

**RESOLUTION NO. 07-02-2012**

**A RESOLUTION OF THE SANTAQUIN CITY COUNCIL, AUTHORIZING AN  
EMPLOYMENT AGREEMENT FOR THE SANTAQUIN DIRECTOR OF PUBLIC  
SAFETY/CHIEF OF POLICE.**

**WHEREAS**, The City is authorized by Utah law to employ a Director of Public Safety/Chief of Police to perform such duties on behalf of the City as may be established by law or ordinance; and

**WHEREAS**, the City previously adopted an ordinance authorizing the employment of a Director of Public Safety/Chief of Police and establishing certain duties and responsibilities of the same; and

**WHEREAS**, the Santaquin City Council hired Dennis Howard to be the Director of Public Safety/Chief of Police on September 13, 1999, and is pleased with the service he has rendered on behalf of the citizens of Santaquin City and its elected leaders; and

**WHEREAS**, Howard is likewise pleased with his employment with Santaquin City and desires to continue his employment relationship pursuant to the terms of the attached agreement;

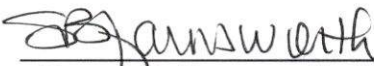
**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Santaquin City, State of Utah, to authorize the acceptance of the "Santaquin City Director of Public Safety Employment Agreement" (See Attached).

PASSED AND APPROVED this 11<sup>th</sup> day of July 2012.



  
James E. DeGraffenried, Mayor

ATTEST:

  
Susan B. Farnsworth, City Recorder

## SANTAQUIN CITY DIRECTOR OF PUBLIC SAFETY EMPLOYMENT AGREEMENT

THIS AGREEMENT by and between **SANTAQUIN CITY**, a fifth-class city and political subdivision for the State of Utah ["the City"], and **DENNIS LYNN HOWARD** ["HOWARD"] is effective as of the 11 day of July, 2012.

WHEREAS, the City is authorized by Utah law to employ a Director of Public Safety/Chief of Police to perform such duties on behalf of the City as may be established by law or ordinance; and

WHEREAS, the City previously adopted an ordinance authorizing the employment of a Director of Public Safety/Chief of Police and establishing certain duties and responsibilities of the same; and

WHEREAS, the Santaquin City Council hired Howard to be the Director of Public Safety/Chief of Police on September 13, 1999, and is pleased with the service he has rendered on behalf of the citizens of Santaquin City and its elected leaders; and

WHEREAS, Howard is likewise pleased with his employment with Santaquin City and desires to renew his employment relationship pursuant to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed by and between the City and Howard as follows:

1. **EMPLOYMENT.** The City agrees to employ Howard and Howard agrees to be employed by the City, in the capacity of Director of Public Safety/Chief of Police. In his capacity as Director of Public Safety/Chief of Police, Howard shall report directly to the Mayor or his designee concerning those duties for which the Mayor has authority pursuant to state law and/or local ordinance. Howard shall report directly to the City Council when requested to do so concerning those duties for which the City Council has authority pursuant to state law and/or local ordinance and City Council.
2. **TERM.** The term of this Agreement shall be for an initial period of three (3) years, commencing July 12<sup>th</sup>, 2012 and ending July 11<sup>th</sup>, 2015, unless it is terminated earlier as set forth in Section 12. 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 Howard voluntarily resigns or is terminated for cause as set for in Section 12.

3. **DUTIES.** During the term of this Agreement, Howard, as Director of Public Safety/Chief of Police or his designee for the City, shall perform those duties designated in section 1-6-8 of the Santaquin City Code, all essential duties as set forth in the job description for the Director of Public Safety/Chief of Police, and such additional duties as may be assigned to him from time to time by the Mayor and/or City Council. Howard 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. During the term of this Agreement, Howard, as Director of Public Safety/Chief of Police must maintain certification with the Utah Peace Officer Standards and Training Academy (POST).
  
4. **TIME AND EFFORT.** Howard shall devote whatever time is necessary to satisfactorily perform the duties of Director of Public Safety/Chief of Police, but it is agreed that Howard shall work, on average, a minimum of forty (40) hours per week. Howard 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, Howard shall be paid an annual salary of Eighty-one Thousand Two Hundred and one dollar (\$81,201.00), 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 Howard, payable in substantially equal installments bi-weekly in accordance with the City's regular payroll schedule. Notwithstanding, the City may, upon the favorable performance review of Howard by the City, increase the salary of Howard from time to time. The City agrees to conduct at least one annual evaluation of Howard.
  
6. **BENEFITS.** Howard shall be eligible to participate in the benefit programs of the City that are available to all other regular, full-time employees.
  - a) **Insurance Benefits.** The City agrees to provide and to pay the insurance premiums for life, vision, dental, hospitalization, surgical, comprehensive medical insurance for Howard and his dependents on the same basis as those benefits are provided to all other full time employees of Santaquin City.
  
  - b) **Vacation.** Howard shall receive vacation benefits pursuant to the terms of the Santaquin city employee's policy and procedures.

- c) **Sick Leave.** Howard shall accrue sick leave equal to the highest annual accrual provided to other employees pursuant to the City's personnel policies and procedures manual.
  
- d) **Holidays.** Howard shall receive paid time off for state and federal holidays the same as provided to all other full time employees pursuant to the City's personnel policies and procedures manual.
  
- e) **Retirement.** The City agrees to continue to make contributions to Howard's retirement account to the maximum contribution rate allowed by Utah Retirement System (URS) for post retired public safety employees into a 401K account managed by URS. The City agrees to not decrease the amount contributed below the maximum contribution rate allowed for post retired public safety employees unless said decrease is applied similarly to all other full time employees for whom the City contributes.

7. **REIMBURSEMENT OF EXPENSES.** The City shall reimburse Howard for reasonable expenses necessarily incurred by him in connection with the work performed by Howard 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. Preauthorization of expenses shall be in accordance with City policy as established from time-to-time by the City Council.

- 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 Howard necessary for continuation and full participation in national, regional, state, or local associations and organizations necessary and desirable for Howard'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 Howard for professional and official travel, meetings, and occasions to adequately continue the professional development of Howard 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 Howard for short courses, institutes, and seminars that are necessary for Howard's professional development and for the good of the City.
  
- d. City, shall provide Howard with a vehicle for his use in connection with his employment and normal travel to and from employment, which use shall be

administered in accordance with the Santaquin City Employee Policy and Procedure Handbook.

8. **COVENANT NOT TO DISCLOSE CONFIDENTIAL OR PROPRIETARY INFORMATION.** Howard acknowledges that, as Director of Public Safety/Chief of Police, 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 Howard's employment. Howard 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 unless revelation is necessary in the performance of his duty. Upon the request of the City while Howard is employed by the City, or upon the termination of Howard's employment with the City, Howard will turn over to the City all documents, papers or other materials in Howard'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, case files, personnel files 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.
  
9. **REMEDIES FOR BREACH OF THE COVENANT NOT TO DISCLOSE CONFIDENTIAL OR PROPRIETARY INFORMATION.** In the event of a breach or threatened breach by Howard 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 Howard, 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.
  
10. **ADHERENCE TO CITY POLICIES.** Howard agrees to comply with the City's personnel policies and procedures, 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.
  
11. **TERMINATION.** For the purpose of this Agreement, termination shall occur when:

- a) a majority of the governing body votes to terminate Howard at a duly authorized public meeting;
- b) Howard resigns within two (2) working days of an action by the City, citizens or the state legislature to amend any provision of Santaquin City Code or Utah Code pertaining to the role, powers, duties, authority, responsibilities of the position of Director of Public Safety/Chief of Police that substantially alters the position of Director of Public Safety/Chief of Police;
- c) Howard resigns within two (2) working days of an action by the City Council that reduces the base salary, compensation or any other financial benefit of Howard, unless it is applied in no greater percentage than the average reduction of all department heads;
- d) Howard resigns within two (2) working days of an offer to accept resignation, whether formal or informal, by a vote of the majority of all members of the governing body; or
- e) Howard is unable to perform the duties of Director of Public Safety/Chief of Police as described in paragraph 3 hereto.

12. **SEVERANCE PAY.** Upon termination of his employment with the City, any unpaid balance of Howards's salary, vacation, comp. time, and sick time accrued through the date of his removal shall be paid in accordance with the Santaquin City Employee Policies and Procedures Handbook. In addition, except in the case of voluntary resignation, removal for cause (as defined by Santaquin City Policies and Procedures), death, disability, Howards's breach of contract, or Howards's inability to perform the duties described in paragraph 3 hereto; any of which shall nullify Howards's entitlement to severance, the City shall cause Howard, upon his removal, to be paid an amount equal to his salary for forty (40) hours for each year of his City employment beginning on September 13, 1999, up to a maximum of six (6) months. Severance shall be paid in a lump sum unless otherwise agreed to by the City and by Howard. Apart from payments specified in this paragraph, there are no other payments, benefits or entitlements pertaining to severance.

13. **OTHER AGREEMENTS.** Howard 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.

14. **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) **HOWARD:** Dennis L Howard, 260 South 200 West, 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.

#### 15. 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 Howard.
- 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 of 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 parts had not been included herein.
  
- h) **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.

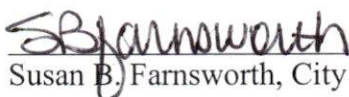
DATED this 11<sup>th</sup> July, 2012.


**SANTAQUIN CITY**



  
James E. DeGraffenried, Mayor

ATTEST:

  
Susan B. Farnsworth, City Recorder

  
Dennis Lynn Howard, Director of  
Public Safety/Chief of Police