

RESOLUTION NO. 02-05-2014

A RESOLUTION OF THE SANTAQUIN CITY COUNCIL, CREATING THE POSITION OF ASSISTANT CITY MANAGER AND AUTHORIZING AN EMPLOYMENT AGREEMENT THE SANTAQUIN CITY ASSISTANT CITY MANAGER

WHEREAS, Santaquin City is a municipality and political subdivision of the State of Utah; and

WHEREAS, Dennis L. Marker, (hereinafter called "Marker") is an individual who is presently employed by the City as the Director of Community Development and who has the education, training and experience in local government management and community development; and

WHEREAS, the City desires to create an Assistant City Managers position to assist the City Manager by performing a variety of professional administrative and managerial duties related to planning, directing, organizing, and controlling the administrative processes necessary to carry out the efficient and economic operation of the city; and

WHEREAS, the City desires to promote Marker to the newly created position of Assistant City Manager and to encourage his continuing employment with the City and to provide a measure of security in his employment; and

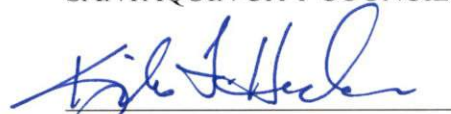
WHEREAS, Marker desires to continue his employment with the City under certain terms and conditions; and

WHEREAS, the parties now desire to enter into this Agreement in order to establish the terms and conditions of Marker's continued employment with the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Santaquin City, State of Utah, to create the position of Assistant City Manager and authorize the acceptance of the "Santaquin City Assistant City Manager Employment Agreement", a copy of which is attached hereto.

PASSED AND APPROVED this 5th day of February, 2014.

SANTAQUIN CITY COUNCIL


Kirk F. Hunsaker, Mayor

ATTEST:


Susan B. Farnsworth, City Recorder



SANTAQUIN ASSISTANT CITY MANGER EMPLOYMENT AGREEMENT

This Agreement, made and entered into this 5 day of February, 2014, by and between **Santaquin City**, a fifth-class city and political subdivision for the State of Utah (hereinafter called "City") and **Dennis Lynn Marker**, (hereinafter called "Marker").

WITNESSETH:

WHEREAS, Santaquin City is a municipality and political subdivision of the State of Utah; and

WHEREAS, Marker is an individual who is presently employed by the City as the Director of Community Development and who has the education, training and experience in local government management and community development; and

WHEREAS, the City desires to promote Marker to the newly created position of Assistant City Manager and to encourage his continuing employment with the City and to provide a measure of security in his employment; and

WHEREAS, Marker desires to continue his employment with the City under certain terms and conditions; and

WHEREAS, the parties now desire to enter into this Agreement in order to establish the terms and conditions of Marker's continued employment with the City.

NOW, THEREFORE, in consideration of mutual covenants, agreements and other valuable consideration, the parties agree as follows:

1. **EMPLOYMENT.** The City agrees to employ Marker and Marker agrees to be employed by the City, in the capacity of Assistant City Manager. In his capacity as Assistant City Manager, Marker shall report directly to the City Manager concerning those duties for which the City Manager has authority pursuant to state law and/or local ordinance.
2. **TERM.** The term of this Agreement shall be for an initial period of three (3) years, commencing February 5, 2014 and ending February 4, 2017, unless it is terminated earlier as set for in Section 12. At the conclusion of the initial period, this Agreement shall automatically be renewed for an additional two (2) year term unless notice that the Agreement shall terminate is given at least six (6) months before the expiration date thereof. In the event the Agreement is not renewed, all compensation, benefits and requirements of this Agreement shall remain in effect until the expiration of

the term of the Agreement unless Marker voluntarily resigns, is unable to perform the duties set forth in the Agreement, or is terminated for cause as set for in Section 12.

3. **DUTIES.** During the term of this Agreement, Marker, as Assistant City Manager for the City, shall perform those duties designated in section 1-6A-5 of the Santaquin City Code, as well as those duties designated in the Santaquin City Assistant City Manager Job Description (Exhibit A) and such additional duties as may be assigned to him from time to time by the City Manager or Mayor. Additionally, Marker will fulfill the responsibilities of the Community Development Director as outlined in section 1-13 of the Santaquin City Code, and is tasked with supporting the Santaquin Development Agency and economic development efforts of the community and to perform other legally permissible and proper duties and functions. Marker shall at all times faithfully, diligently and conscientiously perform all of the duties that may be required of and from him pursuant to the express and implied terms of this Agreement in a professional, competent and ethical manner.
4. **TIME AND EFFORT.** Marker shall devote whatever time is necessary to satisfactorily perform the duties of Assistant City Manager, but it is agreed that Marker shall work, on average, a minimum of forty (40) hours per week. Marker is an exempt employee and, therefore, does not qualify and is not entitled to receive overtime compensation or compensatory time off.
5. **SALARY.** During the term of this Agreement, Marker shall be paid an annual salary of Seventy-One Thousand Six Hundred Fifty-Three and 14/100 Dollars (\$71,653.14), plus cost of living increases as the same may be from time to time approved by the City Council for other City employees, less applicable federal and state tax withholdings and other deductions required by law or authorized by Marker, payable in substantially equal installments bi-weekly in accordance with the City's regular payroll schedule. Additionally, the City shall provide a 5% pay increase retroactive upon the date of passage of Marker's passing the American Institute of Certified Planners (AICP) exam (November 15, 2013) and an additional 5% increase upon Marker receiving a Master's degree in Public Administration from an accredited university. Notwithstanding, the City may in its sole discretion, upon the favorable performance review of Marker by the City, increase the salary of Marker from time to time. The City agrees to conduct at least one annual evaluation of Marker.
6. **BENEFITS.** Marker shall be eligible to participate in the benefit programs of the City that are available to all other regular, full-time employees.

- a) **Health, Disability and Life Insurance Benefits.** The City agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for Marker and his dependents on the same terms and conditions that such insurance benefits are provided to all other full time employees of Santaquin City.
- b) **Vacation.** Marker shall be credited with annual vacation in accordance with the Santaquin City Employee Policies and Procedures Handbook. Employee agrees to plan his vacation around the needs of the City in consultation with the Mayor.
- c) **Sick Leave.** Marker shall accrue sick leave in accordance with the Santaquin City Employee Policies and Procedures Handbook.
- d) **Holidays.** Marker shall receive paid time off for all state and federal holidays in the same manner as provided to all other full time employees pursuant to the Santaquin City Employee Policies and Procedures Handbook.
- e) **Retirement.** The City agrees to ensure that all contributions are made on Marker's behalf in the same manner as provided to all other full time employees pursuant to the Santaquin City Employee Policies and Procedures Handbook.

7. **REIMBURSEMENT OF EXPENSES.** The City shall reimburse Marker for reasonable expenses necessarily incurred by him in connection with the work performed by Marker for or on behalf of the City upon presentment of an expense reimbursement request containing a detailed itemization of the expenses for which reimbursement is sought, together with receipts or other appropriate documentation relating to those expenses.
- a. City, subject to the approval and discretion of the City Council, agrees to budget for and to pay for professional dues and subscriptions of Marker necessary for continuation and full participation in national, regional, state, or local associations and organizations necessary and desirable for Marker's continued professional participation, growth, and advancement, and for the good of the City.
 - b. City, subject to the approval and discretion of the City Council, agrees to budget for and to pay for travel and subsistence expenses of Marker for professional and official travel, meetings, and occasions to adequately continue the professional development of Marker and to pursue necessary official functions for City.
 - c. City, subject to the approval and discretion of the City Council, agrees to budget for and to pay for travel and subsistence expenses of Marker for short courses, institutes, and seminars that are necessary for Marker's professional development and for the good of the City.

- d. City, subject to the approval and discretion of the City Council, agrees to reimburse Marker for all automobile mileage incurred while traveling to and from official City business, excluding normal commute mileage. Mileage reimbursement shall be administered in accordance with the Santaquin City Employee Policies and Procedures Handbook.
8. **TECHNOLOGY.** The City shall provide Marker with a computer, software, fax/modem and cell phone required for Marker to perform the job and to maintain communication. Use of such equipment shall be in accordance with the Santaquin City Employee Policies and Procedures Handbook.
9. **COVENANT NOT TO DISCLOSE CONFIDENTIAL OR PROPRIETARY INFORMATION.** Marker acknowledges that, as Assistant City Manager, he has received and will continue to receive confidential or proprietary information of the City, including such information that may be originated by or imparted to him from time in the course of Marker's employment. Marker agrees what he shall not at any time, whether during the time that he is employed by the City or at any time thereafter, disclose to any person or entity or use any confidential or proprietary information in any manner whatsoever without the prior written consent of the Mayor or City Council. Upon the request of the City while Marker is employed by the City, or upon the termination of Marker's employment with the City, Marker will turn over to the City Manager all documents, papers or other materials in Marker's possession, custody or control which may contain or be derived from confidential or proprietary information of the City. The term "confidential or proprietary information" shall include, without limitation, all trade secrets, financial information, customer information, litigation strategy, and all other information involving or reasonably related to the business of the City, and any tangible article which embodies such confidential or proprietary information.
10. **OUTSIDE ACTIVITIES.** The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the City and the community, Marker may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement. Prior to any such acceptance of any outside employment activity, Marker shall obtain the written consent of the City Manager for each such activity, which consent shall not be unreasonably withheld.
11. **REMEDIES FOR BREACH OF THE COVENANT NOT TO DISCLOSE CONFIDENTIAL OR PROPRIETARY INFORMATION.** In the event of a breach or threatened breach by Marker of the provisions of the covenant not to disclose confidential

or proprietary information, a court of competent jurisdiction may issue a restraining order or an injunction against Marker, restraining or enjoining him from taking, copying, using, disclosing, giving, selling, or transferring to any other person or entity any of the City's confidential or proprietary information. In addition, the City shall be entitled to any and all other remedies available to the City at law or in equity, and no action by the City in pursuing a given remedy shall constitute an election to forego other remedies.

12. **ADHERENCE TO CITY POLICIES.** Marker agrees to comply with the provisions of the Santaquin City Employee Policies and Procedures Handbook, to the extent that such policies and procedures are not contrary to or inconsistent with the terms of this Agreement. To the extent that any provisions in the City's personnel policies and procedures are contrary to or inconsistent with the terms of the Agreement, the terms of this Agreement shall apply.

13. **TERMINATION.** For the purpose of this Agreement, termination shall occur when:

- a) A majority of the governing body members vote to terminate Marker at a duly authorized public meeting.
- b) If the City, citizens or legislature amends any provision of Santaquin City Code or Utah Code pertaining to the role, powers, duties, authority, responsibilities of the position of Assistant City Manager that substantially changes the form of government, Marker shall have the right to declare that such amendments constitute termination.
- c) If the City reduces the base salary, compensation or any other financial benefit of Marker, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this Agreement and will be regarded as termination.
- d) If Marker resigns following an offer to accept resignation, whether formal or informal, by the City as representative of a majority of the governing body that Marker resigns, then Marker may declare a termination as of the date of the suggestion.
- e) Breach of contract declared by either party within a 30 day cure period for either Marker or the City. Written notice of a breach of contract shall be provided in accordance with the provisions of paragraph 15.

14. **SEVERANCE PAY.** Except in the case of removal for cause or Marker's voluntary resignation, which nullify Marker's entitlement to severance, the City shall cause Marker, upon his removal, to be paid any unpaid balance of his salary, vacation, and sick time in accordance with the Santaquin City Employee Policy and Procedures Handbook, due to the date of his removal together with his salary at the same rate for the next six (6) calendar months following the date of his removal. Severance shall be paid in a lump sum, within thirty (30) days of termination unless otherwise agreed to by the City and by Marker. Apart from payment of six (6) months of salary there are no other payments, benefits or entitlements pertaining to severance.

15. **OTHER AGREEMENTS.** Marker warrants that, to the best of his knowledge, the execution and delivery of this Agreement and the performance of his duties hereunder will not violate the term of any other agreement to which he is a party or by which he is bound.

16. **BONDING.** The City shall bear the full cost of any fidelity or other bonds required of Marker under any law or ordinance.

17. **NOTICES.** Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- a) **CITY:** Santaquin City, 275 West Main Street, Santaquin, Utah 84655
- b) **MARKER:** Dennis Lynn Marker, 178 West 690 North, Santaquin, Utah 84655


Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

18. **MISCELLANEOUS.**


- a) **Attorney's Fees and Costs.** In the event that either party commences an action to enforce the terms of this Agreement, or to recover for its breach, the prevailing party shall be entitled to recover from the non-prevailing party his or its attorney's fees and costs incurred therein.
- b) **Headings.** The headings used herein are inserted for convenience only, and shall not be construed as having any substantial significance or meaning whatsoever.
- c) **Assignability.** The rights and duties under this Agreement are not assignable by either party.

- d) **Binding Effect.** Subject to the provisions of paragraph 13, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their agents, successors and assigns.
- e) **Entire Agreement.** This Agreement sets forth the entire agreement between and among the parties regarding the specific subject matter of this Agreement, and this Agreement supersedes and terminates all prior agreements, representations and understandings, written or oral, pertaining thereto. All obligations shall commence upon the effective date of this Agreement. Any modifications, amendments, or changes to this Agreement will be binding upon the parties only if agreed upon in writing by the parties.
- f) **Effect of Waiver.** No waiver by any party of any breach of any term or provision of this Agreement shall be construed to be, nor be, a waiver of any preceding, concurrent or succeeding breach of the same, or of any other term or provision hereof.
- g) **Unenforceable Provisions.** In the event that any part of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining parts herein shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable part(s) had not been included herein.
- h) **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.

SANTAQUIN CITY


Kirk E. Hunsaker, Mayor

ATTEST:


Susan B. Farnsworth, City Recorder




Dennis Lynn Marker,
Assistant City Manager

Exhibit A – Job Description



Job Description

Title:	Assistant City Manager	Code:	100
Division:	Administration	Effective Date:	01/14
Department:	Administration	Last Revised:	01/14

GENERAL PURPOSE

Under the direction of the City Manager, performs a variety of **professional administrative and managerial** duties related to planning, directing, organizing, and controlling the administrative processes necessary to carry out the efficient and economic operation of the city. The Assistant City Manager assists in the management of the following city departments through its department directors: administration, public works, community & economic development, leisure services, etc. Assist in the management of city budgets for all city departments including public safety.

SUPERVISION RECEIVED

The Assistant City Manager works under the supervision of the City Manager. Together, the City Manager and his/her Assistant, work under the broad policy guidance and direction of the governing body of Santaquin City, as directed by the Mayor.

SUPERVISION EXERCISED

The Assistant City Manager assists the City Manager in providing broad policy guidance and direction to department directors. The Assistant City Manager acts as City Manager in his/her absence.

ESSENTIAL FUNCTIONS

Assists in the management of the day-to-day operations and internal affairs of the city; recommends policies, procedures and processes to further the policies of the Mayor and City Council; through the City Manager, advises and appraises governing body as needed; makes recommendations for executive, administrative, legislative actions (with prior notice to the City Manager and Mayor); when called upon, assists the City Manager to conduct internal investigations, examine books, records and official papers of any office, department, agency, board or commission of the city as needed to assure integrity of operations and prevent impropriety.

Assists the City Manager as he/she assumes responsibility for full and effective utilization of city personnel by establishing overall departmental objectives, priorities and standards; serves as the Director of Community & Economic Development. Assists the City Manager as he/she provides managerial and operational oversight to the Public Works Director, Director of Leisure Services, and Director of Administrative Services, according to city code; assists the City Manager in the recommendation of hiring of all non-exempt and most exempt city positions, assists the City Manager to make recommendations for department head appointments to the appropriate authority.

Assists in the preparation and administration of the city's budget; assists in the submission of budget and capital improvement programs to the Mayor, department heads and council; assists in overseeing the fiscal activity of the city to assure compliance with established budgets; assists in the development of fiscal management strategies to optimize available revenue sources; competes for and secures supplemental funding through grants; promotes economic development to increase city revenue.

Assists in the direction of city operations through department directors; monitors program success to recommend continuance or discontinuance; assists the City Manager as he/she coordinates with department heads to implement change in city policy and processes; assists the City Manager as he/she appraises Mayor and City Council members of emergencies.

Attends all meetings of the city council, planning commission, and the appeal authority, and takes part in the discussions of these meetings as appropriate, but without the right to vote; requests legal responses and positions from city attorney. Represents the city as directed by the City Manager or at the direction of Mayor or governing body; serves as the Public Relations Director in the absence of the City Manager; assists the City Manager in developing the state-of-the-city reports and presents them to the governing body.

Assists the City Manager in overseeing the compliance with and implementation of various statutory and regulatory guidelines affecting human resource operations including, FMLA, FLSA, ADA, Civil Rights, COBRA, etc.; assists the City Manager to oversee the city payroll administration; assist the City Manager to assure timely filing of state and federal payroll reports; assists in the management of city-wide risk, safety and security programs; assists with the assurance of timely safety inspections and audits; assists with the assurance with compliance with OSHA and UOSHA regulations.

Assists in the general supervision over public property under the jurisdiction of the city.
Performs related duties as required.

MINIMUM QUALIFICATIONS

1. Education and Experience:

- A. Graduation from an accredited college with a master's degree in public administration; business or a closely related field; AND
- B. Four (4) years of progressively responsible experience in municipal management; OR
- C. An equivalent combination of education and experience.

2. Knowledge, Skills, and Abilities:

Working knowledge of management theory, methods, and practices; municipal and fiscal accounting principles, practices and procedures; municipal organizations and department operations including applicable laws and regulations; generally accepted accounting principles (GAAP), the Uniform Municipal Fiscal Procedures Act; budgeting, accounting and related statistical procedures; various revenue sources available to local governments including state and federal sources; local investment options and opportunities; laws governing records retention, archiving, management and access (GRAMA).

Skill in interpersonal relations and cooperative problem solving.

Ability to analyze a variety of financial problems and make decisions; coordinate a variety of intra-governmental policy matters between governing body and department heads; plan, organize, direct and supervise the work of professional and administrative subordinates; communicate effectively verbally and in writing, resolve disputes and complaints from the public in professional manner, maintain strict confidentiality related to sensitive administrative information; operate personal computer (WINDOWS) in utilizing various programs to produce or compose formal documents, reports and records; establish and maintain comprehensive records and files; establish and maintain effective working relationships with the Mayor, City Council, department directors, department heads, intergovernmental agencies, employees and the public.

3. Special Qualifications:

Must be bondable. Must possess a valid driver's license. Must pass a pre-employment background check and drug screen.

4. Work Environment:

Incumbent of the position performs in a typical office setting. Tasks require variety of physical activities, not generally involving muscular strain, such as walking, standing, stooping, sitting and reaching. Continuous talking, hearing and seeing required in the normal course of performing the job. Common eye, hand, finger dexterity required to perform essential functions. Mental application utilizes memory for details, verbal instructions, emotional stability, discriminating thinking and creative problem solving. Periodic travel required in normal course of job performance.