

COTTONWOOD HEIGHTS

RESOLUTION No. 2022-39

A RESOLUTION ACCEPTING REQUESTS FOR INDEMNIFICATION

WHEREAS, the city of Cottonwood Heights (the “City”), its police department (“CHPD”), CHPD Officer Zephani Huang, CHPD Officer Kyle Mahoney, CHPD Sgt. Gary Young, CHPD Chief Robby Russo, and City manager Tim Tingey (those five individuals being, collectively, the “Employees”) have been named as defendants in a lawsuit styled Oscar Jones, Plaintiff, vs. City/Municipality of Cottonwood Heights, Utah, Cottonwood Heights Police Department (“CHPD”), CHPD Officer Zephani Huang, CHPD Officer Kyle Mahoney, CHPD Sergeant Gary Young, CHPD Police Chief Ernest Robert/Robby Russo, Cottonwood Heights City Manager Tim Tingey, Defendants that is pending as case no. 2:22-cv-00302 in the United States District Court for the District of Utah (including any successor action or any removal or appeal of such case to another court, called herein the “Lawsuit”); and

WHEREAS, UTAH CODE ANN. §63G-7-902, a portion of the Governmental Immunity Act of Utah (the “Act”), provides that a governmental entity shall defend any action brought against its employees arising from an act or omission occurring (a) during the performance of the employee’s duties; (b) within the scope of the employee’s employment; or (c) under color of authority; and

WHEREAS, the Employees have filed one or more requests for indemnification (the “Requests”) with the City concerning the Lawsuit pursuant to UTAH CODE ANN. §63G-7-902(2); and

WHEREAS, the Council met in regular session on 19 July 2022 to consider, among other things, granting the Requests; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to grant the Requests and, by so doing, to agree to defend the Lawsuit and indemnify each of the Employees from and against any judgment, compromise or settlement of claim based on the acts and conduct specified in the Lawsuit, but only to the extent that such acts and conduct occurred (a) during the performance of each such Employee’s duties; (b) within the scope of each such Employee’s employment; or (c) under color of authority, with a reservation of rights by the City as provided in UTAH CODE ANN. §63G-7-902(6);

NOW, THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the City hereby grants the Requests and hereby agrees to defend the Lawsuit and indemnify each of the Employees from and against any judgment, compromise or settlement of claim based on the acts or conduct specified in the Lawsuit, but only to the extent that such acts and conduct occurred (a) during the performance of each such Employee’s duties; (b) within the scope of each such Employee’s employment; or (c) under color of authority, with a reservation of rights by the City as provided in UTAH CODE ANN. §63G-7-902(6).

This Resolution, assigned no. 2022-39, shall take effect immediately upon passage.

PASSED AND APPROVED effective 19 July 2022.

ATTEST:

By: 
Paula Melgar, Recorder



COTTONWOOD HEIGHTS CITY COUNCIL

By: 
Michael T. Weichers, Mayor

VOTING:

Michael T. Weichers	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Douglas Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Shawn E. Newell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Ellen Birrell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 19th day of July 2022.

RECORDED this 20 day of July 2022.