



CITY COUNCIL SPECIAL MEETING

Clearlake City Hall Council Chambers

14050 Olympic Dr, Clearlake, CA

Thursday, June 24, 2021

Special Meeting 10:30 AM

On March 12, 2020, Governor Newsom issued Executive Order N-25-20, which allows Council Members to attend City Council meetings telephonically. On June 11, 2021, Governor Newsom extended this Order through September 30, 2021. Please be advised that some, or all, of the Clearlake City Council Members may attend this meeting telephonically.

The City Council meetings are viewable in person in the Council Chambers, via livestreaming on the City's YouTube Channel (https://www.youtube.com/channel/UCTyifT_nKS-3woxEu1ilBXA) or "Lake County PEG TV Live Stream" at <https://www.youtube.com/user/LakeCountyPegTV/featured> and the public may participate through Zoom at the link listed below. The public can submit comments and questions in writing for City Council consideration by sending them to the Administrative Services Director/City Clerk at mswanson@clearlake.ca.us. To give the City Council adequate time to review your questions and comments, please submit your written comments prior to 10:00 a.m. on the day of the meeting.

AGENDA

Zoom Link: <https://clearlakeca.zoom.us/j/95318338594>

ROLL CALL

MEETING PROCEDURES: *All items on agenda will be open for public comments before final action is taken. Citizens wishing to introduce written material into the record at the public meeting on any item are requested to provide a copy of the written material to the Administrative Services Director/City Clerk prior to the meeting date so that the material may be distributed to the City Council prior to the meeting. Speakers must restrict comments to the item as it appears on the agenda and stay within a three minutes time limit. The Mayor has the discretion of limiting the total discussion time for an item.*

PLEDGE OF ALLEGIANCE

BUSINESS

1. Adoption of the First Amendment to the Agreement Between the City of Clearlake, City of Lakeport, and County of Lake for Operation of a Local Public, Educational, Governmental (PEG) Cable Television Channel
Recommended Action: Adopt Amendment and authorize Mayor to sign

2. Consideration of an Employment Services Agreement with Kelcey Young for Director of Finance

Recommended Action: Approve Agreement and authorize the City Manager to sign

CLOSED SESSION

- (3)** Conference with Labor Negotiators: Agency Designated Representatives: City Manager Alan Flora and Administrative Services Director/City Clerk Melissa Swanson; Employee Organization: Clearlake Municipal Employees Association, Clearlake Police Officers Association, Clearlake Middle Management Association
- (4)** CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION: Pursuant to Government Code Section 54956.9: Case No. 3:19-ca-05370-EMC Name of Case: Jane Wang v. City of Clearlake, et al.

ANNOUNCEMENT OF ACTION FROM CLOSED SESSION

ADJOURNMENT

AMERICANS WITH DISABILITY ACT (ADA) REQUESTS

If you need disability related modification, including auxiliary aids or services, to participate in this meeting, please contact Melissa Swanson, Administrative Services Director/City Clerk at the Clearlake City Hall, 14050 Olympic Drive, Clearlake, California 95422, phone (707) 994-8201, ext 106, or via email at mswanson@clearlake.ca.us at least 72 hours prior to the meeting, to allow time to provide for special accommodations.

AGENDA REPORTS

Staff reports for each agenda item are available for review at www.clearlake.ca.us. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection on the City's website at www.clearlake.ca.us.

POSTED: June 24, 2021

BY:



Melissa Swanson, Administrative Services Director/City Clerk

CITY OF CLEARLAKE

CITY COUNCIL STAFF REPORT

MEETING OF: June 24, 2021

Agenda Item No.

Subject: Adoption of the First Amendment to the Agreement Between the City of Clearlake, City of Lakeport, and County of Lake for Operation of a Local Public, Educational, Governmental (PEG) Cable Television Channel

Reviewed & Approved:

From: Melissa Swanson, Administrative Services
Director/City Clerk

Recommended Action: Adopt Amendment and authorize Mayor to sign

ISSUE STATEMENT AND DISCUSSION:

The County of Lake and Cities of Lakeport and Clearlake entered into an agreement in 2015 to operate a Local Public, Educational, Governmental Cable Television Channel (PEG). A new agreement was signed in 2019 and expires June 2021. The proposed amendment extends the 2019 agreement through 2023.

The agreement outlines parameters for funding of the PEG Channel and continues the PEG Board membership as was created in 2019.

FINANCIAL AND/OR POLICY IMPLICATIONS:

The proposed amendment continues the current funding mechanisms in place for the PEG Channel. The City of Clearlake provides in-kind contributions to the PEG Channel in place of a monetary contribution of \$8000. This includes operations facilities at City Hall and the Senior Community Center, insurance, and other various operations assistance.

RECOMMENDED ACTION:

Staff recommends adoption of the First Amendment to the 2019 Agreement.

ATTACHMENTS:

- 1) 2019 PEG Agreement
- 2) First Amendment to the 2019 PEG Agreement

**AGREEMENT BETWEEN THE CITY OF CLEARLAKE, CITY OF LAKEPORT AND COUNTY OF
LAKE FOR OPERATION OF A LOCAL PUBLIC,
EDUCATIONAL, GOVERNMENTAL (PEG) CABLE TELEVISION CHANNEL**

THIS AGREEMENT is entered into this 16th day of July, 2019, by and between the City of Clearlake, City of Lakeport and County of Lake, for operation of a local public, educational, governmental cable television channel, hereinafter referred to as Lake County PEG TV.

RECITALS

WHEREAS, the California State Legislature passed the Digital Infrastructure and Video Competition Act (DIVCA) of 2006 (Public Utilities Code Section 5800, et seq.), shifting cable television franchising from local to State control, and establishing a 5% fee on the franchise holder's gross revenues, remitted to the local jurisdiction for use of Public Rights of Way; and

WHEREAS, DIVCA additionally enabled jurisdictions within the territory served by a cable television provider holding a State franchise to, by Ordinance, establish a 1% fee on the gross revenues of said provider to support Public, Educational and Governmental (PEG) television facilities; and

WHEREAS, in 2015, the City of Clearlake, City of Lakeport and County of Lake entered into a written Agreement for the operation, maintenance and funding of the PEG Channel in the best interest of the citizens of Lake County; and

WHEREAS, all parties are in accord that a new Agreement shall be developed, to continue PEG TV's service for Lake County residents.

NOW, THEREFORE, IT IS UNDERSTOOD AND AGREED by the parties hereto as follows:

1. ESTABLISHMENT, MEMBERSHIP, AND TERM OF OFFICE OF THE LAKE COUNTY PEG TV

BOARD OF DIRECTORS

- A. The County of Lake, City of Lakeport and City of Clearlake agree to jointly administer and manage the Lake County PEG TV Channel, through establishment of the Lake County PEG TV Board of Directors.
- B. The five-member Lake County PEG TV Board of Directors shall be comprised of the following:
- One (1) member appointed by the Lake County Board of Supervisors
 - One (1) member appointed by the City Council of the City of Clearlake
 - One (1) member appointed by the City Council of the City of Lakeport

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PEG AGREEMENT

- Two (2) at-large members, appointed by a majority vote of the three Directors representing the parties to this Agreement

C. Terms of office:

- The term of the three (3) board members appointed by the County and Cities shall expire on the first Monday in January of every even-numbered year
- The term of the two (2) at-large board members shall expire on the first Monday in January of every odd-numbered year.

Upon expiration, board members may apply for reappointment. Each member shall serve until his or her successor is duly qualified and appointed.

2. DUTIES AND POWERS OF THE LAKE COUNTY PEG TV BOARD OF DIRECTORS

The Board of Directors so established shall be responsible for:

- A. Prescribing all rules and regulations for the operation and management of the PEG channel, including adoption of community programming policies;
- B. Establishing the duties and providing general supervision of the Lake County PEG TV Manager;
- C. Securing underwriting funds for operation of the PEG Channel;
- D. Reviewing and authorizing the expenditure of funds provided by the parties to this Agreement for operation of the PEG Channel;
- E. Reviewing and authorizing capital expenditures, funded by the 1% fees collected pursuant to Section 5870 (n) of the Public Utilities Code;
- F. By December 1 each fiscal year, providing fiscal-year-to-date expenditure reports to each participating agency.
- G. By March 1 each fiscal year, preparing and submitting to the County Administrative Office and City Managers' Offices:
 - An Operating Budget; and
 - A Capital Budget.

The Lake County PEG TV Board of Directors will ensure capital expenditures are consistent with FCC regulations; i.e. capital equipment, such as vans, studios, cameras, and/or PEG facilities-related expenses.

March 1 budget submissions shall be accompanied by a report and records documenting fiscal-year-to-date and prior fiscal year operating and capital expenditures.

- 1 H. By April 1 each fiscal year, reporting on the status of Lake County PEG TV before the governing
2 body of each entity party to this Agreement.
- 3 I. Providing for the maximum public benefit and use of the PEG Channel, by supporting progress
4 relevant to the Performance Measures described in Section 6 of this Agreement; and
- 5 J. Recommending modification of this Agreement as may be deemed appropriate; and
- 6 K. Upon any pending termination of this Agreement, recommending the manner of disposition of
7 property and improvements purchased with funding provided through this Agreement.

8 **3. LEAD AGENCY**

9 The City of Clearlake shall be the Lead Agency in administering Lake County PEG TV. Any employees
10 or contractors hired to operate the PEG Channel under the supervision of the Lake County PEG TV
11 Board of Directors shall be employees or contractors of the City of Clearlake. Any change of Lead
12 Agency must be enacted by written agreement of all parties.

13 **4. FISCAL OBLIGATIONS OF THE PARTIES**

- 14 A. Operating Budget Support. The County of Lake, City of Clearlake and City of Lakeport will
15 allocate operating funds in each fiscal year throughout the term of this Agreement.

16 Annual allocations are expected in the following amounts:

- 17 • City of Clearlake (\$8,000);
- 18 • City of Lakeport (\$2,000); and
- 19 • County of Lake (\$15,000).

20 The City of Clearlake's contribution may be provided in-kind, e.g. provision of or for staffing,
21 facilities, insurance and other operating needs.

22 As described in Section 2 (H), above, by April 1, a representative of the Lake County PEG TV
23 Board of Directors will report on the status of the PEG Channel before the governing body of
24 each jurisdiction.

25 Upon completion of said presentation, funds allocated to the PEG Channel shall be distributed
26 c/o the City of Clearlake within 15 days.

27 Upon receipt, said monies shall be deposited in a special agency fund established by the
28 Finance Director of the City of Clearlake, and shall be used exclusively for payment of expenses
29 incurred in operating the PEG Channel, as authorized by the Lake County PEG TV Board of
30 Directors.

PEG AGREEMENT

- 1 B. Capital Budget Support. It is further understood and agreed that the Clearlake City Council,
2 Lakeport City Council and Lake County Board of Supervisors have implemented that portion of
3 Section 5870(n) of the Public Utilities Code which enables each of their respective
4 governmental entities to impose an additional franchise fee specifically and exclusively for
5 purposes of funding to support PEG Channel capital expenses consistent with federal law.
6 Revenues generated from this fee are remitted to the respective local governments by
7 Mediacom. The City of Clearlake, City of Lakeport, and County of Lake shall forward all such
8 revenues to the City of Clearlake to deposit into a special agency fund for the capital budget to
9 be utilized exclusively for legally allowable capital expenses incurred by the PEG Channel.
10 Revenues not spent in the current fiscal year may be retained for qualifying use in future fiscal
11 years.
- 12 C. Fiscal Records. As the Lead Agency, the City of Clearlake shall prepare and maintain
13 accounting records and adopt fiscal policies and practices that are in compliance with standard
14 governmental accounting practices.
- 15 The City of Clearlake shall timely furnish the Lake County PEG TV Board of Directors with all
16 documentation necessary to distribute December and March annual reports, as described in
17 section 2 (G). All documentation detailing how funds provided under this Agreement are
18 expended shall be maintained by the City of Clearlake for the current and three previous fiscal
19 years. The parties may request any available fiscal records at any time.
- 20 D. Non-appropriation. In the event any party to this Agreement does not appropriate the amount
21 specified in section IV (1) in their annual budget, that party shall have the right to withhold the
22 amount without incurring any damages or penalties. If such funding is not provided in one fiscal
23 year, the governing body of the party withholding said monies shall consider providing that
24 amount in the next fiscal year, in addition to the monies provided for the current year.

5. TERM OF AGREEMENT

26 This Agreement shall begin on the date of execution by all parties to this Agreement, and shall continue
27 in full force and effect until June 30, 2021, unless terminated as hereinafter provided. By March 1,
28 2021, the City Managers of each City and the County Administrative Officer shall meet to discuss the
29 extension of this Agreement for an additional two-year period.

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6. PERFORMANCE MEASURES

Except as specified below, timelines and oversight will be established by the Lake County PEG TV Board of Directors, in the following areas of priority:

- A. **By June 30, 2020**, work with staff from each jurisdiction to equip all Board rooms with high quality Audio/Visual technology, to ensure the accessibility of Council and Board meetings; and
- B. Enable content providers to upload video content for broadcast on the PEG Channel, and provide clear instructions for the public on any requirements for submission; and
- C. Live stream Lake County PEG TV content via YouTube or a similarly freely and publicly available channel that offers multilingual Closed Captioning, and promote the availability of this content through appropriate Social Media; and
- D. **By December 31, 2019**, provide equipment and training to County Library staff, to facilitate broad access to digital video tools, promoting digital literacy in Lake County; and
- E. Document and report upon fundraising/underwriting efforts at Lake County PEG TV Board Meetings, and provide updates to the Cities and County, upon request.

7. TERMINATION

Any party to this Agreement may withdraw from the Agreement by submitting a letter of withdrawal to the Board of Directors no later than May 1st of each year, to become effective on June 30th. Additionally, the parties may mutually agree to terminate this Agreement at any time, with 90 days' notice.

8. MODIFICATION

This Agreement may only be modified by a written amendment thereto, executed by all parties.

9. NOTICES

All notices that are required to be given by one party to the other party under this Agreement shall be in writing, and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with the United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party.

County of Lake	City of Clearlake	City of Lakeport
Administrative Office	City Manager	City Manager
255 N. Forbes St.	14050 Olympic Dr.	225 Park St.
Lakeport, CA 95453	Clearlake, CA 95422	Lakeport, CA 95453

PEG AGREEMENT

10. EXHIBIT

Exhibit "A" – Compliance Provisions, is incorporated herein by reference.

11. ADDITIONAL PROVISIONS

This Agreement shall be governed by the laws of the State of California. It constitutes the entire Agreement between the parties regarding its subject matter. This Agreement supersedes all proposals, oral and written, and all negotiations, conversations or discussion hereto and between the parties related to the subject matter of this Agreement.

Agreement Between the City of Clearlake, City of Lakeport and County of Lake for Operation of a PEG Cable Television Channel, executed July 16, 2019.

IN WITNESS WHEREOF, the parties have executed this Amendment by their proper officers.

COUNTY OF LAKE



Chair, Board of Supervisors



7-16-19

Date executed

ATTEST: CAROL J. HUCHINGSON

Clerk to the Board of Supervisors

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

By: 



PEG AGREEMENT

1 CITY OF CLEARLAKE

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4 _____

5 Mayor, City of Clearlake



Date executed

6
7 ATTEST: City Clerk

APPROVED AS TO FORM:

RYAN JONES

City of Clearlake, Attorney

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11 By: 
12 _____



13
14 CITY OF LAKEPORT

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18 _____

19 Mayor, City of Lakeport

Date executed

20 ATTEST: City Clerk

APPROVED AS TO FORM:

DAVID RUDERMAN

City of Lakeport, Attorney

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22
23
24 By: _____
25 _____

PEG AGREEMENT

1 CITY OF CLEARLAKE
2
34 SEE ATTACHED

5 Mayor, City of Clearlake

Date executed6
7 ATTEST: City Clerk

APPROVED AS TO FORM:

8 **RYAN JONES**9 City of Clearlake, Attorney
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11 By: _____

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13
14 CITY OF LAKEPORT15 [Signature]16
17 Mayor, City of Lakeport18 9/3/19

Date executed

19
20 ATTEST: City Clerk

APPROVED AS TO FORM:

21 **DAVID RUDERMAN**22 City of Lakeport, Attorney
2324 By: Heelys Buendia25 [Signature]
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EXHIBIT "A" – COMPLIANCE PROVISIONS**1. NON-DISCRIMINATION**

In the performance of the work authorized under this Agreement, the parties shall not unlawfully discriminate against any qualified worker because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

2. INDEMNIFICATION AND HOLD HARMLESS

Each party shall indemnify and hold the other parties harmless against all actions, claims, demands, and liabilities, and against all losses, damages, costs, expenses, and attorney's fees, arising directly or indirectly out of an actual or alleged injury to a person or property in the same proportion that its own acts and/or omissions are attributed to said claims, demands, liabilities, losses, damages, costs, expenses, and/or attorney's fees. This provision shall not extend to any claim, demand, liability, loss, damage, cost, expenses, and/or attorney's fees covered by the insurance of either party.

The obligations under this Section shall survive the termination of the Agreement.

3. DUE PERFORMANCE – DEFAULT

Each party agrees to fully perform all aspects of this Agreement. If any default occurs, a party shall give written notice of said default to the other parties. If the party in default does not fully correct (cure) the default within 30 days of that notice (i.e. the time to cure), then such party shall be in default.

The time period for corrective action of the party in default may be extended upon written agreement, executed by all parties. The executed notice must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision, and shall demand that the party in default perform the provisions of this Agreement within the applicable period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

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4. INSURANCE

As the Lead Agency, the City of Clearlake shall procure and maintain, at its own expense during the term hereof, the following:

- A. **Compensation Insurance.** Workers' Compensation Insurance and Employer's Liability Insurance, as required by the State of California, for all employees to be engaged in work under this Agreement. In any case such work is contracted, contractors shall be required similarly to provide Employer's Liability Insurance and Workers' Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by Contractor's Workers' Compensation Insurance and Employer's Liability Insurance. Employer's Liability Insurance shall be in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- B. **Commercial General Liability.** Upon itself and its employees at all times during the course of this Agreement, Commercial General Liability Insurance (Occurrence Form CG0001) for bodily injury, personal injury, and broad form property damage, in an amount of not less than One Million Dollars (\$1,000,000.00) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverages: personal and advertising injury, premises-operations, products and completed operations, blanket contractual and independent contractor's liability.
- C. **Automobile Liability Insurance.** Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in connection with fulfilling the terms of this Agreement in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit coverage per occurrence.

5. ATTORNEYS FEES AND COSTS

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

6. SEVERABILITY

If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

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PEG AGREEMENT**7. ADHERENCE TO APPLICABLE DISABILITY LAW**

The parties to this Agreement shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C Sections 12101, et seq.), California Government Code Sections 12920 et seq., and all related state and local laws.

8. HIPAA COMPLIANCE

The parties to this Agreement will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and will make their best efforts to preserve data integrity and the confidentiality of protected health information.

9. SAFETY RESPONSIBILITIES

The parties to this Agreement will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. All parties agree that in the performance of work under this Agreement, they will provide for the safety needs of their employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

10. JURISDICTION AND VENUE

This Agreement shall be construed in accordance with the law of the State of California, and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. All parties waive any right of removal they might have under California Code of Civil Procedure Section 394.

FIRST AMENDMENT, PEG

**FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF CLEARLAKE, CITY OF
LAKEPORT AND COUNTY OF LAKE FOR OPERATION OF A LOCAL PUBLIC,
EDUCATIONAL, GOVERNMENTAL (PEG) CABLE TELEVISION CHANNEL**

THIS AMENDMENT is entered into this _____ day of _____, 2021, by and between the
City of Clearlake, City of Lakeport and County of Lake, for operation of a local public, educational,
governmental cable television channel, hereinafter referred to as Lake County PEG TV.

WITNESSETH

WHEREAS, in July of 2019, the City of Clearlake, City of Lakeport and County of Lake entered into a
written Agreement to continue the operation, maintenance and funding of Lake County PEG TV, in the
best interest of the citizens of Lake County, with said Agreement to expire June 30, 2021; and

WHEREAS, that Agreement envisioned extension of the "Term of Agreement," in two-year increments,
as found to be desirable and appropriate by the parties thereto and the Lake County PEG TV Board of
Directors.

WHEREAS, all parties wish to continue their participation through at least June 30, 2023.

NOW, THEREFORE, the parties hereto agree as follows:

1. That Section 5. of the original 2019 agreement is hereby amended as follows:

This Agreement shall begin on the date of execution by all parties to this Agreement and shall
continue in full force and effect until June 30, 2023, unless terminated as hereinafter provided.

By March 1, 2023, the City Managers of each City and the County Administrative Officer shall
meet to discuss the extension of this Agreement.

Except as specifically modified herein, all other terms and conditions of the July 16, 2019 Agreement
shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have executed this Amendment by their proper officers.

COUNTY OF LAKE

Chair, Board of Supervisors

Date executed

ATTEST: CAROL J. HUCHINGSON
Clerk to the Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: _____

CITY OF CLEARLAKE

Mayor, City of Clearlake

Date executed

ATTEST: City Clerk

APPROVED AS TO FORM:
RYAN JONES
City of Clearlake, Attorney

By: _____

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FIRST AMENDMENT, PEG

CITY OF LAKEPORT

Mayor, City of Lakeport

ATTEST: City Clerk

Date executed

APPROVED AS TO FORM:

DAVID RUDERMAN

City of Lakeport, Attorney

CITY OF CLEARLAKE

CITY COUNCIL STAFF REPORT

MEETING OF: June 24, 2021

Agenda Item No.

Subject: Consideration of Contract with Kelcey Young to serve as Director of Finance **Date:** June 23, 2021

From: Alan D. Flora, City Manager

Reviewed & Approved:

Recommended Action: Authorize the City Manager to Sign Employment Contract with Kelcey Young to serve as Director of Finance

BACKGROUND:

The City's recruitment for a permanent Finance Director has been successful with Kelcey Young accepting the position.

Ms. Young is available to start on July 18th after relocating from Dallas, Texas. The recommended contract includes a base salary at Step E of the salary scale (\$118,667.20), relocation assistance, a recruitment incentive of \$10,000 and the other standard department head benefits as defined in the Management Benefit Plan. We believe Ms. Young's education and experience are well suited for the position and the City's needs and welcome her to Clearlake.

RECOMMENDATION:

Authorize the City Manager to Sign Employment Contract with Kelcey Young to serve as Director of Finance.

ATTACHMENTS:

- A. Employment Contract

**CITY OF CLEARLAKE
EMPLOYMENT SERVICES AGREEMENT**

DIRECTOR OF FINANCE

1. PARTIES AND DATE.

This Employment Services Agreement (hereinafter referred to as the “Agreement”) is made and entered into this _____ day of _____, 2021 (“Effective Date”) by and between the City of Clearlake, a California municipal corporation (hereinafter referred to as “City”) and Kelcey Young (hereinafter referred to as “Employee”). City and Employee may sometimes individually be referred to herein as “Party” and collectively as “Parties”.

2. RECITALS.

- A. City desires to employ the services of Employee as Director of Finance for the City of Clearlake and Employee desires to accept employment as Director of Finance. It is the desire of the Parties through this Agreement to provide for certain benefits, establish conditions of employment and to set working conditions for Employee.
- B. Employee is fully qualified for the position and agrees to accept employment as the Director of Finance.

NOW THEREFORE CITY AND EMPLOYEE, in consideration of the mutual covenants and agreements herein contained, agree as follows:

3. TERMS.

3.1 Duties and Responsibilities

3.1.1 Designated Duties.

- a. As Director of Finance, Employee’s duties and responsibilities shall be as set forth in the job description attached hereto and made a part hereof to this agreement, and any other legally permissible and proper duties and functions as the City Manager may from time-to-time assign.
- b. Employee agrees to devote his productive time, ability and attention to the City’s business during the term of this Agreement. The City recognizes that Employee is expected to devote necessary time outside normal office hours to business of the City. Because Employee’s position is exempt under the Fair Labor Standards Act (FLSA), Employee shall not receive overtime or extra compensation for work performed outside normal business hours.
- c. Employee shall not engage in any activity, which is or may become a conflict of interest, prohibited by contract or which may create an incompatibility of office as defined under California law.

- 3.1.2 Control and Supervision. Employee shall serve at the will and pleasure of the City Manager.
- 3.1.3 Meetings. Employee shall attend all meetings as directed by the City Manager that are determined necessary for the business of the city.
- 3.1.4 Effective Date. The effective date for Employee's services shall be July 19, 2021.

3.2 Compensation and Benefits and Other Considerations. For services rendered pursuant to this Agreement, Employee shall receive the following compensation:

- 3.2.1 Compensate Employee at Range 69 of the salary schedule starting at Step E in the amount of \$9,888.93 per month. Compensation shall be paid bi-weekly at the same time as other employees of City are paid and shall be subject to all applicable taxes and other required deductions.
- 3.2.2 Provide a one-time payment of \$5,000 to employee for relocation expenses. Payment to be made within seven (7) days of execution of this agreement.
- 3.2.3 Provide a one-time payment of \$10,000 to employee as a recruitment incentive. Payment to be made within seven (7) days of the first day of work.
- 3.2.4 Employee will be provided a stipend in the amount of \$75 per month to partially reimburse use of Employee's personal cell phone for City business.
- 3.2.5 Employee shall have his performance and pay reviewed annually by the City Manager. Any adjustments in Employee's compensation shall be at the City Manager's discretion, with the City Manager taking into consideration Employee's performance, Cost of Living Adjustments provided to other bargaining units and employees and the city's ability to pay any increase.
- 3.2.6 Employee will be responsible for paying the Employee's share of the CalPERS retirement contribution cost.
- 3.2.7 Employee shall earn vacation accruals at the rates and as provided in Section 6-2.9 of the Management Employees Classification and Benefit Plan except that the maximum amount of accumulated vacation leave shall not exceed 240 hours. Employee will not be allowed to earn more than the maximum accrual. Should Employee's vacation leave credits reach the maximum, Employee shall cease to earn any additional vacation credits until their leave balance is reduced sufficiently to allow additional credits to be added without exceeding the maximum accrual unless authorized by the City Manager due to extenuating circumstances. On termination of Employee, Employee shall receive pay for any unused vacation accrual.

- 3.2.8 Employee is entitled to all other benefits not otherwise included in this contract that are set forth in the Management Classification and Benefit Plan (“Plan”) that are in effect as of the date of this agreement (attached hereto and made a part hereof). Modifications or amendments that may be made to the Plan after the effective date of this agreement will supersede the attached version.

3.3 Status and Authority of Employee.

- 3.4.1 At-Will Status. The Parties hereby expressly agree that the employment relationship created by this Agreement is “at-will” and that Employee serves at the will and pleasure of the City Manager. Nothing in this Agreement or any statute, ordinance or rule shall prevent, limit or otherwise interfere with the right of the City to terminate, without cause or right of appeal or grievance, the services of Employee at any time, in accordance with section 3.5 below.

- 3.4.2 Employee shall at all times be considered an agent or employee of the City.

3.4 Term of Agreement. Employee’s employment with the City is for no definite term or period of time.

3.5 Termination.

- 3.5.1 This Agreement may be terminated at any time upon thirty (30) days advance written notice given by Employee to City; however, the City may terminate the employee immediately upon written notice by City to Employee. Notice of termination may be delivered personally or by mail. All notices permitted or required under this Agreement shall be given to the respective parties at the following address or at such other address as the respective parties may provide in writing for this purpose:

CITY: City of Clearlake
14050 Olympic Drive
Clearlake, CA 95422
ATTN: City Manager

EMPLOYEE: Kelcey Young
Address on File

- 3.5.2 Employee will have no recourse or right to appeal city’s decision to terminate Employee except as provided by applicable law.
- 3.5.3 Employee may voluntarily resign his employment with the city by giving 30 days written notice in advance of his last day of employment. Though, the City still maintains the right to terminate the employee as described in Section 3.5.1 above. However, both parties may mutually agree to a shorter

period. In the event of a voluntary resignation, Employee is not entitled to any other compensation except for his normal compensation for the 30-day period, pro-rated, following notice of resignation and the value of all accrued benefits unless otherwise agreed to by parties.

3.5.4 At any time, and without prior notice, the City Manager may terminate Employee for cause. In such event, City shall pay Employee all compensation then due and owing through the last day actually worked; thereafter, all of City's obligations under this Agreement shall cease. For purposes of this agreement, "cause" shall be defined but is not limited to, (1) fraud, misappropriation or embezzlement involving assets of the city, or any other intentionally wrongful acts which involve personal gain to Employee, (2) conviction of Employee of any felony or of a misdemeanor of moral turpitude, (3) Refuses or fails to act in accordance with any lawful direction or order of the City Manager and/or (4) breach by Employee of the provisions of this agreement. The determination as to whether "cause" exists to terminate Employee shall be in the sole discretion of the City Manager and shall not be subject to appeal or challenge.

3.6 **Indemnification.** City shall defend, save harmless and indemnify Employee against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's services as Director of Finance, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any actions outside the course and scope of employment.

3.7 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties. This Agreement may be amended if in writing and signed by both Parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the party making the waiver. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

3.8 **No Assignment, No Third-Party Beneficiaries.** This Agreement is not assignable by either City or Employee. Nothing in this Agreement shall be construed to create and parties do not intend to create any rights in third parties.

3.9 **Severability, Applicable Law and Interpretation.** In the event that any provision of this Agreement is held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of this Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of this Agreement. Any dispute concerning this Agreement shall be governed by the laws of the State of California. This Agreement shall be construed under the laws of the State of California in effect at the time of signing of the Agreement and venue shall be in Lake County, California.

- 3.10 Construction.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulations or law. This Agreement has been negotiated between Alan Flora, City Manager, on behalf of City, and Kelcey Young as Employee. City and Employee acknowledge that they have each contributed to the making of this Agreement and that in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. City and Employee acknowledge that they have each had an adequate opportunity to consult with their own legal counseling the negotiation and preparation of this Agreement.
- 3.11 Amendments and Waivers.** This Agreement may not be amended except by an instrument in writing, signed by each of the parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provisions whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the parties.
- 3.12 Counterparts.** This agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically mailed copy of the Employment Services Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed in its behalf by its City Manager and duly attested by the City Clerk. It has also been executed by the Employee.

By: _____
 Alan Flora
 City Manager

By _____
 Kelcey Young
 Director of Finance

ATTEST:

By: _____
 Melissa Swanson
 Administrative Services Director/City Clerk