

Resolution 11-1-12 R

CITY MANAGER EMPLOYMENT AGREEMENT
City of Kanab

This City Manager Employment Agreement (“Agreement”) is made and entered into by and between the City of Kanab, Utah, a Utah municipal corporation (the “City”), and Duane Huffman (the “Manager”).

WITNESSETH:

WHEREAS, the City Council of the City (the “Council”) and the Manager believe that an employment agreement negotiated between the Council, on behalf of the City, and the Manager can be mutually beneficial to the City, the Manager, and the community they serve;

WHEREAS, the Council, the Mayor, and the Manager believe that an appropriately structured employment agreement can strengthen the Council-Mayor-Manager relationship by enhancing the excellence and continuity of the management of the City for the benefit of its citizens;

WHEREAS, the Council, on behalf of the City, desires to employ the services of the Manager, as the city manager of the City (“City Manager”), pursuant to the terms, conditions, and provisions of this Agreement; and

WHEREAS, the Manager has agreed to accept employment as the City Manager, subject to the terms, conditions, and provisions of this Agreement.

NOW, THEREFORE, the City and the Manager, for and in consideration of the terms, conditions, and provisions hereinafter established, agree as follows:

I. Term

1.1 Term. The term of this Agreement begins on January 1, 2013 and ends on December 31, 2015. This term is subject to earlier termination as provided in Section 6.1 below. If the Council has not adopted a new contract for the Manager by December 31, 2015, then this Agreement terminates on January 1, 2016; and in this event, the Manager shall receive a severance in accordance with Section 6.3 as if the Council terminated Manager without cause.

1.2 Extension. The City may, by action of the Council and Mayor, and with the consent and approval of the Manager, extend the term of this Agreement.

II. Employment

2.1 Duties. The Council employs Manager as City Manager to perform the following duties:

- a. Manage, on behalf of the City, all other employees of the City;
- b. Direct, assign, and reassign employees of the City;

- c. Organize, reorganize and arrange the staff of the City;
- d. Develop and establish internal regulations, rules, and procedures that the Manager deems necessary for the efficient and effective operation of the City;
- e. Accept all resignations of employees of the City, except the Manager's resignation, which must be accepted by the Council;
- f. Perform all duties as prescribed by law; and
- g. Perform all other duties assigned to the Manager by the Council and Mayor, so long as those assignments are consistent with the professional role and responsibility of the City Manager position.

2.2 Performance of Duties. The Manager must perform the City Manager's duties with reasonable care, diligence, skill, and expertise.

2.3 Compliance with Applicable Law and City Policy. The Manager must comply with all applicable law and City policy in the performance of his duties.

2.4 Reassignment. The Manager cannot be reassigned from the position of City Manager to another position without the Manager's prior written consent.

2.5 Council Meetings. The Manager or the Manager's designee must attend all meetings of the Council, both public and closed, except where prohibited by law or this Agreement. The Manager may not attend closed meetings devoted to considering any action or lack of action on this Agreement, considering any amendment to the Agreement, evaluating the Manager, or resolving conflicts between individual Council members.

2.6 Criticisms, Complaints, and Suggestions. The Council and its members must refer in a timely manner all criticisms, complaints, and suggestions to the Manager for study and, if necessary, appropriate action. The Manager must refer the matter to the appropriate City employee or investigate the matter and inform the Council of the results of his efforts.

2.7 Indemnification. To the extent permitted by applicable law, the City agrees to defend, hold harmless, and indemnify Manager from any demand, claim, suit, action, judgment, and any legal proceeding brought against Manager in the Manager's individual or official capacity as an employee and as City Manager, provided that the basis for the legal proceeding relates to an act or omission of the Manager, as an employee of the City, acting within the course and scope of the Manager's employment with the City. However, the Manager is not entitled to any indemnity rights provided in Section 2.7 if it is established that the Manager committed official misconduct, a willful or wrongful act or omission, an omission constituting gross negligence, or a bad-faith act. Additionally, the indemnity rights provided in Section 2.7 do not cover any costs, fees, expenses, or damages that are recoverable or payable under an insurance contract, held either by the City or by the Manager. The Manager's legal counsel must be selected with the mutual agreement of the Manager and the City if that legal counsel is not also the City's legal counsel. If the legal defense is provided through insurance coverage, the Manager's right to agree to legal counsel provided for him will depend on the terms of the

applicable insurance contract. The provisions of this Section 2.7 survive the termination, expiration, or other end of this Agreement and the Manager's employment with the City.

2.8 Appropriation. The Council hereby appropriates, sets aside, and encumbers available and otherwise unappropriated funds of the City in an amount sufficient to fund and pay all financial obligations of the City pursuant to this Agreement.

2.9 Hours of Work. The Manager acknowledges that the City Manager's duties require him to generally observe normal business hours and often require the performance of necessary services outside of normal business hours. The Manager agrees to devote such additional time as is necessary for the full and proper performance of the City Manager's duties and that the compensation herein provided includes compensation for the performance of all such services. However, the City intends to permit reasonable time off to the Manager, such as is customary for exempt employees so long as the time off does not interfere with the normal conduct of the office of the City Manager. The Manager must devote full time and effort to the performance of the City Manager's duties, and must remain in the exclusive employ of the City during the term of this Agreement. However, with the prior consent of the Council, the Manager may accept outside professional employment that does not interfere with the Manager's performance of the City Manager's duties hereunder. The phrase "outside professional employment" means professional services provided to third parties during the Manager's time off.

III. Compensation

3.1 Salary. The City must pay the Manager an annual salary of Sixty-Nine Thousand Five Hundred Dollars (\$69,500). This annual salary must be paid to the Manager in equal installments on the same schedule as other City employees and must be paid net of any applicable withholding or deductions required by law.

3.2 Salary Adjustments. At any time during the term of this Agreement, the Council may, in its discretion, review and adjust the salary of the Manager, but in no event may the Manager be paid less than the salary provided in Section 3.1 of this Agreement, except by mutual agreement of the two parties. The Manager's salary must be unaffected by the general annual employee salary increases. Adjustments, if any, must be made pursuant to lawful Council resolutions, and the parties agree to use best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

3.3 Paid Leaves—Vacation, Sick/Personal, and Holiday. The Manager may take, at the Manager's choice, the same number of hours of vacation authorized for other administrative employees of the City, the leave to be in a single period or at different times. The vacation leave taken by the Manager will be taken at such time or times as will least interfere with the performance of the City Manager's duties and will accrue at the rate of 12 hours per month. The Manager is hereby granted the same sick/personal leave benefits as authorized by Council policies for administrative employees. The Manager may observe the same legal holidays as provided by the City for its administrative employees.

3.4 Benefits—General. Unless expressly provided otherwise in this Agreement, in addition to those benefits specifically set forth herein, the Manager is entitled to the same benefits that are enjoyed by any other administrative employees under applicable laws and City policy.

3.5 Insurance—Health. The City agrees to pay the premiums for health, hospitalization, vision, dental, and comprehensive medical insurance for the Manager pursuant to the group health care plan provided by the City for its administrative employees.

3.6 Retirement Benefit. The City agrees to enroll the Manager into the applicable state or local retirement system and to make at least the same level of contributions for the Manager or on the Manager's behalf as the City does for its other administrative employees consistent with applicable laws and City policy.

3.7 Expenses. The City must pay or reimburse the Manager for reasonable expenses incurred by the Manager in performing the Manager's duties under this Agreement. The City agrees to pay the actual and incidental costs incurred by the Manager for travel. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, car rentals, and other expenses incurred in the performance of the business of the City. The Manager must comply with all procedures and documentation requirements in accordance with applicable law and City policy.

3.8 Bonds. The City must bear the full cost of any fidelity or other bonds required of the Manager under any law or ordinance.

3.9 Civic Activities. The Manager is encouraged to participate in community and civic organizations and activities.

IV. Professional Growth

4.1 Professional Dues and Subscriptions. The City agrees to budget for and to pay for professional dues and subscriptions of the Manager necessary for continuation and full participation in state, regional, and local associations and organizations as necessary or desirable for the good of the City through the Manager's continued professional participation, growth, and advancement as approved by the City.

4.2 Professional Development Travel. The City agrees to budget for and to pay for travel and subsistence expenses of the Manager for professional and official travel and meetings to adequately continue the professional development of the Manager and to pursue necessary official functions for the City.

4.3 Professional Continuing Education. The City also agrees to budget for and to pay for travel and subsistence expenses of Manager for short courses, institutes, and seminars that are necessary or desirable for the good of the City through the Manager's professional development as approved by the City.

V. Performance Evaluation

5.1 Evaluation Process. The Council will review the Manager's job performance at least once annually with the first review being in January 2014, and subsequent annual reviews to occur during the month of January of each year thereafter unless the parties agree otherwise. The annual performance reviews and evaluations must be in writing and in accordance with criteria and format developed jointly by the Council, the Mayor, and the Manager. The Council and the Mayor must provide to the Manager a reasonable and adequate opportunity to discuss and, if necessary, respond to the Manager's evaluation.

5.2 Confidentiality. To the extent allowed by applicable law and City policy, the evaluation of the Manager must at all times be conducted in a closed session of the Council and must be considered confidential, unless the Manager expressly requests otherwise in writing. The Council, the Mayor, and the Manager may share the content of the Manager's evaluation with their respective legal counsel.

5.3 Modification of Evaluation Process. In the event the Council determines that an evaluation instrument, format, or procedure should be modified by the Council, and that modification would require new or different performance expectations, then the Manager must be provided a reasonable period of time to demonstrate the expected performance before being evaluated.

VI. Termination

6.1 Termination Events. This Agreement terminates upon any of the following:

- a. Mutual agreement of the Council and the Manager in writing and signed by them;
- b. Retirement or death of the Manager;
- c. Termination for good cause, as defined in Section 6.2 below;
- d. Termination Without Cause (as defined and set forth in Section 6.3 below); or,
- e. Expiration of the term of this Agreement.

6.2 Good Cause. The Council may, for good cause, end the employment relationship and terminate this Agreement. The Manager receives no severance if he is terminated for good cause. For purposes of this Agreement the term "good cause" is defined as any of the following:

- a. Any willful, knowing, grossly negligent, or negligent breach, disregard, or habitual neglect of any duty or obligation required to be performed by the Manager under this Agreement, applicable law, or City policy.
- b. Any misconduct of the Manager involving an act of moral turpitude, criminal illegality (excepting minor traffic violations), or habitual

violations of the traffic laws, whether or not related to the Manager's official duties hereunder.

- c. Any willful, knowing, grossly negligent, negligent misapplication, or misuse, direct or indirect, by the Manager of public or other funds or other property, real, personal, or mixed, owned by or entrusted to the City, any agency or corporation thereof, or the Manager in his official capacity.

6.3 Termination without Cause. The Council may, at its pleasure, end the employment relationship and terminate this Agreement at any time without cause. "Without cause" means any reason not provided in Section 6.2. Except as provided in Section 1.1, termination without cause is effective only if the Manager receives written notice from the Council that includes the following information:

- a. Notification that the Council has voted to a termination without cause under Section 6.3 of the Agreement;
- b. The effective date of the termination without cause; and
- c. A commitment by the City to provide severance to the Manager in accordance with Sections 6.4 and 6.5.

6.4 Severance. If the Manager is terminated without cause under Section 6.3, then the Manager is entitled to a severance from the City. Severance consists of the following:

- a. An amount equal to the value of three months of the Manager's salary at the time of termination;
- b. An amount equal to the value of one week of the Manager's salary multiplied by the number of years that the Manager was employed by the City as City Manager, calculated using the Manager's salary at termination and rounding to the nearest whole number of years; and
- c. The value of any accrued but unused vacation days, computed on an hourly basis determined by dividing the Manager's then current annual salary by 2080 hours.

6.5 Severance Payment in the Manner Directed by the Manager. On or before the effective date of termination, the Manager may by written notice direct the City to pay the severance in a manner chosen by the Manager, provided that the total severance must be paid within a year of the Manager's termination. The Manager may not limit the City's ability to make any deductions and withholdings required by law.

VII. Miscellaneous

7.1 Severability. If any part of this Agreement exceeds the authority provided by law or violates the limitations imposed by law, the Agreement must be construed and modified accordingly, but the remainder of the Agreement must remain in full effect.

7.2 Waiver. A party's waiver of any breach of this Agreement must not constitute a waiver of any other breach. Forbearance or omission by a party in enforcing any of its remedies upon breach will not constitute a waiver of any of that party's remedies.

7.3 Binding Nature of Agreement. This Agreement is binding on the City and the Manager, as well as their heirs, assigns, executors, personal representatives, and successors in interest.

7.4 Dispute Resolution. Any dispute relating to this Agreement must first be submitted to mediation. The parties must jointly appoint an acceptable mediator. The City agrees to pay the full cost of mediation. If mediation fails, either party may then seek court relief.

7.5 Applicable Law. This Agreement must be governed by and construed in accordance with the laws of Utah.

7.6 Integration. This Agreement sets forth and establishes the entire understanding between the City and the Manager relating to the Manager's employment. This Agreement supersedes any prior agreements between the parties. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement.

7.7 Modifications. A modification of, or amendment to, any provision contained in this Agreement is effective only if the modification or amendment is in writing and signed by both parties. A proper modification becomes incorporated and made a part of this Agreement. Any oral representation or modification concerning this Agreement is of no force or effect.

(signature page to follow)

CITY OF KANAB, UTAH

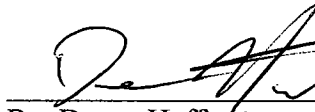


By: Nina Laycock

Its: Mayor

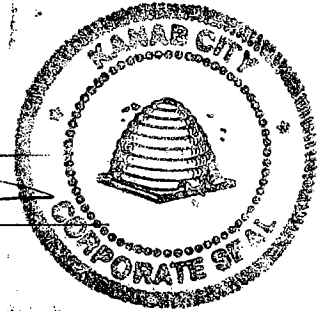
Executed this 27 day of November, 2012

Attest:



By: Duane Huffman

Its: City Manager and Clerk



Executed this 27 day of November, 2012

CITY MANAGER



Duane Huffman

Executed this 27 day of November, 2012