

COTTONWOOD HEIGHTS

RESOLUTION No. 2023-49

A RESOLUTION ACCEPTING REQUESTS FOR INDEMNIFICATION

WHEREAS, the city of Cottonwood Heights (the “City”) and its employees Tim Tingey, Robby Russo, and Paul Brenneman (those three individuals being, collectively, the “Employees”) have been named as defendants in a lawsuit styled Thomas F. Daugherty, Plaintiff, vs. Cottonwood Heights, a City; Ernest Robert Russo, Jr.; Paul Brennemen [sic]; Blaine Tim Tingey and John Does 1-10, Defendants that is pending as case no. 2:23-cv-00556 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 3 October 2023 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. 2023-49, shall take effect immediately upon passage.

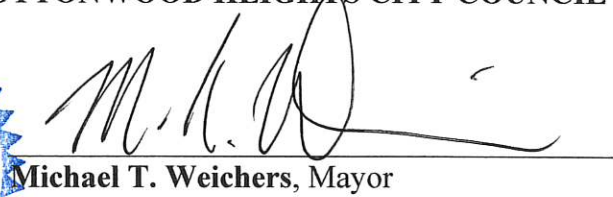
PASSED AND APPROVED effective 3 October 2023.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: 
Paula Melgar, Recorder



By: 
Michael T. Weichers, Mayor

VOTING:

Michael T. Weichers	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Matt Holton	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 3rd day of October 2023.

RECORDED this 4 day of October 2023.