

INTERGOVERNMENTAL AGREEMENT

**by and between
City of Flagstaff and Coconino County
regarding the**

Dark Sky Code Compliance Specialist

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter "Agreement") dated this _____, 2019, is by and between CITY OF FLAGSTAFF, a municipal corporation of the State of Arizona (the "CITY"), and COCONINO COUNTY, a political subdivision of the State of Arizona (the "County"). Pursuant to A.R.S. Sections 11-952, the City and the County agree as follows:

RECITALS

WHEREAS, the CITY is authorized to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 41-2632 and Article I, Section 3 of the Flagstaff City Charter; and

WHEREAS, the COUNTY is authorized to enter into this Agreement pursuant to A.R.S. § 11-952; and

WHEREAS, the CITY and the COUNTY desire to jointly fund a shared personnel position known as Code Compliance Officer II – Dark Sky Specialist ("Dark Sky Specialist"); and

WHEREAS, the Dark Sky Specialist will jointly benefit the CITY and the COUNTY by providing comprehensive enforcement and inspection services in regard to the standards for outdoor lighting adopted by either the City or the County ("Outdoor Lighting Standards"), on an as-needed basis, for development that occurs in both the CITY and unincorporated areas of the COUNTY; and

WHEREAS, the Dark Sky Specialist will further benefit the CITY and the COUNTY by educating builders, developers, commercial business owners, and residents concerning the Outdoor Lighting Standards; and

WHEREAS, it is the intent and desire of the parties hereto to provide for the respective obligations of each party with regard to the shared Dark Sky Specialist position.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth, the parties agree as follows:

1. TERM.

A. The initial term of the Agreement shall be from the date the parties execute this Agreement, until July 1, 2021, unless terminated by either party pursuant to the provisions of this Agreement.

B. In recognition of, and in deference to, the budgeting needs and obligations of the parties hereto, any party wishing to terminate the provisions of this Agreement without cause shall provide written notice at least 90 days prior to the effective date of such termination.

2. JOINT EMPLOYEE.

A. The City shall provide a Dark Sky Specialist employee to be shared jointly with the COUNTY for the purpose of working directly with residents, property owners, business owners, builders, developers, and lighting professionals on Outdoor Lighting issues, as defined in the Outdoor Lighting Standards, and providing additional opportunities for collaboration between the COUNTY and the CITY.

B. The Dark Sky Specialist will be a regular employee of the CITY, hired by the CITY and subject to the CITY's employment policies, procedures, and systems. Management of the Dark Sky Specialist and related programming will be shared by both the CITY and the COUNTY. Performance evaluations will be managed using the CITY'S process, with input from the COUNTY. The CITY and the COUNTY will each provide work space for the Dark Sky Specialist at their respective locations. A shared work plan for the Dark Sky Specialist will be developed, implemented, evaluated collaboratively, and agreed upon by both parties.

C. The COUNTY and the CITY will work together to develop and coordinate effective training and professional development for the Dark Sky Specialist.

3. REPORTING

A. The Dark Sky Specialist will track and record all daily activities performed in the course of employment, including, but not limited to, educational outreach and enforcement activities.

B. The Dark Sky Specialist will additionally keep accurate records of how their time has been allocated between functions performed for customers within the CITY's jurisdiction and functions performed for customers within the COUNTY's jurisdiction.

C. The Dark Sky Specialist will further create and provide semi-annual reports to the CITY and the COUNTY that accurately reflect a summary of the information required to be maintained under this Subsection. One report will be delivered on or before the first workday in April of each year, and will cover activities for the period of October through the end of March. The second report will be delivered on or before the first workday in October of each year, and will cover activities for the period of April through the end of September.

4. FUNDING.

A. The Dark Sky Specialist position is to be funded jointly by the COUNTY and the CITY with a \$10,000 contribution from Lowell Observatory for work on behalf of the city and the county. If appropriation by either party is unavailable or is terminated for whatever reason, then the obligation of the parties to this Agreement will also be terminated regarding funding for the Dark Sky Specialist position. Should funding not be available for any reason, neither the

COUNTY nor the CITY will be held responsible to continue the position or fund the position beyond the current contracted term of the Dark Sky Specialist.

B. The CITY and the COUNTY will each provide partial funding in the amount of 50% total salary for the Dark Sky Specialist position minus half of any contributions from Lowell Observatory, or other third-party contributors.

C. The COUNTY's partial funding commitment, in the amount of 50% of the total salary for the Dark Sky Specialist position (minus half of any contributions from Lowell Observatory or other third-party contributors), will remain the same should the CITY modify its salary structure, provide for salary increases or decreases for any reason or provide merit, incentive, or any other type of compensation or benefit. The CITY will consult with the COUNTY before reclassifying the Dark Sky Specialist position to a higher salary range or otherwise increasing compensation; however, compensation changes will be made consistent with CITY policies and procedures. The CITY is solely responsible for payment of the employer portion of benefits, including mandatory retirement. The CITY will provide worker's compensation coverage.

D. If appropriation by the COUNTY is unavailable or is terminated for whatever reason, the obligations of the COUNTY under this Agreement are also terminated. Upon termination of this Agreement for any reason, the City may assume the Dark Sky Specialist position as solely a City position with all enforcement contained to the City.

5. INDEMNIFICATION, NOTIFICATION, AND JOINT RESOLUTION.

The COUNTY and the CITY agree to accept responsibility and indemnify the other for any claims arising from the employment of the Dark Sky Specialist with respect to claims arising from circumstances under their respective control or on their premises. The COUNTY and the CITY each agree to promptly notify the other of any claims, complaints, or grievances made by the shared employee to allow for a joint resolution of any claim, complaint, or grievance, if desired.

6. INSURANCE.

The COUNTY shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability arising from the acts and omissions of its employees or agents.

The CITY shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability arising from the acts and omissions of its employees or agents.

7. AMENDMENTS; INTEGRATION.

This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof. All amendments or modifications of the Agreement shall be in writing and approved by the Coconino County Board of Supervisors and the Flagstaff City Council.

8. CANCELLATION FOR CONFLICT OF INTEREST.

This Agreement may be cancelled for conflict of interest in accordance with the requirements of Section 38-511 of the Arizona Revised Statutes.

9. NON-DISCRIMINATION.

Each PARTY warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, pregnancy, religion, sex, sexual orientation, gender identify, genetic information, age, national origin, disability, veteran status, caregiving responsibilities, or familial status shall have equal access to employment opportunities. Each PARTY shall take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

10. ATTORNEY APPROVALS.

By their signatures below, the undersigning attorneys do certify that this Agreement has been reviewed by them pursuant to A.R.S. § 11-952(D), and further certify that they have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona as concerns those respective parties of the Agreement represented by the undersigned attorney as indicated .

IN WITNESS WHEREOF, the parties hereto have set forth their hands, through representatives duly so authorized, the day and date first above written.

COCONINO COUNTY

CITY OF FLAGSTAFF

Lena Fowler, Chair
Board of Supervisors

Mayor Coral Evans

Attest:

Attest:

Lindsay Daley,
Clerk of the Board of Supervisors

City Clerk

Approved as to form:

Approved as to form:

County Attorney's Office

City Attorney's Office