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RESOLUTION NO. 71-2022 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 INTIAL 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 PROPERTYT SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE FISCAL YEAR 2022-2023 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.

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

56
57 (C) Pursuant to the Assessment Ordinance, the City Commission is required to
58 repeal or confirm the Initial Assessment Resolution, with such amendments as the City
59 Commission deems appropriate, after hearing concerns and receiving comments or
60 objections of interested parties.

61
62 (D) Pursuant to Resolution 28-2020, the cost of providing Refuse Services
63 including facilities and programs has only changed once since adoption of the Initial
64 Assessment Resolution in 2009. For Fiscal Year 2020-2021, the rate of Solid Waste
65 Services Assessments was increased to \$245.15 per ERU. For Fiscal Year 2022-2023,
66 the rate for the Solid Waste Services Assessment remains as \$245.15 per ERU as set
67 forth in the Assessment Roll.

68
69 (E) Pursuant to Resolution No. 37-2021, the Refuse Service Assessment Roll
70 has heretofore been filed at the offices of the City Clerk, 7 North Dixie Highway, Lake
71 Worth Beach, Florida, and made available for public inspection.

72
73 (F) As required by the terms of the Assessment Ordinance and the Initial
74 Assessment Resolution, notice of a public hearing has been published and mailed to each
75 affected property owner notifying such property owner of the opportunity to be heard. The
76 proof of publication and mailing are available for inspection at the Financial Services
77 Department.

78
79 (G) A public hearing has been duly held on September 8, 2022 and comments
80 and objections of all interested persons have been heard and considered as required by
81 law.

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

86
87 (I) The Assessments contemplated hereunder will be imposed by the City
88 Commission, not the Property Appraiser or Tax Collector. Any activity of the Property
89 Appraiser or Tax Collector under the provisions of this Resolution shall be construed
90 solely as ministerial.

91
92 (J) The benefits derived from the Refuse Services including facilities and
93 programs exceed the amount of the Assessments levied and imposed hereunder. The
94 Assessment for any Tax Parcel subject thereto does not exceed the proportional benefits
95 that such Tax Parcel will receive compared to any other Tax Parcel.

96
97 (K) The Refuse Services provided for in the Initial Assessment Resolution and
98 contemplated herein are Essential Services which possess a logical relationship to the
99 use and enjoyment of, and relieve a burden created by and provide a special benefit to
100 the Assessed Property by properly, safely and cost effectively disposing of refuse
101 generated on the property.
102

103 (L) Each parcel of Assessed Property within the City will be specially benefited
104 by the City's provision of Refuse Services, facilities, and programs in an amount not less
105 than the Refuse Services Assessment for such parcel, computed in the manner set forth
106 in the Initial Assessment Resolution.
107

108 (M) Adoption of this Annual Assessment Resolution constitutes a legislative
109 determination that all parcels assessed derive a special benefit in a manner consistent
110 with the legislative declarations, determinations and findings as set forth in the
111 Assessment Ordinance, the Initial Assessment Resolution and this Annual Assessment
112 Resolution from the Refuse Services, facilities and programs to be provided and a
113 legislative determination that the Refuse Services Assessments are fairly and reasonably
114 apportioned among the properties that receive the special benefit.
115

116 (N) The City Commission hereby finds and determines that the Assessments to
117 be imposed in accordance with this Resolution provide an equitable method of funding
118 the Refuse Services including facilities and programs by fairly and reasonably allocating
119 the Refuse Services Cost among specially benefited property.
120

121 SECTION 4. RATIFICATION AND CONFIRMATION OF INITIAL
122 ASSESSMENT RESOLUTION AND PREVIOUSLY IMPOSED ASSESSMENTS
123

124 (A) The Initial Assessment Resolution is hereby ratified and confirmed.
125

126 (B) Any and all prior actions of the City Commission associated with the
127 imposition of Refuse Services Assessments or similar fees and charges of every nature
128 whatsoever for previous Fiscal Years, including the fees, charges and non-ad valorem
129 assessments imposed and collected for Fiscal Year 2021-2022, are hereby approved,
130 ratified and confirmed in their entirety.
131

132 SECTION 5. APPROVAL OF ASSESSMENT ROLL. The Refuse Services
133 Assessment Roll, which is on file with the City Clerk and incorporated herein by reference,
134 is hereby approved. The Refuse Services Assessment Roll shall be certified to the Tax
135 Collector by September 15, 2022, pursuant to Section 197.3632(5), Florida Statutes.
136

137 SECTION 6. REFUSE SERVICES ASSESSMENTS.
138

139 (A) The Tax Parcels described in the Refuse Services Assessment Roll are
140 hereby found to be specially benefited by the provision of Refuse Services. The
141 apportionment methodology for the Refuse Services Assessments, as set forth in Section
142 3.03 of the Initial Assessment Resolution, is hereby approved. Accordingly, a Refuse
143 Services Assessment in the amount of \$245.15 per ERU is hereby levied and imposed

144 against each Tax Parcel described in the Refuse Services Assessment Roll.

145
146 (B) The Refuse Services Assessment shall constitute a lien against Assessed
147 Property equal in rank and dignity with the liens of all state, county, district or municipal
148 taxes and other non-ad valorem assessments. Except as otherwise provided by law, such
149 lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall
150 be deemed perfected upon adoption of this Resolution and shall attach to the property
151 included on the Refuse Services Assessment Roll as of January 1, 2023, the lien date for
152 ad valorem taxes.

153
154 SECTION 7. COLLECTION OF ASSESSMENTS. The Refuse Services
155 Assessments imposed hereunder shall be collected pursuant to the provisions of the
156 Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption
157 hereof and of the Annual Assessment Resolution for subsequent Fiscal Years, the City
158 Manager shall cause the certification and delivery of the Refuse Services Assessment
159 Roll to the Tax Collector by September 15, 2022, in the manner prescribed by the Uniform
160 Assessment Collection Act.

161
162 SECTION 8. EFFECT OF ANNUAL ASSESSMENT RESOLUTION. The
163 adoption of this Annual Assessment Resolution shall be the final adjudication of the
164 issues presented herein and in the Initial Assessment Resolution (including, but not
165 limited to, the method by which the Assessments are computed and apportioned, the
166 Refuse Services Assessment Roll, the rate of Assessment and the imposition or
167 ratification of Assessments and any and all prior actions of the City Commission
168 associated with the imposition of Assessments or similar fees and charges of every nature
169 for previous years, including fees, charges and non-ad valorem assessments imposed
170 and collected for Fiscal Year 2021-2022), unless proper steps are initiated in a court of
171 competent jurisdiction to secure relief within twenty (20) days from the date of the City
172 Commission's adoption of this Annual Assessment Resolution.

173
174 SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS. Any resolutions
175 or parts thereof in conflict herewith are hereby superseded and repealed to the extent of
176 such conflict.

177
178 SECTION 10. EFFECTIVE DATE. This Annual Assessment Resolution shall
179 take effect immediately upon its adoption.

180
181
182 The passage of this resolution was moved by Commissioner _____,
183 seconded by Commissioner _____, and upon being put to a vote, the vote
184 was as follows:

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187 Mayor Betty Resch
188 Vice Mayor Christopher McVoy
189 Commissioner Sarah Malega
190 Commissioner Reinaldo Diaz
191 Commissioner Kimberly Stokes

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The Mayor thereupon declared this resolution duly passed and adopted on the 8th day of September 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk