RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AUTHORIZING THE REIMBURSEMENT OF CITY COMMISSIONER LISSETTE CAREY FOR ATTORNEYS FEES INCURRED IN HER SUCCESSFUL DEFENSE OF A RECALL PETITION AGAINST HER; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Supreme Court enunciated a common law doctrine affording public officials the right "to legal representation at public expense to defend themselves against litigation arising from the performance of their public duties while serving a public purpose," *Thornber v. City of Ft. Walton Beach,* 568 So.2d 914, 916-7 (Fla. 1990); *see, also, Maloy v. B.O.C.C. of Leon County,* 946 So.2d 1260, 1263 (Fla. 1st DCA 2007); and

WHEREAS, the Supreme Court has held that this "entitlement to attorney's fees arises independent of statute, ordinance, or charter." *Thornber,* 568 So.2d at 917; and

WHEREAS, in order for a public official "to be entitled to representation at public expense, the litigation must: (1) arise out of or in connection with the performance of their official duties; and (2) serve a public purpose;" *Thornber,* 568 So.2d at 917; and

WHEREAS, the Supreme Court observed that the "purpose of this common law rule is to avoid the chilling effect that a denial of representation might have on public officials in

performing their duties properly and diligently," *Thornber,Id.*

WHEREAS, on July 23, 2025 recall petitions were filed with the City Clerk, Keri O'Brien, against Commissioner Lissette Carey, seeking to remove her from elected office *See* Exhibit A; and

WHEREAS, Commissioner Carey engaged the services of attorney Juan-Carlos Planas to defend her against the recall petitions in the amount of six thousand one hundred and seventy-five dollars ($6,175.00), for which Commissioner Carey paid two thousand five hundred dollars ($2,500.00) out of her own pocket and a remaining balance of three thousand six hundred and seventy five dollars ($3,675.00) is owed to Mr. Planas; *see* Composite Exhibit B consisting of two invoices from the law firm of Juan-Carlos Planas; and

WHEREAS, on July 30, 2025, Commissioner Carey filed a Complaint for Issuance of Injuction, Declaratory Judgment, and Other Relief and Request for Emergency Consideration and an Emergency Motion for Permanent Injuction and Declaratory Relief, attached and incorporated herein as Exhibit C and D; and

WHEREAS, on August 5, 2025, Defendant, Supervisor of Elections, Sherri Hodies filed her response to Plaintiff's Emergency Motion for Permanent Injunction and Declaratory

Relief, which set forth that the submitted recall petitions were filed untimely; and

WHEREAS, on August 8, 2025, Defendant, Supervisor of Elections, Sherri Hodies filed a Suggestion of Mootness, stating that she had made a determination that the recall petitions were submitted more than thirty (30) days after the date of the first petition as required by F.S. 100.361(2)(f), and that even if the petitions were timely submitted, there was an insufficient number of petitions submitted by that thirtieth day to meet the threshold number of peititions required to proceed to the next step in the process, attached and incorporated as Exhibit E;

WHEREAS, to date, no other recall petitions have been filed;

WHEREAS, Florida law and precedent recognize that when a public official successfully defends against a recall petition arising from the performance of official duties, the governing body may reimburse the official for reasonable attorneys' fees and costs incurred in that defense; and

WHEREAS, the City Commission finds that the defense against the recall petition was essential to uphold the integrity of the office and ensure the continued effective governance of the City of Key West; and

WHEREAS, the City Commission recognizes the importance

of supporting its elected officials in the lawful execution of their duties and responsibilities; and

WHEREAS, the City Commission finds that Commissioner Carey's defense of the recall petition is inherently linked to the performance of her official duties, as it directly pertains to her role and responsibilities in serving the public interest, and her defending against an invalid recall petition served a public purpose by ensuring the stability and continuity of governance, thereby safeguarding the democratic process and upholding the integrity of the office held by Commissioner Carey; and

WHEREAS, it is the intention of the City Commission to direct the City Manager to reimburse Commissioner Lisette Carey and pay Attorney Juan-Carlos Planas for the attorneys' fees incurred in defending Commisisoner Carey against the recall petitions filed by Mr. James Strebeck.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the above-stated recistations are incorporated as factual findings of the City Commission.

Section 2: That the City Manager is authorized and directed to reimburse City Commissioner Lissette Carey the sum of two thousand five hundred dollars ($2,500.00) for the attorneys' fees she incurred in defending against the recall petition.

Section 3: That the City Manager is authorized and directed to issue payment to Attorney Juan-Carlos Planas the sum of three thousand six-hundred and seventy-five dollars ($3,675.00) for the outstanding attorneys' fees owed to him in defending Lissette Carey against the recall petition.

Section 4: That the total sum to be paid for the defense of the recall petition shall be six thousand one hundred and seventy-five dollars ($6,175.00)

Section 5: That the City Manager is hereby authorized to execute any necessary budget transfers and adjustments.

Section 6: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

** REMANDER OF THIS PAGE INTENTIONALLY LEFT BLANK **

Passed and adopted by the City Commission at a meeting held this _____ day of _____, 2025.

Authenticated by the Presiding Officer and Clerk of the Commission on the _____day of _____, 2025.

Filed with the Clerk on _____, 2025.

Mayor Danise Henriquez	_____
Vice Mayor Donald "Donie" Lee	_____
Commissioner Lissette Carey	_____
Commissioner Aaron Castillo	_____
Commissioner Monica Haskell	_____
Commissioner Mary Lou Hoover	_____
Commissioner Sam Kaufman	_____

_____
DANISE HENRIQUEZ, MAYOR

ATTEST:

_____
KERI O'BRIEN, CITY CLERK