COTTONWOOD HEIGHTS

RESOLUTION NO. 2020-17

A RESOLUTION AUTHORIZING AND CLARIFYING CERTAIN RETIREMENT CONTRIBUTIONS AND BENEFITS

WHEREAS, the city of Cottonwood Heights (the "*City*") provides certain retirement benefits to certain of its officers and employees through the City's participation in the Utah Retirement Systems (the "*URS*"); and

WHEREAS, the URS recently has adopted certain retirement program requirements or policies, and/or has suggested that the City clarify its own application of certain retirement program matters, including:

1. Clarifying that the City's elected officers are considered part-time City employees for purposes of URS participation and that those elected officers who had URS-covered service before 1 July 2011 and meet URS's minimum earnings requirements are eligible for continued coverage under Tier I of the URS Retirement System, but that those elected officers employed on or after 1 July 2011 are not eligible for either Tier I or Tier II of the URS Retirement System; and

2. Specifying whether the City will "pick up" a portion of employee contributions ("*Employee Contributions*") required to be paid under UTAH CODE ANN. 49-23-301(2)(c), as enacted in S.B. 56 (2020 legislative session), for all city employees who are eligible for and participate in the New Public Safety and Firefighter Tier II Contributory Retirement System administered by the URS (the "*New Tier II System*"); and

WHEREAS, in accordance with federal and state law, including Section 414(h)(2) of the Internal Revenue Code, employers may take formal action to pick up required employee contributions which will be paid by the employer in lieu of employee contributions; and

WHEREAS, the City's city council (the "*Council*") met in regular meeting on 28 April 2020 to consider, among other things, (a) providing clarification concerning the employment status of the City's elected officers as described above, and (b) formally evidencing the City's intent to pick up a portion of the Employee Contributions under the New Tier II System; and

WHEREAS, the Council is authorized to so act on behalf of the City as a participating employer with the URS and, after careful consideration, has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to act as proposed;

NOW THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights as follows:

1. The Council hereby affirms that the City's elected officers are part-time employees who are not eligible to participate in URS's Tier I or Tier II programs (with the limited exception of elected officials who became employed before 1 July 2011, who would remain eligible to participate in the URS Tier I program), all as provided in the URS rules and regulations; and

2. The Council hereby determines that the City will formally "pick up" a portion of the employee contributions required to be paid under UTAH CODE ANN. 49-23-301(2)(c), as enacted in S.B. 56 (2020 legislative session), for all city employees participating in the New Tier II System, as follows:

(a) Beginning July 1, 2020, the City shall prospectively pick up and pay required employee contributions for all City employees who are members of the URS's New Tier II System, subject to a maximum of 2.27% of compensation for each employee;

(b) The picked up contributions paid by the City, even though designated as employee contributions for state law purposes, are being paid by the City in lieu of the required employee contributions;

(c) The picked up contributions will not be included in the employee's gross income for federal or state income taxes (i.e., for tax withholding purposes) until distributed from the URS, so that the contributions shall be treated as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code;

(d) The picked up contributions are a supplement and not a salary reduction to the City employees who are eligible for and participating members in the New Tier II System;

(e) From and after the effective date of this pick up, a City employee (i) does not have a cash or deferred election right with respect to the designated employee contributions, (ii) may not opt out of the pick up, or (iii) choose to receive the contributed amounts directly instead of having them paid by the City to the URS on behalf of the employee.

The City's manager is authorized and directed to complete and file all necessary applications and forms with the URS to evidence such pick up by the City, including, without limitation, an election form of the type attached as an exhibit to this resolution (this "*Resolution*").

This Resolution, assigned no. 2020-17, shall take effect as follows: (a) Section 1 shall take effect immediately upon passage; and (b) Section 2 shall take effect on 1 July 2020.

PASSED AND APPROVED this 28th day of April 2020.

ATTEST: **COTTONWOOD HEIGHTS CITY COUNCIL**

COTTONWOOD HEIGHTS, UTAH 2005 CORPORATE SEAL

By: _____ By _____

~~**Paula Melgar, Recorder**~~ **Michael J. Peterson**, Mayor

Heather Sundquist, Deputy Recorder

VOTING:

Michael J. Peterson	Yea ✓	Nay ___
Douglas Petersen	Yea ✓	Nay ___
J. Scott Bracken	Yea ✓	Nay ___
Tali C. Bruce	Yea ✓	Nay ___
Christine Watson Mikell	Yea ✓	Nay ___

DEPOSITED in the office of the City Recorder this 28th day of April 2020.

RECORDED this 29 day of April 2020.