RESOLUTION NO. 15-2024 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AUTHORIZING RETROACTIVE AMENDMENTS TO THE CITY OF LAKE WORTH BEACH (FPDP) 401(a) PLAN; REPEAL OF CONFLICTS; PROVIDING A SEVERABILITY CLAUSE, AN EFFECTIVE DATE AND FOR OTHER PURPOSES

WHEREAS, the City, as the sponsoring employer, established a tax-qualified, defined contribution retirement plan in 2010 for the benefit of eligible employees, which Plan has been amended from time to time and is now known as the City of Lake Worth Beach (FPDP) 401(a) Plan ("Plan"); and

WHEREAS, the Plan design was changed via an amendment to the Plan's governing document in 2016; and

WHEREAS, the 2016 Plan design change was inadvertently not administratively implemented; and

WHEREAS, the Plan's governing document was not amended in 2019 to update the legal name of the employer under the Plan or the legal name of the Plan to reflect the change to the City's legal name; and

WHEREAS, notwithstanding the exclusion of overtime from the Plan's definition of Earnings, operationally additional, short-term, emergency disaster pay has been included in earnings since 2021; and

WHEREAS, the failure to administer the Plan in accordance with the terms of its governing document is an operational error that jeopardizes the tax-qualified status of the Plan under the Internal Revenue Code of 1986, as amended; and

WHEREAS, it has been determined that under the particular circumstances of the error, the Self Correction Program of the IRS Employee Plans Compliance Resolution System, described in IRS Revenue Procedure 2021-30, as expanded under section 305(a) of the federal SECURE 2.0 Act of 2022, permits the City to cure the tax-qualification error by adopting retroactive Plan document amendments to conform the terms of the Plan's governing documents to past operations; and

WHEREAS, to address all of the foregoing, the City desires to adopt retroactive amendments and restatements of the Plan's governing documents in the form of the Adoption Agreements attached hereto as **Exhibit "A"**, **Exhibit "B"**, and **Exhibit "C"** and the underlying base plan documents referenced therein (collectively, the "Amendments").

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1.   The foregoing recitals are incorporated into this Resolution as true and correct findings of the City Commission.

Section 2.   It is hereby declared that the Amendments are authorized and approved, effective as of the retroactive effective dates specified therein, to maintain the tax-qualified status of the

Plan.

Section 3.   The interim City Manager is hereby directed to execute, or to cause his designee to execute, the Amendments in substantially the form attached hereto as "Exhibit "A", Exhibit "B", and Exhibit "C".

Section 4.   The interim City Manager, or his designee, is hereby directed to execute any and all other instruments, documents, and certifications necessary to effectuate this resolution.

Section 5.   The City's Human Resources and Finance departments are hereby directed to take all other actions and steps necessary to implement the Amendments.

Section 6.   All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 7.   If any provision of this resolution or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application and to this end the provisions of this resolution are declared severable.

Section 8.   This resolution shall become effective upon 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 Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on this _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
       Betty Resch, Mayor

ATTEST:

_____
Melissa Ann Coyne, MMC, City Clerk