

AGREEMENT FOR SERVICES

This Agreement for Services (“Agreement”) is made and entered into in the City of Flagstaff, Coconino County, Arizona, by and between the City of Flagstaff (the “City”), an Arizona municipal corporation, and Joshua Copley (“Copley”) this tenth day of September, 2015.

RECITALS

The City and Copley enter into an Agreement for Services, under which Copley agrees to serve as the City Manager for the City of Flagstaff.

NOW, THEREFORE, for and in consideration of the mutual covenants contained in this Agreement, the City and Copley agree as follows:

1. EMPLOYMENT AND SERVICES

The City agrees to employ Copley as City Manager of the City of Flagstaff, and Copley agrees to serve as the City Manager in accordance with the terms and conditions set forth below. Copley shall perform the duties set forth in Article III, Section 3 of the Charter of the City of Flagstaff (“City Charter”), a copy of which is designated Exhibit A, attached to and incorporated herein, and such other duties as the City Council and Copley may, from time to time, agree.

2. TERM

2.1 The term of this Agreement shall be for eighteen (18) months commencing on September 10, 2015, and concluding on April 10, 2017, subject to continuation or termination as set forth below. Except as provided in **Section 14** hereof, Copley agrees not to accept other employment during his employment with the City.

2.2 Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate Copley’s services any time, subject to the provisions set forth in **Sections 10** and **11** of this Agreement and Article III of the City Charter. Likewise, nothing in this Agreement shall prevent, limit or otherwise interfere with Copley’s right to resign at any time from his position with the City, subject to the provisions set forth in **Section 10** of this Agreement and Article III of the Charter.

2.3 In the event that neither the City nor Copley provides written notice to the other at least six (6) weeks prior to the termination date as hereinabove provided, or any subsequent termination date arising from a prior extension of this Agreement, this Agreement shall be extended on the same terms and conditions as herein provided for an additional period of one (1) year unless either party hereto gives at least six (6) weeks written notice prior to the termination date of the initial eighteen (18) month term or any subsequent one-year term arising from a prior extension of this Agreement, to the other that the noticing party does not wish to extend this Agreement for any additional one year term.

3. SALARY

The City shall pay Copley for his services under this Agreement an annual base salary of One Hundred Eighty Thousand and no/100 dollars (\$180,000.00) subject to withholdings, payable in installments at the same time as other City employees are paid. The City may review Employee's base salary at any time, and may, in its discretion, change such base salary as City deems appropriate, provided, however, that Employee's base salary under this Agreement shall not be less than One Hundred Eighty Thousand and no/100 dollars (\$180,000.00). The Employee will also receive increases in pay as provided to other management employees.

4. AUTOMOBILE ALLOWANCE

Copley shall receive an automobile allowance in the amount of Three Hundred Fifty and no/100 dollars (\$350.00) per month. In addition, Copley shall have the right to use a rental vehicle or his own vehicle in accordance with the City of Flagstaff Travel Policy.

5. VACATION AND SICK LEAVE

Copley shall accrue vacation at the rate reflecting ten to fourteen (10 – 14) years of public service, which accrual rate is twenty-one (21) days per year. Copley shall accrue sick leave at the rate of twelve (12) days per year.

6. HEALTH AND LIFE INSURANCE

6.1 The City shall provide family health and dental care insurance coverage to Copley available to and at the same cost as paid by its other management employees.

6.2 The City shall enroll Copley in the life insurance program available to its other management employees and shall pay the premium cost.

7. RETIREMENT

The City shall continue paying the contribution for Copley in the Arizona State Retirement System in the same manner as it does with its other management employees.

8. INDEMNIFICATION

The City shall defend, hold harmless and indemnify Copley against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the lawful performance of Copley's duties as City Manager.

9. BONDING

The City shall bear the full cost of any fidelity or other bonds required of Copley under any law or ordinance.

10. SUSPENSION, TERMINATION AND SEVERANCE PAY

10.1 As authorized by Article III of the City Charter, the City may suspend or terminate Copley from the position of City Manager during the term of this Agreement, but only pursuant to the terms of Article III of the City Charter and **Sections 10** and **11** of this Agreement.

10.2 The City may terminate this Agreement pursuant to Article III of the City Charter without incurring further obligation under this Agreement upon the occurrence of any of the following events:

- (1) Copley's material breach of this Agreement;
- (2) Copley's conviction or arrest for a felony or crime involving moral turpitude;
- (3) Copley's willfully or habitually neglects the duties he is required to perform under the terms of this Agreement, demonstrates behavior substantially incompatible with the goals, objectives, or interests of the City, or commits such acts of dishonesty, fraud, misrepresentation, or any acts of moral turpitude as would materially adversely affect the effective performance of the City Manager's duties.
- (4) A vote pursuant to Article III of the City Charter to not renew, remove or terminate Copley as City Manager, or a resignation pursuant to Section 10.4 of this Agreement, where the effective date of Copley's termination falls on or within 90 days of the termination date of the initial eighteen (18) month term of this Agreement, or any subsequent one-year term arising from a prior extension of this Agreement.

10.3 In the event Copley is terminated for reasons other than those delineated in Section 10.2 of this Agreement, the City agrees to pay Copley a lump sum cash payment equal to six (6) months aggregate salary and provide employee and family health insurance benefits to Copley for an additional six (6) months beyond the term of this Agreement.

10.4 In the event that Copley resigns following a request, whether formal or informal, by at least five (5) members of the City Council that he resign, then, in that event, Copley may at his option deem himself to be "terminated" at the date of such request to resign, within the meaning and context of this Agreement.

10.5 In the event that Copley voluntarily resigns his position with the City before expiration of the term of employment as provided above, Copley shall give the City at least six (6) weeks prior notice thereof, unless the parties otherwise agree; and the City shall not then be obligated to provide severance pay and extended health benefits to Copley.

11. DISABILITY

If Copley is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of six (6) successive months beyond any accrued sick leave, the City shall have the option to terminate this Agreement, subject to the severance pay requirements of **Section 10**.

12. PERFORMANCE EVALUATION

12.1 The City Council shall review and evaluate Copley's performance at least annually. The City Council shall provide adequate opportunity for Copley to discuss his evaluation with the City Council. The City Council shall conclude Copley's review and evaluation no later than September 30th of each year. Copley's review and evaluation shall be in accordance with specific criteria developed jointly by the City Council and Copley.

12.2 The City Council and Copley shall define goals and performance objectives annually, which they determine necessary for the proper operation of the City of Flagstaff and in attainment of the City Council's written policy objectives.

13. HOURS OF WORK

Copley shall devote full time to his duties as City Manager, except as otherwise specified in **Section 14** below.

14. OUTSIDE ACTIVITIES

Copley shall spend no more than ten (10) hours per week in teaching, counseling or other non-City connected business without the prior approval of the City Council.

15. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

15.1 The City Council, in consultation with Copley, shall fix any other terms and conditions of employment as it may determine to be desirable, from time to time, relating to Copley's performance, provided that such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Flagstaff City Code or any other law.

15.2 All provisions of the City Charter, City Code, and City regulations and policies relating to vacation and sick leave, retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended shall also apply to Copley as they would to other employees of the City, in addition to the benefits enumerated specifically as herein provided.

16. NOTICE PROVISIONS

Any notice concerning this Agreement must be in writing delivered personally or sent by certified or registered mail as follows:

To the City:

Human Resources Director
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001

To Copley:

Joshua Copley
City of Flagstaff
211 W. Aspen Avenue
Flagstaff, Arizona 86001

17. GENERAL PROVISIONS

17.1 Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

17.2 Jurisdiction and Venue. This Agreement shall be administered and interpreted under the laws of the State of Arizona, and venue for any legal action hereunder shall be the Coconino County Superior Court in Flagstaff, Arizona.

17.3 Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

17.4 Severability. If any part of this Agreement is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Agreement shall remain in full force and effect unless the stricken provision leaves the remaining Agreement unenforceable.

17.5 Conflict of Interest. Copley covenants that he presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The parties agree that this Agreement may be cancelled for conflict of interest in accordance with Arizona Revised Statutes § 38-511.

17.6 Entire Agreement. This Agreement constitutes the entire agreement between the parties and shall not be changed or added to except by written amendment. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, other than specifically incorporated herein by reference, are superseded by this Agreement.

17.7 No waiver. No waiver of, acquiescence in, or consent to any breach of any term, covenant, or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant or condition.

IN WITNESS WHEREOF, the City of Flagstaff has caused this Agreement to be signed and executed in its behalf by the undersigned Mayor of the City of Flagstaff, and Joshua Copley has signed and executed this Agreement, both in duplicate, the day and year first above written.

City of Flagstaff

Joshua Copley

Jerry Nabours, Mayor

Attest:

City Clerk

Approved as to form:

City Attorney