

**RESOLUTION NO. 13-25**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF CASTLE PINES, COLORADO  
APPROVING A CITY MANAGER EMPLOYMENT AGREEMENT**

**WHEREAS**, the City has undertaken a search process to identify and to hire a manager to provide on a full-time basis those day-to-day functions typically performed by the chief administrative and executive officer of a municipality, to assist in developing and implementing policies to effectuate efficient management of the City, and to provide supervisory and management authority over all departments of the City; and

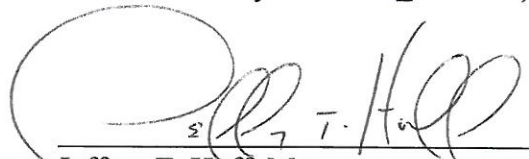
**WHEREAS**, through the search process, the City has identified the candidate with the highest qualifications and skills to perform the functions of City Manager and desires to enter into an employment agreement to memorialize the rights and obligations of the City and its new City Manager.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, THAT:**

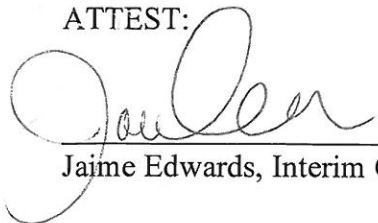
**Section 1.** The City Council hereby approves the City Manager Employment Agreement substantially in the form attached as **Exhibit A** and authorizes the Mayor to execute the same on behalf of the City.

**Section 2. Effective Date.** This Resolution shall take effect upon its approval by the City Council.

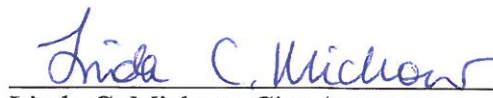
**INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES** by a vote of 4 in favor, 0 against and 2 absent this 13<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Jeffrey T. Huff, Mayor

ATTEST:

  
\_\_\_\_\_  
Jaime Edwards, Interim City Clerk

Approved as to form:

  
\_\_\_\_\_  
Linda C. Michow, City Attorney

**EXHIBIT A**

**CITY MANAGER EMPLOYMENT AGREEMENT**  
[Execution Version to be Provided]



## CITY OF CASTLE PINES CITY MANAGER EMPLOYMENT AGREEMENT

This Agreement (the “**Agreement**”) is made and entered into by and between the City of Castle Pines, a Colorado municipal corporation and statutory city (the “**City**”) and Don Van Wormer (“**Van Wormer**” or “**Manager**”). The City and the Manager are collectively referred to as the “**Parties**.”

### RECITALS

**WHEREAS**, the City desires to employ Mr. Van Wormer as an at-will employee and the Manager of the City based upon the terms and conditions set forth in this Agreement; and

**WHEREAS**, Mr. Van Wormer desires to accept employment as the City Manager based upon the terms and conditions set forth in this Agreement; and

**WHEREAS**, for purposes of this Agreement, the City of Castle Pines is a unit of local government whose governing body is directly elected by the electors of the City and the City is, therefore, excepted from compliance with the provisions of C.R.S. § 24-19-101, *et seq.*, specifically C.R.S. §24-19-108(1)(c).

**NOW, THEREFORE**, in consideration of the payments, promises, and other good and valuable consideration provided for in this Agreement, the Parties agree as follows:

#### **Section 1. Conditional Employment Offer.**

This Agreement shall constitute an employment offer. The City Manager must complete a drug screen test and background check within two weeks of commencing employment. The costs of such evaluations shall be borne by the City. Without limiting the at-will nature of the employment relationship contemplated hereby, the City retains and reserves the right to terminate this Agreement and rescind Mr. Van Wormer’s employment without any further liability or obligation to Mr. Van Wormer based on the results of such evaluations.

Unless specifically altered herein, the Personnel Policies of the City as may be in effect and amended from time to time, shall govern this employment relationship.

#### **Section 2. Duties.**

- A. **Duties generally.** Subject to Section 1 of this Agreement, the City hereby agrees to employ Mr. Van Wormer as the City Manager, such employment to commence on or

before October 7, 2013. In that capacity, Mr. Van Wormer shall perform the functions and duties outlined in Exhibit A, along with such other duties and functions as the City Council shall from time to time assign. The Manager shall report to and serve at the pleasure of the City Council.

- B. Full-time. The Manager position shall be a full-time executive exempt position that shall require a minimum of forty hours of work per week. Manager may engage in such activities as teaching, writing, and professional consultation, so long as such activity does not conflict with the interests of the City. The City Council shall resolve any questions regarding actual or potential conflicts of interest under this provision.
- C. No other employment. Mr. Van Wormer shall not accept employment with or actively engage in any other business or employment while employed as Manager unless approved by the Council in writing, which approval may be reasonably withheld.
- D. Staffing. The Council represents that the policy of the City is to maintain staffing levels at budgeted amounts, which may vary from year to year or within a year.
- E. Budget. Mr. Van Wormer acknowledges that the City Council adopts a budget and makes appropriations for the operations of the City, including staffing, for each calendar year, and further acknowledges and agrees that the duties described in this Agreement and in **Exhibit A** shall be performed within the adopted budget and appropriated amounts.

**Section 3. Term and Termination.**

- A. Effective date. This Agreement shall become effective on October 7, 2013 (the “**Effective Date**”) or such earlier date as the Parties agree, irrespective of the date upon which either Party executes it. It shall thereafter remain in effect until terminated by either Party.
- B. Employment at-will. The employment described in this Agreement is at will. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate this Agreement at any time, with or without cause to do so. Likewise, nothing in this Agreement shall prevent, limit, or otherwise interfere with Mr. Van Wormer’s right to terminate this Agreement at any time, with or without cause to do so.
- C. Limit on compensation. Upon termination of this Agreement by either Party, the City shall pay Mr. Van Wormer the compensation provided for in Section 4 of this Agreement through the date of termination. Mr. Van Wormer shall not be entitled to additional compensation in any form except that severance pay as outlined in Section 5 of this Agreement may be payable under the terms and conditions set forth therein if Mr. Van Wormer’s employment is terminated without Cause and within the timeframes as defined in Section 5.

- D. Notice of intent to terminate Agreement. Mr. Van Wormer agrees that he will provide the City not less than forty five (45) days advance notice of his intention to terminate this Agreement. Should Mr. Van Wormer terminate this Agreement, he will reasonably and timely cooperate in the transition of his duties to other City personnel.
- E. City option to immediately terminate duties. Should the City exercise its right to terminate this Agreement, it may, in its discretion, require that Mr. Van Wormer cease his duties immediately.

**Section 4. Salary, Performance and Compensation Reviews: Benefits.**

- A. Salary. Mr. Van Wormer shall be paid an initial gross salary of \$8,7500.00 per month, which annualized over a twelve-month period would equal a gross annual salary of \$105,000.00. This amount shall be reduced by all mandatory tax and other payroll withholding amounts, as well as by all properly directed voluntary payroll withholding amounts.
- B. Performance and compensation reviews. Mr. Van Wormer's performance shall be reviewed annually commencing in October, 2014.
- C. Relocation bonus. Mr. Van Wormer shall be entitled to up to Ten Thousand Dollars (\$10,000.00) in relocation expenses, subject to Manager's submission of receipts for such expenses within three months of the Effective Date of this Agreement. Reimbursement of relocation expenses may be used for relocating Manager's household, temporary housing, and similar expenses related to relocation to the south Denver metropolitan - Castle Pines area. Reimbursement by the City shall be paid only upon Manager's timely submission of receipts.
- D. Holidays. Mr. Van Wormer shall be immediately entitled to paid holidays recognized by the City's personnel or employment policies.
- E. Personal days; Sick leave. Mr. Van Wormer shall be entitled to personal day and sick leave accrual and use in accordance with City policy applicable to full-time employees of the City.
- F. Vacation accrual. Mr. Van Wormer shall be entitled to vacation accrual at the rate of 15 days per year. In accordance with City policy, Mr. Van Wormer is not eligible to take vacation during the first six months of employment, or on any date before April 7, 2014. Starting October 1, 2017, vacation accrual shall increase to 20 days per year. Carryover of vacation time will be governed by the Personnel Policies of the City which may be amended from time to time.
- G. Retirement benefits. Mr. Van Wormer shall be eligible to participate in all retirement benefit plans made available to full-time employees of the City.

- H. Cell phone allowance. The City shall provide Mr. Van Wormer an eighty dollar (\$80) per month cell phone allowance. By accepting this allowance, Mr. Van Wormer agrees to assume responsibility for paying all other costs associated with the cell phone he is required to maintain for purposes of conducting City business. This allowance shall be subject to lawfully imposed tax withholdings.
- I. ICMA and CCMA. The City will pay the costs of ICMA membership for Mr. Van Wormer commencing in 2014. The City will pay the costs of CCMA membership for Mr. Van Wormer commencing in 2014.
- J. Conference attendance. The City shall pay dues and expenses of attending the annual ICMA conference on behalf of Van Wormer if and as budgeted annually by the City. Commencing in 2014, the City shall pay dues and expenses of attending the annual Colorado City and County Management Association conference on behalf of Manager. Nothing in this paragraph shall prevent the Council from decreasing the amount budgeted for such purposes provided that such decrease is deemed necessary and in the best interests of the City as a result of the financial position of the City at the time.
- K. Reimbursable expenses. The City shall reimburse, or may pay in advance, the reasonable job-related expenses Mr. Van Wormer incurs while performing his role as City Manager as budgeted. Nothing in this Section shall prevent the City Council from decreasing the amount budgeted for such purposes.
- L. Other benefits. Mr. Van Wormer shall be eligible to receive and/or participate in all benefit plans made available to full-time employees of the City including without limitation health, dental, vision and life insurance as are provided from time to time to other City employees. Mr. Van Wormer shall be entitled to enroll and participate in such plans immediately upon the Effective Date of this Agreement to the extent such plans do not require a waiting period and allow immediate enrollment. Except as otherwise stated in the governing documents for a particular benefit program, all benefits programs are subject to modification or termination by the City from time to time, without notice, at the sole discretion of the City.

**Section 5. Severance Pay.**

- A. Severance pay only in limited circumstances. In the event Mr. Van Wormer's employment is terminated by the City during the term for other than "Cause" as defined herein during such time that Mr. Van Wormer is willing and able to perform the duties of City Manager, the City agrees to pay Mr. Van Wormer severance pay as provided herein.
- B. Definition of "Cause". For purposes of this Section 5, "Cause," for termination includes:
  - (1) violating any material term of this Agreement;
  - (2) failing to perform the job duties stated in this Agreement and in **Exhibit A**;
  - (3) conviction of (or pleading guilty or nolo contendere to)
    - a. any misdemeanor involving moral turpitude or fraudulent conduct or

- b. any felony;
- (4) theft from the City;
- (5) material misuse of any assets of the City; or
- (6) accepting employment with or actively engaging in any other business in violation of this Agreement.

C. Notice required in limited circumstances. If the City asserts that the actions of Mr. Van Wormer meet the requirements of subparagraph (1) or (2) of the definition of "Cause" set forth in this subsection B of this Section 5, "Cause" shall not be present unless (i) City shall have given Mr. Van Wormer written notice specifying in reasonable detail the event or circumstances constituting Cause, and (ii) Mr. Van Wormer shall have failed to cure such event or circumstances within ten (10) days from the date of such notice from City.

D. No severance pay if termination for cause or resignation, death, disability. If Mr. Van Wormer's employment is terminated by the City for Cause or if Mr. Van Wormer resigns, becomes disabled or dies, as defined in subparagraph E of this Section, Mr. Van Wormer shall be entitled to receive his salary and associated benefits as outlined in Section 4 only through the date of termination.

E. Severance.

- (1) In the event of employment termination as provided in Subsection (A) above occurring within calendar year 2013, Mr. Van Wormer shall be entitled to forty-five (45) days' salary and benefits to be paid on a monthly basis following Mr. Van Wormer's termination.
- (2) In the event of employment termination as provided in Subsection (A) above occurring within calendar years 2014-2015, Mr. Van Wormer shall be entitled to two (2) months' salary and benefits to be paid on a monthly basis following Mr. Van Wormer's termination.
- (3) In the event of employment termination as provided in Subsection (A) above occurring within calendar year 2016 or beyond, Mr. Van Wormer shall be entitled to four (4) months' salary and benefits to be paid on a monthly basis following Mr. Van Wormer' termination.
- (4) The benefits provided for under this subsection (E) shall be those benefits to which Mr. Van Wormer is entitled at the time of termination, but shall exclude and shall not include the provision of compensation or payment for or accrual of the following: (1) any cell phone use or allowance; and (2) any form of leave or PTO (including but not limited to personal, vacation, or sick leave).
- (5) The salary and benefits provided for under this subsection (E) shall be an entitlement accrued under the conditions referenced herein and shall be paid without regard to whether Mr. Van Wormer has secured other employment.

- F. If the Council, at any time during the term of this Agreement, reduces the salary or other financial benefits of Mr. Van Wormer in greater percentage than an applicable across-the-board reduction for all City employees, Mr. Van Wormer may, at Mr. Van Wormer's option, be deemed to be "terminated" at the date of such reduction and severance pay shall be due and owing.

**Section 6. Return of City Materials.**

Upon terminating employment with the City, the Manager will deliver to the City any and all property belonging to the City then in his possession. Mr. Van Wormer further agrees that any property situated on the City's premises and owned by the City, including disks and other storage media, filing cabinets or other work areas, are subject to inspection in the presence of the Manager by appropriate City personnel at any time with or without notice.

**Section 7. General Provisions.**

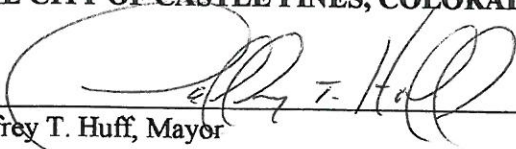
- A. No Multiple Year Obligation. Nothing in this Agreement shall create a multiple-fiscal year financial obligation as contemplated and as prohibited by Article X, § 20 of the Colorado Constitution.
- B. This Agreement consists of the entire agreement between the City and Mr. Van Wormer with respect to his employment as City Manager.
- C. If any provision or any portion of this Agreement is adjudged unconstitutional, invalid, or unenforceable, the remainder of the Agreement or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- D. This Agreement may only be amended by a written instrument, duly executed by each party.
- E. This Agreement will be governed by and construed according to the laws of the State of Colorado as such laws are applied to agreements entered into and to be performed entirely within Colorado between Colorado residents.
- F. This Agreement may be executed in counterparts.



IN WITNESS WHEREOF, the City of Castle Pines, Colorado, has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by the City Clerk or Deputy City Clerk, and Mr. Van Wormer has signed and executed the Agreement, on the dates indicated below.

**THE CITY OF CASTLE PINES, COLORADO**

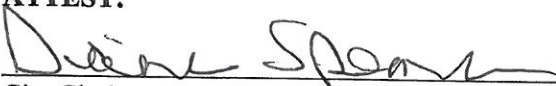
By:

  
\_\_\_\_\_  
Jeffrey T. Huff, Mayor

8-15-13

Date

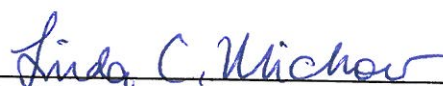
**ATTEST:**

  
\_\_\_\_\_  
City Clerk or Deputy City Clerk

8-15-13

Date

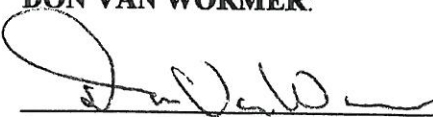
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Linda C. Michow  
City Attorney

8-19-13

Date

**DON VAN WORMER:**

  
\_\_\_\_\_  
Signature

8-9-2013

Date



## **Exhibit A Duties**

This **Exhibit A** is incorporated into and made part of the Employment Agreement (the “**Agreement**”) entered into by and between the City of Castle Pines, a Colorado, municipality (“**Castle Pines**”), and Don Van Wormer (“**Van Wormer**” or “**Manager**”) (collectively, the “**Parties**”).

The Parties agree that the duties of the City Manager shall include the following:

1. Van Wormer shall provide on a full-time basis those day-to-day functions typically performed by the chief administrative and executive officer of a municipality similar in size to Castle Pines and shall assist in developing and implementing policies to effectuate efficient management of the City.
2. Van Wormer shall have supervisory and management authority over all departments of the City.
3. Van Wormer shall perform the duties and functions as set forth in Ordinance 11-01, as amended, of the City of Castle Pines.
4. Van Wormer shall assist the City Council in its preparation for, and shall attend regular and special meetings, including evening meetings and work sessions.
5. Van Wormer shall oversee and assure the continuation and completion of City projects identified by the City Council.
6. Van Wormer shall have the authority to identify and hire candidates for employment with the City. The Manager shall prepare job descriptions; advertise job vacancies; conduct interviews, background checks and investigations; and select candidates.
7. Van Wormer shall supervise Castle Pines employed staff, and shall have authority to hire, promote, or terminate any Castle Pines employee who reports to the City Manager. The authority for disciplining personnel of the City including termination shall be delegated to the Manager subject to the terms in this section.
8. Van Wormer acknowledges that the City is an equal opportunity employer. Van Wormer agrees that it will comply with the City’s policies regarding employment practices and

with all applicable federal, state, and local laws prohibiting discrimination on the basis of any then applicable protected trait.

9. Van Wormer shall supervise Castle Pines contractors, except the City Attorney, who reports directly to City Council; but shall not have authority to execute or terminate contracts on behalf of the City unless specific direction to execute such contracts is provided by ordinance or resolution of the Council.

10. Van Wormer shall attend meetings and conferences as a representative of the City when directed by the City Council.

11. Van Wormer shall assist the City in addressing emergencies that arise during the Term, including those that require his presence at City offices after business hours or on a weekend.

12. Van Wormer shall authorize and make purchases for City operations in accordance with the City's then effective purchasing policies.