or provision of this First Amendment is held to be invalid or unenforceable, the validity of the other provisions will not be affected, and this First Amendment will be construed and enforced as if it did not contain the particular term or provision that is deemed to be invalid or unenforceable.
4. Governing Law, Venue, and Jurisdiction. This First Amendment is governed by the laws of Arizona and any action related to a dispute arising out of this First Amendment will be brought in a court of appropriate venue and jurisdiction in Maricopa County, State of Arizona.
5. Incorporation of Recitals & Exhibits. The recitals set forth herein and the attached exhibit(s) are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.
6. Merger; Effect of Amendment. Except as expressly amended by this First Amendment, there are no other amendments, modifications, or revisions to the Agreement. In the event of any inconsistencies between this First Amendment and the Agreement, the terms of this First Amendment will govern. The Agreement, as amended herein, is hereby reinstated, ratified, and affirmed by the Parties and remains in full force and effect.
7. Counterparts: This First Amendment may be executed in one or more counterparts, each of which will be deemed an original and together constitute one and the same instrument.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their duly authorized representatives as of the First Amendment Effective Date.

CITY OF MESA, an Arizona
municipal corporation

By: Christopher J. Brady
City Manager

ATTEST:

City Clerk

The foregoing agreement has been reviewed pursuant to Arizona Revised Statutes § 11-952, as amended, by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the City of Mesa under the laws of the State of Arizona.

City Attorney

Date

[SIGNATURES CONTINUED ON NEXT PAGE]

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SIGNATURE PAGES CONTINUED

ARIZONA BOARD OF REGENTS,
A BODY CORPORATE, FOR
AND ON BEHALF OF ARIZONA
STATE UNIVERSITY

By: _____
Richard Stanley
Senior Vice President and
University Planner

The foregoing agreement has been reviewed pursuant to Arizona Revised Statutes §11-952, as amended, by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to ASU under the laws of the State of Arizona.

M. Maureen Anders, Associate
General Counsel, Arizona State
University

Date Signed