

## **RESOLUTION NO 2024 - 039**

### **CITY OF LAKE CITY, FLORIDA**

**A RESOLUTION OF THE CITY OF LAKE CITY, FLORIDA APPROVING THAT CERTAIN AGREEMENT BETWEEN THE CITY AND DONNIE L. ROSENTHAL FOR CITY MANAGER SERVICES; MAKING CERTAIN FINDINGS OF FACT IN SUPPORT OF THE CITY APPROVING SAID AGREEMENT; RECOGNIZING THE AUTHORITY OF THE MAYOR TO EXECUTE AND BIND THE CITY TO SAID AGREEMENT; DIRECTING THE MAYOR TO EXECUTE AND BIND THE CITY TO SAID AGREEMENT; REPEALING ALL PRIOR RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Lake City ("City") solicited applications and résumés for the position of City Manager, a Charter-level position of the City (the "Position"); and

WHEREAS, multiple people submitted applications and/or résumés for the Position; and

WHEREAS, the City conducted a thorough process of interviewing and vetting those who expressed interest in the Position by their submission of applications and/or résumés; and

WHEREAS, Donnie L. Rosenthal (the "Prospective City Manager") was selected to fill the Position; and

WHEREAS, the City Council directed the City Attorney to prepare a contract in conjunction with the Prospective City Manager to be presented to the City Council for consideration and possible adoption; and

WHEREAS, the City Attorney and the Prospective City Manager have prepared the contract attached as an Exhibit hereto (the "Agreement") for consideration and adoption by the City Council; and

WHEREAS, the Prospective City Manager and the City desire to enter into the Agreement (the "Agreement"); and

WHEREAS, filling the Position by engaging the services of the Prospective City Manager is in the public interest and in the interests of the City; now therefore

BE IT RESOLVED by the City Council of the City of Lake City, Florida:

1. Filling the Position by engaging the services of the Prospective City Manager on the terms as set forth in the Agreement is in the public or community interest and for public welfare; and
2. In furtherance thereof, the Agreement in the form of the Exhibit attached hereto should be and is approved by the City Council of the City of Lake City; and

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3. The Mayor of the City of Lake City is the officer of the City duly designated by the City's Code of Ordinances to enforce such rules and regulations as are adopted by the City Council of the City of Lake City; and
  4. The Mayor of the City of Lake City is authorized to execute on behalf of and bind the City to the terms of the Agreement; and
  5. The Mayor of the City of Lake City is directed to execute on behalf of and bind the City to the terms of the Agreement; and
  6. All prior resolutions of the City Council of the City of Lake City in conflict with this resolution are hereby repealed to the extent of such conflict; and
  7. This resolution shall become effective and enforceable upon final passage by the City Council of the City of Lake City.

APPROVED AND ADOPTED, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lake City, Florida, at a regular meeting, this \_\_\_\_ day of May, 2024.

BY THE MAYOR OF THE CITY OF LAKE CITY,  
FLORIDA

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Stephen M. Witt, Mayor

ATTEST, BY THE CLERK OF THE CITY OF LAKE CITY,  
FLORIDA:

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Audrey Sikes, City Clerk

APPROVED AS TO FORM AND LEGALITY:

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Clay Martin, City Attorney

# EMPLOYMENT AGREEMENT

This Agreement, made and entered into this \_\_\_\_ day of May, 2024, by and between the City of Lake City, Florida, a Florida municipality, (hereinafter called "Employer") and Donnie L. Rosenthal, (hereinafter called "Employee") an individual who has the education, training, and experience in local government management and who, as a member of the International City/County Management Association (ICMA), is subject to the ICMA Code of Ethics, both of whom agree as follows:

## Section 1: Term.

This Agreement shall remain in full force and effect from June 1, 2024 until terminated by the Employer or Employee as provided in Section 9, 10, or 11 of this Agreement.

## Section 2: Duties and Authority.

- A. Employer agrees to employ Donnie L. Rosenthal as City Manager to perform the functions and duties specified in the charter and ordinances of the City of Lake City, Florida and to perform other legally permissible and proper duties and functions without interference, subject to the provisions of such charter and ordinances.
- B. Employee is the chief executive officer of the Employer and shall faithfully perform the duties as prescribed in the job description as set forth in the Employer's charter and/or ordinances and as may be lawfully assigned by the Employer, and shall comply with all lawful governing body directives; state and federal law; and Employer policies, rules, and ordinances as they exist or may hereafter be amended, adopted, or enacted.
- C. Specifically, it shall be the duty of the Employee to employ on behalf of the Employer all other employees of the organization consistent with the policies of the governing body and the ordinances and charter of the Employer. "Employees" and/or "staff" of the Employer/organization shall include all employees and/or staff of the organization, whether contracted or otherwise, except the City Attorney and City Clerk who, like the Employee, are employed by, terminated by, and serve at the pleasure of the governing body.
- D. It shall also be the duty of the Employee to direct, assign, reassign, and evaluate all of the employees of the Employer consistent with policies, ordinances, the charter, and state and federal law.
- E. It shall also be the duty of the Employee to organize, reorganize, and arrange the staff of the Employer and to develop and establish internal regulations, rules, and procedures which the Employee deems necessary for the efficient and effective operation of the Employer consistent with the lawful directives, policies, ordinances, and state and federal law.
- F. It shall also be the duty of the Employee to accept all resignations of employees of the Employer consistent with the policies, ordinances, and state and federal law, except the Employee's resignation which must be accepted by the governing body.
- G. The Employee shall perform the duties of City Manager of the Employer with reasonable care, diligence, skill, and expertise.
- H. All duties assigned to the Employee by the governing body shall be appropriate to and consistent with the professional role and responsibility of the Employee.
- I. The Employee cannot be reassigned from the position of City Manager to another position without the Employee's express written consent.

- J. The Employee or designee shall attend, and shall be permitted to attend, all meetings of the governing body.
- K. The governing body, individually and collectively, shall refer in a timely manner to the Employee for study and/or appropriate action by the Employee all substantive criticisms, complaints, and suggestions called to their attention concerning the Employer and its organization, including, but not limited to, all substantive criticisms, complaints, and suggestions concerning the Employer/organization's employees, staff, activities, projects, policies, procedures, and initiatives.

### **Section 3: Compensation.**

- A. Employer agrees to pay Employee an annual base salary of \$165,000.00, payable in installments at the same time the other employees of the Employer are paid.
- B. This Agreement shall be automatically amended to reflect any salary adjustments that are provided or required by the Employer's compensation policies to include all salary adjustments on the same basis as applied to the executive classification of employees.
- C. The Employer agrees to increase the compensation each year by at least the amount (expressed as a percentage) of any increase granted to other employees of the Employer, which employees are not subject to a collective bargaining agreement.
- D. At any time during the term of the Agreement, Employer may, in its discretion, review and adjust the salary of the Employee, but in no event shall the Employee be paid less than the salary set forth in Section 3.A. of the Agreement except by mutual written agreement between Employee and Employer. Such adjustments, if any, shall be made pursuant to a lawful governing body action. In such event, Employer and Employee agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.
- E. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits enjoyed by and/or available to other employees, department heads or general employees (who are not subject to a collective bargaining agreement) of the Employer as provided by the Employer's policies, charter, ordinances, or personnel rules and regulations or other practices.
- F. Notwithstanding the foregoing, Employee shall not be entitled to contributions to the Florida Retirement System at Special Risk Class rates, nor be eligible for Special Risk Class benefits from the Florida Retirement System unless Employee is eligible as a member of a Special Risk Class as defined by Florida Statute.

### **Section 4: Health, Disability and Life Insurance Benefits.**

- A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for the Employee and his dependents in such amounts which are, at a minimum, equal to that which is provided to all other employees of the City of Lake City, Florida.
- B. The Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee.
- C. The Employer shall pay the amount of premium due for term life insurance in the amount of three (3) times the Employee's annual base salary, including all increases in the base salary during the life of this Agreement. The Employee shall name the beneficiary of the life insurance policy.

### **Section 5: Vacation, Sick, and Military Leave.**

- A. Upon commencing employment, the Employee shall be credited with eighty (80) accrued sick leave hours and eighty (80) accrued vacation leave hours. In addition, beginning the first day of employment, Employee shall accrue sick leave and vacation leave at the highest rate provided or available to any other employees, under the same rules and provisions applicable to other employees.
- B. Upon commencing employment, the Employee shall have access to a bank of ninety (90) sick days to be used in the case of serious medical conditions. This leave can only be used to provide coverage during the waiting period between the onset of illness or disability and the point at which short or long term disability coverage takes effect and may be renewed after each occurrence.
- C. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, and whether for-cause, or not for-cause, the Employee shall be compensated for all accrued vacation time, all paid holidays, executive leave, and other benefits to date.

### **Section 6: Automobile.**

The Employer shall be responsible for paying for liability, property damage, and comprehensive insurance, and for the purchase (or lease), operation, maintenance, repair, and regular replacement of a full-size automobile or sport utility vehicle.

### **Section 7: Retirement.**

Subject to the provisions of Section 3, Paragraph F, the Employer agrees to enroll the Employee into the applicable state or local retirement system and to make all the appropriate contributions on the Employee's behalf.

### **Section 8: General Business Expenses.**

- A. Employer agrees to budget and pay for professional dues, including but not limited to the International City/ County Management Association, and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.
- B. Employer agrees to budget and pay for reasonable travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to reasonably and adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the Florida City and County Management Association Annual Conference, the Florida League of Cities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.
- C. Employer also agrees to budget and pay for reasonable travel and subsistence expenses of Employee for short courses, institutes, and seminars that are reasonably necessary for the Employee's professional development and for the good of the Employer.
- D. Employer recognizes that certain expenses of a non-personal, but job related nature are incurred by Employee, and Employer agrees, subject to budgetary guidelines, to reimburse or to pay said general expenses. Such expenses may include meals where Employer business is being discussed or conducted and participation in social events of various organizations when representing the

Employer. Such expenditures are subject to annual budget constraints as well as state and Employer ethics and purchasing policies. Subject to budgetary guidelines and constraints, the finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

- E. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.
- F. Recognizing the importance of constant communication and maximum productivity, Employer shall provide Employee, for business and personal use, a Microsoft Surface Pro 9 (5G capable) tablet, a laptop computer, software, internet connection at Employee's permanent residence, and/or mobile phone/personal digital assistant for business and such tablet, laptop computer, and mobile phone/personal digital assistant shall become the property of the Employee at the end of Employee's employment.

### **Section 9: Termination.**

- A. For the purpose of this Agreement, termination pursuant to this Paragraph A will entitle Employee to the severance benefits set forth in Section 10, and such termination shall occur when:
  - 1. The majority of the governing body votes to terminate the Employee at a properly posted and duly authorized public meeting.
  - 2. If the Employer, or the citizens of the City of Lake City via citizen initiative acts to amend any provisions of the City of Lake City charter or ordinances pertaining to the role, powers, duties, authority, responsibilities of the Employee's position or that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.
  - 3. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this Agreement and will be regarded as a termination.
  - 4. If the Employee resigns following an offer initiated by Employer and approved by a majority of the governing body, for the Employer to accept Employee's resignation, whether formal or informal, then the Employee may declare a termination as of the date of the suggestion.
  - 5. Breach of contract declared by either party with a thirty (30) day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 21.
- B. For the purpose of this Agreement, in the event of termination pursuant to this Paragraph B Employee is not entitled to the severance benefits set forth in Section 10, and such termination shall occur when a simple majority of the governing body votes to terminate Employee with cause at a duly authorized public meeting. Employee shall be given written notice setting forth any allegations substantiating cause for termination pursuant to this paragraph at least fifteen (15) days prior to the public meeting, by the member(s) of the governing body making such allegations. For the purposes of this Paragraph B, "cause" is defined as: (i) adjudication of guilt of any felony or crime (whether a felony or misdemeanor) involving dishonesty, moral turpitude, or misfeasance, malfeasance, or nonfeasance in the performance of duties, or (ii) misconduct as defined by Section 443.036(29), Florida Statutes,

or (iii) breach of this contract by Employee which breach shall remain uncured by Employee as provided in Section 9, Paragraph 5.

- C. For purposes of clarity, and not limitation, Employee shall cease to be an employee of the Employer on the effective date of the termination of Employee's employment, and such date shall not be later than the last day Employee renders to Employer the functions and duties set forth in Section 2, hereof.

#### **Section 10: Severance.**

- A. Severance shall be paid to the Employee when employment is terminated as such termination is defined in Section 9, Paragraph A.
- B. If the Employee is terminated, the Employer shall provide a minimum severance payment equal to twenty (20) weeks salary at the then current rate of pay. This severance shall be paid in a lump sum or in a continuation of salary as all other employees of Employer are paid, at the Employee's option. On the effective date of the termination of Employee's employment, and excepting the severance payment set forth in this paragraph and Employee's right to payment of leave as set forth in Section 5, Paragraph C, and Section 10, Paragraph C, Employer's liability for and obligation to provide, and Employee's continued right at the Employer's expense to accrue, benefits and perquisites as set forth in Section 3, Paragraph E, and Sections 4, 5, 6, and 7 shall cease.
- C. The Employee shall also be compensated for all sick leave, vacation leave, and all paid holidays.
- D. If Employee elects to receive a lump-sum payment of severance, Employer shall transmit such payment to Employee on or before the thirtieth (30<sup>th</sup>) day following the effective date of Employee's termination of employment.
- E. Any determination by Employer concerning the Employer's obligation to pay benefits to Employee as set forth in this Section 10 may only be made by the governing body, which shall approve any such payments before such payments are disbursed.

#### **Section 11: Resignation.**

In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of thirty (30) days notice unless Employer and Employee agree otherwise. For clarification and not for purposes of limitation, a resignation pursuant to this Section 11 is not a termination of Employee's employment with Employer and does not entitle Employee to rights solely accruing to Employee as the result of termination as set forth in Section 9, Paragraph A.

#### **Section 12: Performance Evaluation.**

- A. Employer shall review the performance of employee in the sixth (6<sup>th</sup>) calendar month following the effective date hereof, and shall review the performance of the Employee in each month of June thereafter subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee.

The annual evaluation process, at a minimum, shall include the opportunity for both parties to: (1) conduct a formulary session where the governing body and the Employee meet first to discuss goals and objectives of both the past twelve (12) month performance period as well as the upcoming twelve (12) month performance period, (2) following that formulary discussion, prepare a written evaluation of goals and objectives for the past and upcoming year, (3) next meet and discuss the written evaluation of these goals and objectives, and (4) present a written summary of the evaluation results to the Employee. The final written evaluation should be completed and delivered to the

Employee within thirty (30) days of the initial formulary evaluation meeting.

- B. In the event the Employer deems the evaluation instrument, format and/or procedure is to be modified by the Employer and such modifications would require new or different performance expectations, then the Employee shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.
- C. In the event the Employee is an ICMA Credentialed Manager, the multi-rater evaluation tool will be utilized at a minimum of every five (5) years

**Section 13: Hours of Work.**

It is recognized the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

The schedule shall be appropriate to the needs of the Employer and shall allow Employee to faithfully perform his or her assigned duties and responsibilities

**Section 14: Ethical Commitments.**

Employee will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto and incorporated herein. Specifically, Employee shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fundraising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time. Employer shall support Employee in keeping these commitments by refraining from any order, direction or request that would require Employee to violate the ICMA Code of Ethics. Specifically, neither the governing body nor any individual member thereof shall request Employee to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality, and merit

**Section 15: Outside Activities.**

The employment provided for by this Agreement shall be the Employee's primary employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee, subject to the approval of the governing body, may elect to accept limited teaching, consulting or other business opportunities with the understanding such arrangements must neither constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement.

**Section 16: Moving and Relocation Expenses.**

Employee agrees to establish residence within the corporate boundaries of the local government, if required, within three (3) months of employment, and thereafter to maintain residence within the corporate boundaries of the local government. Upon presentation of a statement or invoice for same to the Employer's chief finance officer, the Employer shall reimburse Employee in an amount not to exceed \$10,000.00 for reasonable relocation costs.

**Section 18: Indemnification.**

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless, and indemnify Employee against any obligation to pay money or perform or not perform any action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court



costs, and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful, wanton, or negligent conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, penalties, fines, court costs, and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available. Employee recognizes Employer shall have the right to compromise and unless the Employee is a party to the suit which Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation.

**Section 19: Bonding.**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

**Section 20: Other Terms and Conditions of Employment.**

- A. The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City of Lake City Charter, local ordinances or any other law.
- B. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits that are enjoyed by or offered to other employees of the Employer as provided in the charter, ordinances, personnel rules and regulations, benefits guides, or by practice.

**Section 21: Notices.**

All notices and other communications hereunder will be in writing and will be deemed to have been duly given when delivered in person, by facsimile or email with answer back, by express or overnight mail delivered by a nationally recognized air courier (delivery charges prepaid), or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties as follows:

if to Employer:

City of Lake City, Florida

205 North Marion Avenue  
Lake City, FL 32055  
Attention: Mayor of the City of Lake City  
Email Address:

With a copy to (which will not constitute notice):

Folds Walker, LLC  
Attn: City of Lake City, City Attorney  
527 East University Avenue  
Gainesville, FL 32601  
Attention: S. Scott Walker  
Email Address:

if to Employee:

Don Rosenthal  
6335 Cardinal Crest Drive  
New Port Richey, FL 34655  
E-mail Address: donnierosenthal63@gmail.com

With a copy to (which will not constitute notice):

Darrell Rosental  
165 Orchard Avenue  
Bolingbrook, Illinois  
Attention: Don Rosenthal  
E-mail Address: donnierosenthal63@gmail.com

or to such other address as the party to whom notice is given may have previously furnished to the others in writing in the manner set forth above. Any notice or communication delivered in person will be deemed effective upon delivery. Any notice or communication sent by facsimile, email, or air courier will be deemed effective on the first Business Day at the place at which such notice or communication is received following the day on which such notice or communication was sent. Any notice or communication sent by registered or certified mail will be deemed effective on the third Business Day at the place from which such notice or communication was mailed following the day on which such notice or communication was mailed.

## **Section 22: General Provisions.**

- A. **Integration.** This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the Employer and Employee are merged into and rendered null and void by this Agreement. The Employer and Employee by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.
- B. **Binding Effect.** This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives, and successors in interest.
- C. **Effective Date.** This Agreement shall become effective on June 1, 2024.

- D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both Employer and Employee subsequent to the expungement or judicial modification of the invalid provision.
- E. Precedence. In the event of any conflict between the terms, conditions, and provisions of this Agreement and the provisions of Council's policies, or Employer's ordinance or Employer's rules and regulations, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of Council's policies, or Employer's ordinances, or Employer's rules and regulations or any such permissive law during the term of this Agreement.

DATED this \_\_\_\_\_ day of May, 2024.

EMPLOYEE:

EMPLOYER:

\_\_\_\_\_  
Donnie L. Rosenthal  
Employee

\_\_\_\_\_  
Stephen M. Witt  
Mayor

ATTEST:

\_\_\_\_\_  
Audrey Sikes  
City Clerk

Approved as to form and content:

\_\_\_\_\_  
Clay Martin  
City Attorney