

RESOLUTION NO. 19-1106-31

RESOLUTION TO AMEND AN OTHER POST-EMPLOYMENT BENEFITS TRUST AND PARTICIPATE IN THE ANCILLARY GOVERNMENTAL PARTICIPANTS INVESTMENT PROGRAM ESTABLISHED BY THE TREASURER OF THE STATE OF NORTH CAROLINA

WHEREAS, on May 21, 2019, the Town Council of the Town of Apex established a Local Government Other Post-Employment Benefits Trust (“**Original OPEB Trust**”) pursuant to N.C.G.S. § 159-30.1 for the purpose of paying post-employment benefits for which the Town of Apex is liable; and

WHEREAS, subsequent to the adoption of the OPEB Trust Agreement, the Employer Identification Number assigned by the Internal Revenue Service was issued in the name of “Town of Apex Local Government OPEB Trust”; and

WHEREAS, the Town Council of the Town of Apex desires to amend the Original OPEB Trust pursuant to N.C.G.S. § 159-30 and OPEB Trust Agreement as shown in Attachment 1 for the purposes of accurately designating the name of the trust as “Town of Apex Local Government OPEB Trust” as reflected in the Internal Revenue Service Employer Identification Number assignment; and

WHEREAS, the OPEB Trust is an irrevocable trust, and the assets of the OPEB Trust will not be subject to the claims of the Town of Apex’s creditors; and

WHEREAS, the Town Council wishes to invest assets from the OPEB Trust in the Ancillary Governmental Participants Investment Program (“AGPIP”) established by the Treasurer of the State of North Carolina (the “Treasurer”);

WHEREAS, the Town Council has determined that it is advisable and in the best interests of the Town of Apex to contribute assets from the OPEB Trust to AGPIP, as provided in the Deposit Agreement between the Town of Apex and the Treasurer, which is attached to this resolution as Attachment 2 (the “Deposit Agreement”).

NOW, THEREFORE, BE IT RESOLVED, that

The OPEB Trust is amended by adoption of the trust agreement in Attachment 1 to this resolution;

The person serving in the position of Town Manager of the Town of Apex is appointed the Plan Administrator pursuant to the provisions of the trust agreement for the OPEB Trust;

The OPEB Trust is established for the purpose of paying post-employment benefits for which the Town of Apex is liable;

The trustees of the OPEB Trust are determined and selected as follows:

The person serving in the position of Town Manager of the Town of Apex

The person serving in the position of Human Resources Director of the Town of Apex

The person serving in the position of Finance Director of the Town of Apex

The OPEB Trust shall participate in AGPIP pursuant to the terms and conditions of the Deposit Agreement;

The initial contribution of the OPEB Trust to AGPIP shall be \$ 250,000 (the "Contribution").

The Plan Administrator and the person serving in the position of Finance Director of the Town of Apex (collectively, the "Authorized Representatives") are authorized and directed to execute and deliver the Deposit Agreement, to take any other actions deemed necessary or appropriate to consummate the transactions provided for therein, and to cause the Contribution to be made.

The Authorized Representatives, acting on behalf of the Town of Apex, are authorized to take all such actions as they may deem necessary or appropriate to give effect to the foregoing resolutions; and

All actions heretofore taken by any of the Authorized Representatives acting on behalf of the Town of Apex in furtherance of the foregoing resolutions are hereby ratified, adopted, approved, and confirmed in all respects.

ADOPTED By the Town Council of the Town of Apex, this 6th day of November, 2019.

Donna B. Hosch, MMC, NCCMC, Town Clerk