

**PROJECT FUNDING AGREEMENT BETWEEN
SCHOOL SYSTEM XXX
AND
THE STATE OF ARIZONA**

Agreement Number OGFR-19-XXX

This Agreement (“**Agreement**”) is between the *School System Name*, (“**System**”), participating and the State of Arizona, acting through the Arizona Department of Administration (“**ADOA**”), Office of Grants and Federal Resources (“**GFR**”) (sometimes, individually, a “**Party**,” or collectively, “**Parties**”).

AUTHORIZATION

1. Executive Order 2013-09 authorizes the Office of Grants and Federal Resources to establish partnerships and working relationships with private and local government entities to enhance Arizona’s ability to procure and manage grants.

BACKGROUND

2. The State of Arizona is strongly encouraging public schools to scrap and replace old and high pollutant emitting school buses with modern, cleaner diesel or alt-fuel varieties. To help support school systems with this endeavor, Governor Ducey has authorized the utilization of funding allocated from the Volkswagen Diesel Emissions Environmental Mitigation Trust (VW Trust) to fund the Lower-Emission School Bus Program.

PURPOSE OF THE AGREEMENT

3. The objectives of this program are to:
 - a. Focus on funding projects that replace older diesel-fueled vehicles and engines.
 - b. Focus on vehicles, engines, and equipment operating or located in or near areas that bear a disproportionate share of the air pollution burden (priority areas), such as schools and environmental justice areas.
 - c. Prioritize projects located in or near areas that are in nonattainment of National Ambient Air Quality Standards (NAAQS) for ozone, particulate matter (PM), or nitrogen dioxide (NO₂).
 - d. Focus on projects located in areas with high population density and high traffic density. In Arizona, areas of high population density are often the areas with the poorest air quality.

TERM, EFFECTIVE DATE, AND TERMINATION

4. Term and Effective Date: This Agreement will be effective upon execution by both Parties and shall remain effective through the end of state fiscal year 2019 (6/30/19) and/or state fiscal year 2020 (6/30/20) as identified by the applicant in their proposed timeline.
5. Termination:
 - a. In the event of a material breach of any provision of this Agreement, the non-breaching Party shall give written notice to the breaching Party specifically setting forth the nature of the breach. Upon being served with such notice, the breaching Party shall have ten (10) days in which to cure said breach. If said breach has not been cured within the ten (10) days, then the non-breaching Party may terminate this Agreement.
 - b. The Parties each represent that, as of the date of execution of this Agreement, they are not aware of any facts or circumstances which would give rise to a cancellation right in favor of any party pursuant to A.R.S. § 38-511.

OBLIGATIONS OF THE PARTIES

6. Responsibilities of the System:
 - a. System will provide all requested financial documentation in order to support their request for reimbursement;
 - b. System will provide documentation of the completion of the scrapping process; and
 - c. [Insert additional responsibilities as determined during the application review]
7. Responsibilities of the State:
 - a. State will provide reimbursement to the System of up to \$X dollars for:
 1. Replacement of X school buses with new diesel powered school buses; and/or
 2. Replacement of X school buses with new alt-fuel powered school buses.
 - b. [Insert additional responsibilities as determined during the application review]

MISCELLANEOUS TERMS

8. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - a. Any contractor or subcontractor who is contracted by a party to perform work related to this Agreement shall warrant its compliance with all federal

immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214(A);

- b. That any breach of the warranty in paragraph 8.a shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of this Agreement;
 - c. The Parties retain the legal right to inspect the employment records of any employee of any contractor or subcontractor who performs work related to this Agreement to ensure that the contractor or subcontractor is complying with the warranty in paragraph 8.a and that the contractor agrees to make all employment records of said employee available during normal working hours to facilitate such an inspection; and
 - d. Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
9. The Parties shall comply with the provisions of State Executive Order 2009-9, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, as amended.
 10. This Agreement does not imply authority to perform any tasks or accept any responsibility not expressly stated in this Agreement.
 11. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement. This Agreement shall not relieve the Parties of any obligation or responsibility imposed on it by law.
 12. This Agreement contains the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, understandings, and inducements, whether express or implied, oral or written.
 13. Any change, modification, or extension of this Agreement must be submitted through the Sub-recipient Management Tool (SRM), eCivis, and approved by both of the Parties.
 14. This Agreement has been arrived at by negotiation and shall not be construed for or against any Party.
 15. The Parties agree that all the conditions set forth herein are material to this Agreement and a breach of any condition is a breach of this Agreement.
 16. The failure of either Party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed by the other Party or to take any action permitted by this Agreement shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past

or in the future. The acceptance by either Party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.

17. The substantive laws of Arizona (without reference to any choice of law principles) shall govern the interpretation, validity, performance and enforcement of this Agreement. The Parties further agree to cooperate in all ways reasonable and necessary to comply with the applicable statutes, including amending this Agreement as needed in the future and making any refunds or payments that might be required to bring the Parties into full compliance with applicable law.
18. Nothing in this Agreement is intended to create any third-party beneficiary rights; and the State and the System expressly state that this Agreement does not create any third-party rights of enforcement.
19. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.
20. If the last day of any time stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday.
21. Time is of the essence in this Agreement.
22. Except as expressly provided herein, no Party may delegate or assign its rights or responsibilities under this Agreement without prior written approval of the other Party and any purported assignment or delegation in violation of this provision shall be void.
23. Pursuant to A.R.S. § 35-214 and 35-215, the System shall retain all records relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the System shall produce the original of any or all such records at the offices of the Arizona Department of Administration.
24. The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.
25. All notices required or permitted under this Agreement shall be given in writing and addressed as follows:

Notice to State shall be addressed as follows:

Office of Grants and Federal Resources
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007
Office Phone: 602-542-7567
Email: Matthew.Hanson@azdoa.gov

Notice to System shall be addressed as follows:

Name
Address
City, State, Zip
Office Phone
Email

_IN WITNESS WHEREOF, the parties hereto agree to execute this Agreement the XX day of
xxxxxx, 20__.

Arizona Department of Administration
State of Arizona

School System Name

Name

Name

Title

Title

Signature

Signature

Date

Date