

Agenda

A. **Call to Order** **7:00AM**

B. Roll Call

C. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board

D. Approval of Minutes from the Board of Director's Regular Meeting – December 21, 2022

Sample motion: "I move that we approve the minutes from the December 21, 2022, board meeting."

E. Public & Partner Agencies Invited to be Heard (3 Minutes Per Person)

F. **Business/Action Items**

1. Consideration of an Employment Agreement between the DDA and Michelle Vance for the DDA executive director position.

Sample motion: "I move that we approve the Employment Agreement with Michelle Vance; authorize the board chair to approve changes to the agreement, provided such changes do not substantially alter the DDA's right or obligations thereunder; and authorize the board chair to execute the agreement."

2. Consideration of Resolution 2023-DDA-01, A Resolution of the Board of Directors of the Windsor Downtown Development Authority Designating a Location for the Posting of Public Meeting Notices and Establishing Regular Meeting Dates.

Sample motion: "I move that we approve Resolution 2023-DDA-01."

G. Other Business

H. **Adjourn**

Minutes

Present: Dan Stauss; Brent Phinney; Dean Koehler; Andy Higa;
Grant Nisly (phone); Heidi Washburn (phone)
Absent: Paul Rennemeyer
Staff: Josh Olhava, Josh Liley

A. Call to Order 7:00AM

B. Roll Call

Chairman Stauss called the meeting to order at 7:01 AM

C. Consent Agenda

1. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
2. Approval of Minutes from the Board of Director's Regular Meeting – November 16, 2022
3. Approval of Minutes from the Board of Director's Special Meeting – December 5, 2022

BP motioned to approve the Consent Agenda as presented; DK 2nd; Unanimous 6-0

D. Public & Partner Agencies Invited to be Heard (3 Minutes Per Person)

There was no public or partner agencies in attendance

E. Business/Action Items

1. Consideration of a Social Media Management Award for FY 2023 with an annual amount not to exceed \$20,000 as presented by staff and authorizing the board chair to approve changes to the agreement and execute the agreement.

- BP – recommend tabling this item until after the January public vote
- DS and HW – agree with this approach

BP motioned to table this item until a future DDA Board meeting and authorize the Board Chair to extend the month-to-month agreement with MCT Marketing through the end of January for up to \$3,500; DK 2nd; Unanimous 6-0

2. **Executive Session.** An executive session for the purposes of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, and to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402 (4)(b) and (4)(e)(I), regarding the contract with Ayres Associates for FY 2023.

DK motioned to enter Executive Session as presented; BP 2nd; Unanimous 6-0. The Board entered Executive Session at 7:10AM

BP motioned to move out of Executive Session; HW 2nd; Unanimous 6-0. The Board exited Executive Session at 7:45AM

3. Consideration of a Contract with Ayres Associates, Inc. for FY 2023 services, and authorizing the board chair to execute the contract.

- BP indicated contract executive director services no longer made financial sense for the DDA.

BP motioned to not renew the contract with Ayres Associates, Inc. for FY 2023; DK 2nd; Unanimous 6-0

BP motioned to enter into an executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, and to receive legal advice on specific legal questions, pursuant to C.R.S. 24-6-402(4)(b) and (4)(e)(I), regarding the creation and filling of an employment position. DK 2nd; unanimous 6-0. The Board entered Executive Session at 7:53 AM.

DK motioned to move out of Executive Session; BP 2nd ; Unanimous 6-0. The Board exited Executive Session at 8:20 AM.

F. **Executive Director's Report**

No report was given. No discussion on item.

G. **Communications & News**

No report was given. No discussion on item.

No further business was discussed.

H. **Adjourn** BP motioned to adjourn meeting; DK 2nd; unanimous 6-0. Meeting adjourned at app. 8:30 AM.

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter "Agreement") is made and entered into on the date set forth below by and between the WINDSOR DOWNTOWN DEVELOPMENT AUTHORITY, a body corporate and politic ("Employer" or "DDA"), and MICHELLE VANCE ("Employee").

WITNESSETH:

WHEREAS, Employer desires to employ the Employee in the position of Executive Director of the DDA (hereinafter the "Executive Director");

WHEREAS, it is the desire of the Employer and employee to establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, Employer desires to offer, and the Employee desires to accept, employment as Executive Director.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Term. This Agreement shall commence upon execution and shall continue through December 31, 2023, unless sooner terminated as set forth hereinafter.

2. Duties. Employer hereby agrees to employ Employee as Executive Director to perform those duties as described in the job description, attached hereto as "Exhibit A" and incorporated herein by this reference (the "Job Description"). In addition, Employee shall perform any and all duties which are necessary and appropriate for the management of the DDA.

3. Salary and Withholdings.

A. *Salary*. Employer agrees to pay Employee for services rendered pursuant to this Agreement an annual salary of One Hundred Ten Thousand Dollars (\$110,000.00), payable bi-weekly, prorated into equal installments, prorated from the date of execution. The foregoing notwithstanding, [INSERT language re payroll setup delay].

B. *Withholdings*. Employer shall withhold from Employee's salary payments (and any severance payment made hereunder) all legally required sums including, by way of example and without limitation, for federal and state income tax, the Federal Insurance Contributions Act, and the Colorado Family and Medical Leave Insurance Act.

4. Termination and Severance Pay.

- A. *Termination by Employer.* Employer shall have the right to terminate this Agreement at any time without cause by delivering written notice of termination to Employee. If Employee is terminated by Employer without cause, Employer shall pay to Employee an amount equal to two (2) months' salary ("Severance Pay"), which, in the sole discretion of Employer, may be paid to Employee either as a lump sum or in bi-weekly installments in the same manner as Employee's salary was paid hereunder. Employer shall also have the right to terminate this Agreement at any time with cause by delivering written notice of termination to Employee. Employee shall not be entitled to Severance Pay if terminated with cause.
- B. *Termination by Employee.* Employee shall have the right to terminate this Agreement without cause by delivering written notice of termination to Employer. Such notice shall be given at least forty-five (45) days prior to the effective date of termination, unless the parties agree otherwise.

5. Employee Performance Evaluation.

- A. *Annual Performance Evaluation.* Employer, or its representatives, may annually, or more often if Employer desires, review and evaluate the performance of Employee. Employer shall provide to Employee a written summary of the findings of any such evaluation, and shall provide Employee an adequate opportunity for Employee to discuss his or her evaluation with Employer or its representatives.
- B. *Goals and Objectives.* Annually, or more often if Employer desires, Employer and Employee shall define such goals and performance objectives which they determine necessary for the proper operation of Employer's business and in the attainment of the DDA Board of Director's (the "DDA Board") policy objectives, and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. Such goals and objectives shall generally be attainable within the time limitations as specified, and within the annual operating and capital budgets and appropriations of Employer.
- C. *Applicable Law.* In effecting the provisions of this Section 6, Employer and Employee mutually agree to abide by the provisions of applicable law.

6. Hours of Work, Timekeeping, Compensatory Time.

- A. *Hours of Work.* There is no standard workweek or workday for the Executive Director position. Employee shall be available in the DDA's office or conducting Employer's business during the DDA's normal office hours. The DDA's normal office hours shall be Monday through Friday,

8:00 am through 5:00 pm. Employee shall further devote such time outside of said normal office hours as is necessary to fulfill his or her duties and obligations hereunder.

- B. *Timekeeping.* Employee shall create and maintain a record of daily activities performed on behalf of Employer.
- C. *Compensatory Time.* The Executive Director position is exempt from state and federal overtime laws. As such, Employee shall not have the right to overtime pay or compensatory time for hours worked in excess of forty (40) hours per week.

7. Other Employment. Employee shall have the right to accept or continue other employment during the term hereof; provided, however, that such other employment shall not constitute, or be reasonably likely to constitute, a conflict of interest, and shall not interfere, or be reasonably likely to interfere, with Employee's duties hereunder. In the event that Employee desires to engage in other employment after accepting the position of Executive Director, he or she shall first notify Employer in writing of the nature of the other employment and his or her desire to engage in or continue such other employment. Employee understands and agrees that Employer shall have the right to determine, in its sole discretion, whether other employment by Employee constitutes a conflict of interest or interferes with Employee's duties hereunder, or is reasonably likely to constitute a conflict of interest or interfere with Employee's performance of his or her duties hereunder. Should Employer determine that a conflict of interest or interference does or is reasonably likely to exist by virtue of Employee's continuation or acceptance of other employment, it shall give written notice to Employee of its determination within seven (7) days of making such a determination. Upon receipt of this notice, Employee shall not accept such other employment, or, if he is already engaged in other employment, Employee shall discontinue such other employment within fourteen days (14) days thereafter

8. Automobile. Employee shall furnish his or her own automobile as necessary to perform the functions and duties as Executive Director. Employer shall reimburse Employee for operation and maintenance of his or her own automobile when used for official business at the rate established by Internal Revenue Service regulations. Employee shall be responsible for obtaining and maintaining liability, property damage and comprehensive insurance coverage for his or her vehicle. Employee shall maintain a record of when his or her personal automobile is used for official business, including destinations and total mileage, which shall be submitted with any reimbursement request. Employee, at Employer's request, shall furnish Employer with reasonable evidence of vehicle usage for which Employee seeks reimbursement. Reimbursement requests shall be submitted to and approved by the DDA Board Chair.

9. Vacation and Holidays.

- A. *Vacation.* Employee shall receive fifteen (15) days of paid vacation during the term of this Agreement. Vacation shall accrue at the rate of 1.25 days

per month, with the first accrual occurring upon execution of this Agreement and each subsequent accrual occurring on the first day of each month thereafter. In the event that Employee's employment agreement with Employer is renewed, Employee may carry over unused vacation time from this Agreement to the next, up to a maximum of five (5) days. Employee understands and agrees that, at no point during the term of this Agreement, shall the total vacation days exceed the Employee's accrued annual vacation days plus up to five (5) carryover vacation days. Except when Employee's employment agreement is renewed, upon expiration or termination of this Agreement, Employee shall be entitled to compensation for all accrued and unused vacation time. Employee's use of vacation days must be approved in advance by the DDA Board Chair, which approval shall not be unreasonably withheld.

B. Holidays.

- i. *Holidays.* Employee shall be entitled to eleven (11) paid holidays, as follows: (1) New Year's Day; (2) President's Day; (3) Memorial Day; (4) Independence Day; (5) Labor Day; (6) Veterans Day; (7) Thanksgiving Day; (8) the day after Thanksgiving Day; (9) Christmas Eve (after 12:00 p.m.); (10) Christmas Day; and (11) New Year's Eve (after 12:00 p.m.).
- ii. *Flexed Holidays.* If holidays are worked, Employee will be given one (1) flex day per holiday worked, to be taken at a later date. Employee must receive prior approval from the DDA Board Chair before working on any such holiday, which approval shall not be unreasonably withheld. Employee shall not be entitled to compensation for unused flexed holidays upon termination or expiration of this Agreement.

10. Sick Leave. Employee shall receive ten (10) days of paid sick leave during the term of this Agreement, which may be used for Employee sickness or injury, or for the sickness or injury of an immediate family member. Unused sick leave shall not carry over from this Agreement to any subsequent employment agreement, nor shall Employee be entitled to any compensation for any unused sick leave upon the expiration or termination of this Agreement.

11. Retirement and Other Benefits. No retirement benefits, health insurance, life insurance or other benefits shall be provided to Employee.

12. Expense Reimbursement. Except as expressly provided for hereunder, all expenses for which Employee seeks reimbursement from Employer shall be approved in advance by the DDA Board.

13. Travel. Overnight travel or out-of-town travel beyond sixty (60) miles from Windsor, Colorado, must be approved in advance by the DDA Board. All such travel shall be for the sole purpose of furthering Employer's goals and objectives.

14. Confidentiality. During the course of employment, Employee may be required to participate in executive sessions of the DDA Board, pursuant to the Colorado Open Meetings Law, C.R.S. 24-6-401 et seq., or may come into possession of, or otherwise encounter, documents or other forms of information which are protected from disclosure under the Colorado Open Records Act, C.R.S. 24-72-201 et seq., or other applicable state or federal law ("Confidential Information"). Employee agrees that he or she shall not disclose Confidential Information to any third party not entitled to such information.

15. Notice. Any notice required or desired to be given by any party to this Agreement shall be in writing and may be personally delivered; sent by certified mail, return receipt requested; or sent by a nationally recognized receipted overnight delivery service, including the United States Postal Service, United Parcel Service, Federal Express, or Airborne Express, for earliest delivery the next day. Any such notice shall be deemed to have been given as follows: when personally delivered to the party to whom it is addressed; when mailed, three delivery (3) days after deposit in the United States mail, postage prepaid; and when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses for the mailing or delivering of notices shall be as follows:

If to Employee:

Michelle Vance
[INSERT]

If to Employer:

Windsor Downtown Development Authority
Attn: Board Chair
301 Walnut Street
Windsor, CO 80550

With a copy to:

Liley Law, LLC
ATTN: Joshua Liley
2627 Redwing Rd., Suite 342
Fort Collins, CO 80526

Notice of a change of address of a party shall be given in the same manner as all other notices as hereinabove provided.

16. General Provisions.

- A. *Personnel Policies.* Except as provided for herein, Employee shall be subject to the personnel policies and practices of the DDA, as set forth in the DDA Employee Handbook.
- B. *Modification of Agreement.* No subsequent modification of any term or provision of this Agreement shall be valid, binding upon the parties or enforceable unless made in writing and signed by the parties hereto.
- C. *Governing Law, Venue.* The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement. Should either party hereto institute legal suit which results from, arises out of or is in any way connected with this Agreement, it is agreed that venue for such suit or action shall be proper and exclusive in the District Court of Weld County, Colorado.
- D. *Severability of Terms and Conditions.* In the event that any term or condition of this Agreement is held to illegal, invalid or unenforceable under present or future law effective during the term of this Agreement, such term or condition shall be fully severable.
- E. *Material Nature of Terms and Conditions.* Each and every term and condition contained herein shall be deemed to be a material element of this Agreement.
- F. *Limitation on Waiver of Breach.* The failure of either party to insist, in any one instance or more, upon the performance of any of the duties, obligations, covenants or conditions of this Agreement, or to exercise any right or privilege herein conferred, shall not be construed as thereafter waiving any such duties, obligations, covenants, conditions, rights or privileges, but the same shall continue and remain in full force and effect.
- G. *Integrated Agreement.* This Agreement, together with any attached and incorporated exhibits, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. All conditions, rights, privileges, duties, covenants, warranties and obligations contained herein shall be binding upon, inure to the benefit of, and be enforceable by, the parties, their successors, assigns and personal representatives.
- H. *Proprietary Rights.* Employer shall retain sole ownership of and right to use, reproduce, market, license or otherwise distribute any and all work, materials, documents, products and programs, in any form whatsoever, produced by Employee pursuant to this Agreement.

- I. *Headings.* Headings contained herein are for organizational purposes only and shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year of the last signature below written.

WINDSOR DOWNTOWN DEVELOPMENT
AUTHORITY, a body corporate and politic

By: _____
Dan Stauss, Chair

Date: _____

ATTEST:

By: _____
Dean Koehler, Secretary

EMPLOYEE

By: _____
Michelle Vance

Date: _____

EXHIBIT A

Downtown Development Authority Job Description

Job Title: Executive Director

Reports To: Board of Directors

SUMMARY. Directs, administers, and manages the activities of the Downtown Development Authority in support of the policies, goals, and objectives as established by the Board of Directors.

ESSENTIAL DUTIES AND RESPONSIBILITIES. The following duties and responsibilities are illustrative of the primary functions of this position and are not intended to be all inclusive.

- On behalf of the Downtown Development Authority (DDA), work actively with the Town of Windsor and other relevant public and private organizations on issues affecting the DDA district and the purposes of the Authority.
- Work cooperatively with the chamber of commerce, the real estate community, financial institutions, and other related entities on issues and projects of mutual interest.
- Provide general oversight and direction of work of the staff, if any, of the DDA.
- Direct the preparation of short-term and long-range plans of the DDA based on objectives established by the Board.
- Develop and manage the annual operating budget authorized by the Board.
- Maintain a sound organizational plan by establishing policies and procedures that ensure the effective operations of the DDA that are consistent with the principles established by the Board.
- Develop and implement procedures and the means to promote communication and information regarding DDA projects.
- Evaluate the results of overall programs and projects and provides regular reports to the Board.
- Participates in all meetings and retreats of the Board and serve on special committees as required.
- Establish agendas and prepare board packets for monthly board meetings.
- Attend all necessary business, community and governmental meetings in connection with DDA issues or interests.
- Represent the DDA in local civic and professional organizations as an active member.
- Define the responsibilities, authority and accountability of subordinate employees, if any, and provide them with regular reviews and general guidance.

SUPERVISORY RESPONSIBILITIES. This position may include being responsible for the supervision of subordinate employees.

QUALIFICATIONS. The requirements listed below are representative of the knowledge, skills, and abilities required to perform the necessary functions of this position.

KNOWLEDGE, SKILLS, AND ABILITIES.

Knowledge of practices and principles of business management. Working knowledge of financial management and budget development.

Knowledge of principles of policy development, strategic and long-range planning. Ability to communicate effectively orally and in writing.

Ability to utilize a personal computer and associated spreadsheet and word processing programs. Ability to work effectively and cooperatively with local businesses and city and county officials. Ability to successfully carry out specific directives of the Board in a timely manner.

CERTIFICATES, LICENSES, REGISTRATIONS. Current driver's license.

PHYSICAL DEMANDS. The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job.

While performing the duties of this job, the employee is regularly required to sit and talk or hear. The employee frequently is required to stand and walk. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, and distance vision.

This job involves evening and weekend work.

WORK ENVIRONMENT. The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

RESOLUTION 2023-DDA-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WINDSOR DOWNTOWN DEVELOPMENT AUTHORITY DESIGNATING A LOCATION FOR THE POSTING OF PUBLIC MEETING NOTICES AND ESTABLISHING REGULAR MEETING DATES

BE IT RESOLVED BY THE BOARD OF DIRECTORS (“Board”) OF THE WINDSOR DOWNTOWN DEVELOPMENT AUTHORITY (“DDA”) that:

1. The DDA hereby designates the public notice board at Windsor Town Hall, 301 Walnut Street, Windsor, Colorado 80550, as the location for the posting of public meeting notices, or, if the public notice board is inaccessible to the general public, the front door of the public entrance to Windsor Town Hall.
2. Regular meetings of the Board shall be held on the third Wednesday of each month, with the time and location of such meetings to be as specified in the public meeting notice.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Windsor Downtown Development Authority this 18th day of January, 2023

Dan Stauss, Chair

ATTEST:

Dean Koehler, Secretary