



**TOWN OF HIGHLAND BEACH  
ORDINANCE NO 2022-005**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH; AUTHORIZING THE ISSUANCE OF THE TOWN'S NON-AD VALOREM REVENUE NOTE, SERIES 2022, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$5,100,000, TO PROVIDE FOR THE CONSTRUCTION AND EQUIPPING OF A NEW FIRE STATION AND COSTS RELATED THERETO; COVENANTING TO BUDGET AND APPROPRIATE FUNDS, FROM LEGALLY AVAILABLE NON-AD VALOREM REVENUES, TO REPAY SUCH NOTE; AUTHORIZING THE TOWN TO AWARD SAID NOTE TO A LENDER BY RESOLUTION AND TO ENTER INTO A LOAN AGREEMENT WITH SUCH LENDER SETTING FORTH THE TERMS OF SUCH NOTE AND RELATED MATTERS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission of the Town of Highland Beach, Florida (the "Town") has determined to construct and equip a new fire station to serve the Town (the "Project"), and to issue its Non-Ad Valorem Revenue Note, Series 2022 (the "Note") to finance a portion of the cost of the Project; and

**WHEREAS**, the Town desires to authorize the award of the Note to a lender by resolution, and to enter to a loan agreement with such lender, the terms of such loan agreement to be approved by such resolution.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Adoption of Recitals.** The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2.**     **Authority for Ordinance.** This Ordinance is enacted pursuant to the provisions of Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Charter of the Town and other applicable provisions of law (collectively, the "Act"). The Town has ascertained and hereby determined that enactment of this Ordinance is necessary to carry out the powers, purposes and duties expressly provided in the Act, that each and every matter and thing as to which provision is made herein is necessary in order to carry out and effectuate the purposes of the Town in accordance with the Act and to carry out and effectuate the

plan and purpose of the Act, and that the powers of the Town herein exercised are in each case exercised in accordance with the provisions of the Act and in furtherance of the purposes of the Town.

**Section 3. Resolution and Loan Agreement.** The Town hereby authorizes the Note to be awarded by resolution to the lender whose proposal to purchase the Note the Town Commission determines is in the best interest of the Town. Said resolution shall additionally approves the form and content of the loan agreement that will determine the terms and conditions pursuant to which such lender will loan the proceeds of the Note to the Town and the Town will repay the loan of such proceeds.

**Section 4. Authority for Issuance of Note.** Subject and pursuant to the provisions hereof and of the aforementioned resolution and loan agreement, a note to be known as “Town of Highland Beach, Florida, Non-Ad Valorem Revenue Note, Series 2022” (the “Note”) is hereby authorized to be issued in an aggregate principal amount not to exceed Five Million One Hundred Thousand Dollars (\$5,100,000) for the purpose of financing a portion of the Costs of the Project and related costs thereto..

**Section 5. Security for Note; Covenant to Budget and Appropriate.** The Town covenants to budget and appropriate its legally available non-ad valorem revenues in such amounts as may be necessary to repay the Note when due, as shall be more particularly set forth in the loan agreement.

**Section 6. Note Not to Be a General Obligation or Bonded Indebtedness of the Town.** THE NOTE SHALL NOT BE OR CONSTITUTE A GENERAL OBLIGATION OR BONDED INDEBTEDNESS OF THE TOWN WITHIN THE MEANING OF THE CONSTITUTION OF FLORIDA AND THE CHARTER OF THE TOWN, BUT SHALL BE PAYABLE FROM AND SECURED SOLELY BY THE COVENANT OF THE TOWN TO BUDGET AND APPROPRIATE ITS LEGALLY AVAILABLE NON-AD VALOREM REVENUES, IN THE MANNER AND TO THE EXTENT IN THE RESOLUTION, THE LOAN AGREEMENT AND IN THE NOTE PROVIDED. NO HOLDER SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE TOWN OR TAXATION IN ANY FORM ON ANY REAL OR PERSONAL PROPERTY TO

PAY THE NOTE OR THE INTEREST THEREON. THE HOLDERS SHALL HAVE NO LIEN UPON ANY REAL OR TANGIBLE PERSONAL PROPERTY OF THE TOWN, INCLUDING BUT NOT LIMITED TO THE PROJECT.

**Section 7. Reimbursement.** The Town hereby declares its official intention to finance a portion of the costs of the Project through the issuance of the Note in an amount, at a minimum, that is necessary to finance the costs of the Project. If the Town determines to pay for the Project prior to the issuance of the Note, the Town reasonably expects to do so from general funds of the Town, and to then be reimbursed from the proceeds of the Note. This Ordinance is intended as a declaration of official intent under Treasury Regulation Section 1.150-2.

**Section 8. Modification, Amendment or Supplement.** This Ordinance may be modified, amended or supplemented by the Town from time to time prior to the issuance of the Note. Thereafter, no modification, amendment or supplement of this Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the holders of the Note.

**Section 9. General Authority.** The Governing Body hereby authorizes the Mayor, Town Finance Director and Town Clerk, with the advice of the Town Attorney, to execute such other documents as may be necessary to effect the borrowing contemplated by this Ordinance.

**Section 10. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 11. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 12. Effective Date.** This Ordinance shall be effective immediately upon adoption at second reading.

Ordinance No. 2022-005

The foregoing Ordinance was moved by Commissioner David, seconded by Vice Mayor Moore and upon being put to the vote, the vote was as follows:

<b>VOTES:</b>	<b>YES</b>	<b>NO</b>
Mayor Douglas Hillman	X	
Vice Mayor Natasha Moore	X	
Commissioner Peggy Gossett-Seidman	X	
Commissioner Evalyn David	X	
Commissioner John Shoemaker	X	

PASSED on first reading at the Regular Commission meeting held on this 3<sup>rd</sup> day of May, 2022.

The foregoing Ordinance was moved by \_\_\_\_\_, seconded by \_\_\_\_\_ and upon being put to the vote, the vote was as follows:

<b>VOTES:</b>	<b>YES</b>	<b>NO</b>
Mayor Douglas Hillman	_____	_____
Vice Mayor Natasha Moore		
Commissioner Peggy Gossett-Seidman		
Commissioner Evalyn David		
Commissioner John Shoemaker		

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

\_\_\_\_\_  
Douglas Hillman, Mayor

**REVIEWED FOR LEGAL  
SUFFICIENCY**

\_\_\_\_\_  
Lanelda Gaskins, MMC  
Town Clerk

\_\_\_\_\_  
Glen Torcivia, Town Attorney  
Town of Highland Beach

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