

RESOLUTION NO. 36-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, RELATING TO THE PROVISION OF REFUSE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH BEACH, FLORIDA; RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION INCLUDING THE DETERMINATION THAT CERTAIN REAL PROPERTY IS SPECIFICALLY BENEFITED BY REFUSE SERVICES, FACILITIES AND PROGRAMS AND THE METHOD OF ASSESSING ASSOCIATED REFUSE SERVICES COSTS AGAINST REAL PROPERTY SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE FISCAL YEAR 2023-2024 ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This resolution of the City of Lake Worth Beach, Florida (the "City") is adopted pursuant to City Ordinance No. 2009-22 (as may be amended from time to time, and as codified in Chapter 2, Article XVIII of the City Code of Ordinances, the "Assessment Ordinance"), City Resolution No. 41-2009 (as amended and supplemented from time to time, and as particularly supplemented by Resolution No. 46-2009, the "Initial Assessment Resolution"), Sections 166.021, 166.041, and 197.3632, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This resolution constitutes both the Final Assessment Resolution and the Annual Assessment Resolution (the "Annual Assessment Resolution") as defined in the Assessment Ordinance due to the increase in the assessment amount as compared to the prior fiscal years. See *Atlantic Gulf Communities Corp. v. City of Port St. Lucie*, 764 So. 2d 14 (Fla. 4th DCA 1999) (when the assessment is increased, it is deemed to be levied for the first time under section 197.3632(4)(a), Florida Statutes). All capitalized terms in this resolution not otherwise defined herein shall have the meanings defined in the Assessment Ordinance and the Initial Assessment Resolution. "Refuse Services" as used herein shall replace the definition previously used for "Solid Waste Services, including facilities and programs".

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared as follows:

(A) The findings provided in Section 1.04 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.

(B) On August 18, 2009, the City Commission adopted the Initial Assessment Resolution which described the Refuse Services, including facilities and programs (then referred to as the "Solid Waste Services, including facilities and programs"), provided for the funding thereof through Refuse Services Assessments and the method of assessing the cost of such services against the real property located within the City that will be specifically benefited thereby, established a public hearing to consider imposition of the Assessments, directed preparation of the preliminary Refuse Services Assessment Roll and the provision of the notices required by the Assessment Ordinance.

(C) Pursuant to the Assessment Ordinance, the City Commission is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the City Commission deems appropriate, after hearing concerns and receiving comments or objections of interested parties.

(D) Pursuant to Resolution 25-2023, the cost of providing Refuse Services including facilities and programs has increased since adoption of the Initial Assessment Resolution in 2009. For Fiscal Year 2023-2024, the rate of Solid Waste Services Assessments is increased to \$258.63 per ERU per year as set forth in the Assessment Roll.

(E) Pursuant to Resolution No. 25-2023, the Refuse Service Assessment Roll has heretofore been filed at the offices of the City Clerk, 7 North Dixie Highway, Lake Worth Beach, Florida, and made available for public inspection.

(F) As required by the terms of the Assessment Ordinance and the Initial Assessment Resolution, notice of a public hearing has been published and mailed to each affected property owner notifying such property owner of the opportunity to be heard. The proof of publication and mailing are available for inspection at the Financial Services Department.

(G) A public hearing has been duly held on September 5, 2023 and comments and objections of all interested persons have been heard and considered as required by law.

(H) The imposition of Refuse Service Assessments for Refuse Services, including facilities and programs for each fiscal year is an equitable and efficient method of allocating and apportioning the Refuse Services Cost among parcels of Assessed Property.

(I) The Assessments contemplated hereunder will be imposed by the City Commission, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.

(J) The benefits derived from the Refuse Services including facilities and programs exceed the amount of the Assessments levied and imposed hereunder. The Assessment for any Tax Parcel subject thereto does not exceed the proportional benefits that such Tax Parcel will receive compared to any other Tax Parcel.

(K) The Refuse Services provided for in the Initial Assessment Resolution and contemplated herein are Essential Services which possess a logical relationship to the use and enjoyment of, and relieve a burden created by and provide a special benefit to the Assessed Property by properly, safely and cost effectively disposing of refuse generated on the property.

(L) Each parcel of Assessed Property within the City will be specially benefited by the City's provision of Refuse Services, facilities, and programs in an amount not less than the Refuse Services Assessment for such parcel, computed in the manner set forth in the Initial Assessment Resolution.

(M) Adoption of this Annual Assessment Resolution constitutes a legislative determination that all parcels assessed derive a special benefit in a manner consistent with the legislative declarations, determinations and findings as set forth in the Assessment Ordinance, the Initial Assessment Resolution and this Annual Assessment Resolution from the Refuse Services, facilities and programs to be provided and a legislative determination that the Refuse Services Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.

(N) The City Commission hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Refuse Services including facilities and programs by fairly and reasonably allocating the Refuse Services Cost among specially benefited property.

**SECTION 4. RATIFICATION AND CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION AND PREVIOUSLY IMPOSED ASSESSMENTS.**

(A) The Initial Assessment Resolution is hereby ratified and confirmed.

(B) Any and all prior actions of the City Commission associated with the imposition of Refuse Services Assessments or similar fees and charges of every nature whatsoever for previous Fiscal Years, including the fees, charges and non-ad valorem assessments imposed and collected for Fiscal Year 2023-2024, are hereby approved, ratified and confirmed in their entirety.

**SECTION 5. APPROVAL OF ASSESSMENT ROLL.** The Refuse Services Assessment Roll, which is on file with the City Clerk and incorporated herein by reference, is hereby approved. The Refuse Services Assessment Roll shall be certified to the Tax Collector by September 15, 2023, pursuant to Section 197.3632(5), Florida Statutes.

**SECTION 6. REFUSE SERVICES ASSESSMENTS.**

(A) The Tax Parcels described in the Refuse Services Assessment Roll are hereby found to be specially benefited by the provision of Refuse Services. The apportionment methodology for the Refuse Services Assessments, as set forth in Section 3.03 of the Initial Assessment Resolution, is hereby approved. Accordingly, a Refuse Services Assessment in the amount of \$258.63 per ERU is hereby levied and imposed against each Tax Parcel described in the Refuse Services Assessment Roll.

(B) The Refuse Services Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption of this Resolution and shall attach to the property included on the Refuse Services Assessment Roll as of January 1, 2024, the lien date for ad valorem taxes.

SECTION 7. COLLECTION OF ASSESSMENTS. The Refuse Services Assessments imposed hereunder shall be collected pursuant to the provisions of the Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption hereof and of the Annual Assessment Resolution for subsequent Fiscal Years, the City Manager shall cause the certification and delivery of the Refuse Services Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

SECTION 8. EFFECT OF ANNUAL ASSESSMENT RESOLUTION. The adoption of this Annual Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, the method by which the Assessments are computed and apportioned, the Refuse Services Assessment Roll, the rate of Assessment and the imposition or ratification of Assessments and any and all prior actions of the City Commission associated with the imposition of Assessments or similar fees and charges of every nature for previous years, including fees, charges and non-ad valorem assessments imposed and collected for Fiscal Year 2022-2023), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of the City Commission's adoption of this Annual Assessment Resolution.

SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS. Any resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 10. EFFECTIVE DATE. This Annual Assessment Resolution shall take effect immediately upon its adoption.

The passage of this resolution was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kim Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on the 5<sup>th</sup> day of September 2023.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Coyne, City Clerk