

TOWN OF HIGHLAND BEACH
FINANCIAL ADVISORY SERVICES AGREEMENT

THIS FINANCIAL ADVISORY SERVICES AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2022 by and between the **Town of Highland Beach**, a Florida municipal corporation, 3614 South Ocean Blvd, Highland Beach, FL (“Town”) and **FORD & ASSOCIATES, INC., FINANCIAL ADVISORS**, a Florida Profit Corporation organized and existing under the laws of the State of Florida, having its principal business office at 109 South MacDill Avenue, Tampa, FL 33629 (“Municipal Advisor”). The Town and Municipal Advisor shall collectively be referred to as the “Parties”, and each may individually be referred to as a “Party”.

RECITALS

WHEREAS, the Town desires to obtain municipal advisor(s) to provide municipal advisory services for obtaining one or more loans for the construction and/or renovation of the existing Fire Station #6, which is located at 3614 South Ocean Boulevard, Highland Beach, Florida 33487, and all other debt associated with Fire Station #6 construction (hereinafter identified as the “Project”); and

WHEREAS, the Town Manager is authorized pursuant to Section 33-2 of the Town Code to obtain the professional services of a municipal advisor(s) without utilizing a sealed competitive process or obtaining written quotes in order to ascertain the advisory services for the Project; and

WHEREAS, the Municipal Advisor has expressed the capability, willingness and expertise to perform those advisory services necessary regarding obtaining any loans or other debt associated with the Project; and

WHEREAS, the Mayor and Town Commission have approved the Town entering into this agreement with the Municipal Advisor for the purpose of providing municipal advisory services for the Fire Station #6 Construction or Renovation.

NOW THEREFORE, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

SECTION 1 – RECITALS

The recitals are true correct and are hereby incorporated into and made a part of this Agreement.

SECTION 2 – DEFINITIONS

Agreement: This Agreement between the Town and Municipal Advisor, including any exhibits and amendments thereto.

Town Manager: The chief administrative officer of the Town.

Town Manager
Designee: The Town staff member who is designated by the Town Manager to administer this Agreement on behalf of the Town. The Town Manager's designee shall be the _____.

Municipal Advisor: For the purposes of this Agreement, Municipal Advisor shall be deemed to be an independent Municipal Advisor, and not an agent or employee of the Town.

Services: All services, work and actions by the Municipal Advisor performed or undertaken pursuant to the Agreement as identified in Exhibit A.

Fee: Amount paid to the Municipal Advisor as compensation for Services.

Proposal Documents: Intentionally omitted.

SECTION 3 – SCOPE OF SERVICES

In consideration of the Fee to be paid to Municipal Advisor by the Town, Municipal Advisor shall provide the work and services described in Exhibit "A" hereto (the "Services").

Although Municipal Advisor may be provided with a schedule of the available hours to provide its Services, the Town shall not control nor have the right to control the hours of the Services performed by the Municipal Advisor; where the Services are performed; when the Services are performed, including how many days a week the Services are performed; how the Services are performed, or any other aspect of the actual manner and means of accomplishing the Services

provided. Notwithstanding the foregoing, all Services provided by the Municipal Advisor shall be performed in accordance with the terms and conditions set forth in Exhibit "A" and to the reasonable satisfaction of the Town Manager. If there are any questions regarding the Services to be performed, Municipal Advisor should contact the following person:

Finance Department
Town of Highland Beach
3614 South Ocean Boulevard,
Highland Beach, Florida 33487

Attn: _____, Finance Director

SECTION 4 – LIMITATIONS ON THE SCOPE OF SERVICES

The Scope of Services as described in Exhibit "A" hereto is subject to the following limitations:

- 4.1. The Scope of Services is limited solely to the services described herein and is subject to any limitations set forth within the description of the Scope of Services.
- 4.2. Municipal Advisor does not and will not serve in the capacity of an underwriter or broker dealer at any time, or as a placement agent except as permitted by the SEC and/or the MSRB. Municipal Advisor services are limited to those of an advisor and consultant to the Town for matters within the Scope of Services described herein.
- 4.3. Unless otherwise provided in the Scope of Services described herein, Municipal Advisor is not responsible for validating data or financial information provided by the Town, or for preparing any preliminary or final official statement, or for certifying as to the accuracy or completeness of any preliminary or final official statement, other than with respect to any information about Municipal Advisor provided by Municipal Advisor for inclusion in such documents. Municipal Advisor is also not responsible for determining whether any disclosure of the Town makes an untrue statement of material fact or omits to state any material information or to make any determination with respect to the "materiality" of any information or whether a continuing disclosure significant event reflects "financial difficulties" of the Town.
- 4.4. The Scope of Services does not include tax, legal, accounting, or engineering advice with respect to the financing of the Project or in connection with any opinion or certificate rendered by counsel or any other person at closing and does not include review or advice on any feasibility study.

SECTION 5 – DESIGNATION OF INDEPENDENT REGISTERED MUNICIPAL ADVISOR

For the purposes of assisting the Town in securing financing for the Project, the Town has designated Municipal Advisor as an independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the "IRMA exemption") with respect to the activities

and aspects described in the Scope of Services, subject to any limitations with respect to such activities and services as may be described herein. Municipal Advisor is not responsible for verifying to another party wishing to rely on the exemption from the definition of municipal advisor afforded under the IRMA exemption that it is independent (within the meaning of the IRMA exemption as interpreted by the SEC) from such party. The Town agrees not to represent, publicly or to any specific person, that Municipal Advisor is the Town's IRMA with respect to any aspect of municipal financial products or the issuance of municipal securities, that is outside the Scope of Services without Municipal Advisor's prior written consent.

SECTION 6 – MUNICIPAL ADVISOR'S REGULATORY DUTIES WHEN SERVICING THE TOWN

MSRB Rule G-42 requires that Municipal Advisor make a reasonable inquiry as to the facts that are relevant to the Town's determination whether to proceed with a course of action or that form the basis for and advice provided by Municipal Advisor to the Town.

SECTION 7 – RESPONSIBILITIES OF THE TOWN

The Town agrees to cooperate, and to cause its agents to cooperate, with Municipal Advisor in carrying out the regulatory duties identified in Section 6 above, including providing to Municipal Advisor accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, the Town agrees that, to the extent the Town seeks to have Municipal Advisor provide advice with regard to any recommendation made by a third party, the Town will provide to Municipal Advisor written direction to do so as well as any information it has received from such third party relating to its recommendation. In so doing, the Town agrees:

- 7.1. To make available to the Municipal Advisor from its files and records, all data on hand referring to the proposed financing.
- 7.2. To provide the services of the Town's attorney and of bond counsel for the preparation of resolutions or ordinances and all documents required for the authorization, validation, and issuance of an Issue, including final legal opinion and a standard 10(b)5 opinion at the time of delivery of the Issue.
- 7.3. To institute, prosecute and carry to completion the necessary litigation for the validation of the proposed Issues.
- 7.4. To provide the services of disclosure or similar counsel to prepare Official Statements, setting forth the details of the issue, including a full description of the economic and fiscal data of the Town and all other pertinent details which will permit the Town to comply with the Federal requirements for municipal securities disclosure. The Official Statement shall be available for distribution to all prospective purchasers. The Municipal Advisor will provide assistance with the preparation and/or review as noted above.

SECTION 8 – TERM

The term of this Agreement ("Term") shall commence upon execution of this Agreement by all parties hereto, and shall have an initial term of two (2) years, with two (2), one (1) year renewal options, to be exercised at the Town Manager's sole option and discretion, by providing Municipal Advisor with written notice of same no less than thirty (30) days prior to the expiration of the initial term.

Notwithstanding the Term provided herein, Municipal Advisor shall adhere to any specific timelines, schedules, dates, and/or performance milestones for completion and delivery of the Services, as same is/are set forth in the timeline and/or schedule referenced in Exhibit "A" hereto.

SECTION 9 – COMPENSATION

In consideration of the Services to be provided, Municipal Advisor shall be compensated on a fixed fee basis, in accordance with the financial advisory fees, as established in Exhibit "B" and attached hereto.

INVOICING: Invoices, if any, shall be submitted to the following address:

Finance Department
Town of Highland Beach
3614 South Ocean Boulevard,
Highland Beach, Florida 33487

REIMBURSABLES: Travel, mileage, lodging, data/technology, and communications and any other expenses incurred by the Municipal Advisor while performing the Services under this Agreement or any attachments thereto (collectively, "Reimbursable Expenses") will be billed in addition to the agreed upon Fee pursuant to the Agreement. Reimbursable Expenses are subject to prior written approval of the Town Manager or their designee. The Town shall have no obligation to pay for any Reimbursable Expenses, unless any such expenses are approved, in writing, by the Town Manager or their designee, prior to the date of the expense being incurred by the Municipal Advisor. The Town shall reimburse Municipal Advisor for such approved Reimbursable Expenses within forty-five (45) days of its receipt of such invoice.

SECTION 10 – TERMINATION

10.1 TERMINATION FOR CAUSE:

A. If the Municipal Advisor shall fail to fulfill in a timely manner, or otherwise violates, any of the covenants, agreements, or stipulations material to this Agreement, the Town, through its Town Manager, shall thereupon have the right to terminate this

Agreement for cause. Without limitation, the Town may terminate this Agreement for the following material violations of this Agreement:

- (1) Abandonment or discontinuance of Services by Municipal Advisor;
- (2) Municipal Advisor has failed to deliver Services on a timely basis;
- (3) Municipal Advisor has refused or failed to supply the necessary key personnel to provide the Services to the Town;
- (4) Municipal Advisor has failed to make prompt payment when due to sub-consultants or suppliers for any services, provided the payment is due;
- (5) Municipal Advisor has failed to obtain the approval of the Town where required by this Agreement; and
- (6) Municipal Advisor has failed in the representation of any warranties stated herein in any material respect.

Prior to exercising its option to terminate for cause, the Town shall notify the Municipal Advisor of its violation of the particular material term(s) of this Agreement, and shall grant Municipal Advisor thirty (30) days to cure such default. If such default remains uncured after thirty (30) days, the Town may terminate this Agreement upon written notice to Municipal Advisor. Immediately upon receipt of said notice of termination, the Municipal Advisor shall stop performing Services under this Agreement. Upon termination, the Town shall be fully discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement, except those obligations that survive the expiration or earlier termination of this Agreement and the Town's obligation to pay Municipal Advisor in accordance with the terms and conditions of this Agreement, and reimburse Municipal Advisor for any outstanding Reimbursable Expenses.

Notwithstanding the above, the Municipal Advisor shall not be relieved of liability to the Town for damages sustained by the Town by any breach of the Agreement by the Municipal Advisor. The Town, at its sole option and discretion, shall be entitled to bring any and all legal/equitable actions that it deems to be in its best interest in order to enforce the Town's rights and remedies against Municipal Advisor. Each party shall be responsible for its own costs, including attorney's fees, in connection with any such legal/ equitable action.

10.2 TERMINATION FOR CONVENIENCE OF THE TOWN:

THE TOWN MAY ALSO, THROUGH ITS TOWN MANAGER, AND FOR ITS CONVENIENCE AND WITHOUT CAUSE, TERMINATE THE AGREEMENT AT ANY TIME DURING THE TERM BY GIVING WRITTEN NOTICE TO MUNICIPAL ADVISOR OF SUCH TERMINATION; WHICH SHALL BECOME EFFECTIVE WITHIN THIRTY (30) DAYS FOLLOWING RECEIPT BY THE MUNICIPAL ADVISOR OF SUCH NOTICE. ADDITIONALLY, IN THE EVENT OF A PUBLIC HEALTH, WELFARE OR SAFETY CONCERN, AS DETERMINED BY THE TOWN MANAGER, IN THE TOWN MANAGER'S

SOLE DISCRETION, THE TOWN MANAGER, PURSUANT TO A VERBAL OR WRITTEN NOTIFICATION TO MUNICIPAL ADVISOR, MAY IMMEDIATELY SUSPEND THE SERVICES UNDER THIS AGREEMENT FOR A TIME CERTAIN, OR IN THE ALTERNATIVE, TERMINATE THIS AGREEMENT ON A GIVEN DATE. IF THE AGREEMENT IS TERMINATED FOR CONVENIENCE BY THE TOWN, MUNICIPAL ADVISOR SHALL BE PAID FOR ANY SERVICES SATISFACTORILY PERFORMED UP TO THE DATE OF TERMINATION; FOLLOWING WHICH THE TOWN SHALL BE DISCHARGED FROM ANY AND ALL LIABILITIES, DUTIES, AND TERMS ARISING OUT OF, OR BY VIRTUE OF, THIS AGREEMENT.

10.3 TERMINATION FOR INSOVENCY:

The Town also reserves the right to terminate the Agreement in the event the Municipal Advisor is placed either in voluntary or involuntary bankruptcy or makes an assignment for the benefit of creditors. In such event, the right and obligations for the parties shall be the same as provided for in Section 6.2.

SECTION 11 – INDEMNIFICATION AND INSURANCE REQUIREMENTS

11.1 INDEMNIFICATION:

Municipal Advisor agrees to indemnify, defend and hold harmless the Town of Highland Beach and its officers, employees, agents, and Consultants, from and against any and all actions (whether at law or in equity), claims, liabilities, losses, and expenses, including, but not limited to, reasonable, attorneys' fees and costs(collectively "Losses"), for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Municipal Advisor, its officers, employees, agents, Municipal Advisors, or any other person or entity acting under Municipal Advisor' s control or supervision, in connection with, related to or as a result of the Municipal Advisor' s performance of the Services pursuant to this Agreement. To that extent, the Municipal Advisor shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and reasonable attorneys' fees expended by the Town in the defense of such claims and losses, including appeals. The Municipal Advisor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Municipal Advisor shall in no way limit the Municipal Advisor' s responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents and instrumentalities as herein provided.

The parties agree that one percent (1%) of the total compensation to Municipal Advisor for performance of the Services under this Agreement is the specific consideration from the Town to the Municipal Advisor for the Municipal Advisor's indemnity agreement. The provisions of this Section 10.1 and of this indemnification shall survive termination or expiration of this Agreement.

11.2 INSURANCE REQUIREMENTS:

The Municipal Advisor shall maintain and carry in full force during the Term, the following insurance:

- A. Workers' Compensation and Employer's Liability per the Statutory limits of the state of Florida.
- B. Comprehensive General Liability (occurrence form), limits of liability \$1,000,000.00 per occurrence for bodily injury property damage to include Premises/Operations; Products, Completed Operations and Contractual Liability. Contractual Liability and Contractual Indemnity (Hold harmless endorsement exactly as written in " insurance requirements" of specifications).
- C. Automobile Liability- \$1,000,000 each occurrence - owned/non- owned/hired automobiles included.
- D. The Town must be named as and additional insured on the liability policies; and it must be stated on the certificate.
- E. Professional Liability Insurance in an amount not less than \$500,000.

The insurance must be furnished by insurance companies authorized to do business in the State of Florida. All insurance policies must be issued by companies rated no less than "B+" as to management and not less than "Class VI" as to strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent.

All of Municipal Advisor's certificates shall contain endorsements providing that written notice shall be given to the Town at least thirty (30) days prior to termination, cancellation or reduction in coverage in the policy. The Town of Highland Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) and shall contain a waiver of subrogation endorsement.

Original certificates of insurance must be submitted to the Town's Risk Manager for approval (prior to any work and/ or services commencing) and will be kept on file in the Office of the Risk Manager. The Town shall have the right to obtain from the Municipal Advisor specimen copies of the insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage.

The Municipal Advisor is also solely responsible for obtaining and submitting all insurance certificates for any sub- consultants.

Compliance with the foregoing requirements shall not relieve the Municipal Advisor of the liabilities and obligations under this Section or under any other portion of this Agreement.

The Municipal Advisor shall not commence any work and or services pursuant to this Agreement until all insurance required under this Section has been obtained and such insurance has been approved by the Town's Risk Manager.

SECTION 12 – LITIGATION, JURISDICTION/VENUE/JURY TRIAL, WAIVER

This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Palm Beach County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Palm Beach County, Florida. By entering into this Agreement, Municipal Advisor and the Town expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement.

SECTION 13 – LIMITATION OF EACH PARTY'S LIABILITY

The Town desires to enter into this Agreement only if in so doing the Town can place a limit on the Town's liability for any cause of action, for money damages due to an alleged breach by the Town of this Agreement, so that its liability for any such breach never exceeds the sum of the compensation/fee to be paid to the Municipal Advisor pursuant to this Agreement, less any amounts actually paid by the Town as of the date of the alleged breach. Municipal Advisor hereby expresses its willingness to enter into this Agreement with Municipal Advisor's recovery from the Town for any damage action for breach of contract to be limited to a maximum amount of the compensation/fee to be paid to the Municipal Advisor pursuant to this Agreement, less any amounts actually paid by the Town as of the date of the alleged breach.

The Municipal Advisor desires to enter into this Agreement only if in doing so the Municipal Advisor can place a limit on its liability for any claim or action arising in connection with this Agreement, excluding any insurance proceeds under the policies and insurance coverage pursuant to Section 10.2 and only if in the absence of willful misconduct, bad faith, negligence or reckless disregard of obligations or duties hereunder on the part of Municipal Advisor or any of its associated persons, Municipal Advisor and its associated persons shall have no liability to the Town for loss arising out of any issuance of municipal securities, bank loans, any municipal financial product or any other investment, or for any financial or other damages to the extent resulting from the Town's election to act or not to act, as the case may be, contrary to any advice or recommendation provided by Municipal Advisor to the Town.

The Municipal Advisor hereby expresses its willingness to enter this Agreement with the Town's recovery from Municipal Advisor, for any claim or damages from any action to be limited to a maximum of the compensation/fee to be paid or payable to the Municipal Advisor pursuant to the Agreement, excluding any insurance policy limits in the amounts as provided in Section 10.2.

Accordingly, and notwithstanding any other term or condition of this Agreement, the Town and Municipal Advisor each hereby agrees that it shall not be liable to the other for damages except as provided herein.

Nothing contained in this section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the Town's liability, as set forth in Section 768.28, Florida Statutes.

SECTION 14 – DUTY OF CARE/COMPLIANCE WITH APPLICABLE

LAWS/PATENT RIGHTS; COPYRIGHT; AND CONFIDENTIAL FINDINGS

14.1 DUTY OF CARE:

With respect to the performance of the work and/or service contemplated herein, Municipal Advisor shall exercise that degree of skill, care, efficiency and diligence normally exercised by reasonable persons and or recognized' professionals with respect to the performance of comparable work and/or services.

14.2 COMPLIANCE WITH APPLICABLE LAWS:

In its performance of the work and/or services, Municipal Advisor shall comply with all applicable laws, ordinances, and regulations of the Town, Palm Beach County, the State of Florida, and the federal government, as applicable.

14.3 PATENT RIGHTS; COPYRIGHT; CONFIDENTIAL FINDINGS:

Any work product, as defined below, arising out of this Agreement, as well as all information specifications, processes, data and findings that are not within the public domain, are intended to be the property of the Town and shall not otherwise be made public and/or disseminated by Municipal Advisor, without the prior written consent of the Town Manager, excepting any information, records etc. which are required to be disclosed by Federal securities examiners, including, but not limited to the U.S. Securities and Exchange Commission, or which are to be disclosed pursuant to Court Order and/or Florida Public Records Law.

All reports, documents, articles, devices, and/or work produced in whole or in part under this Agreement are intended to be the sole and exclusive property of the Town and shall not be subject to any application for copyright or patent by or on behalf of the Municipal Advisor or its employees or sub-consultants, without the prior written consent of the Town Manager.

The term "work product" shall mean all those custom- developed reports, documents, articles, devices, and/ or work produced in whole or in part under this Agreement by Municipal Advisor specifically for the Town pursuant to Exhibit "A". For avoidance of doubt, work product does not include Municipal Advisor's administrative communications, records, files, methodologies, processes and working papers relating to the Services which remain the sole and exclusive property of Municipal Advisor. Subject to the terms and conditions here, all work product is intended to be the sole and exclusive property of the Town and shall not be subject to any application for copyright or patent by or on behalf of the Consultant or its employees or sub-consultants, without the prior written consent of the Town Manager. Notwithstanding any other provisions set forth herein, Municipal Advisor reserves all rights in and to all proprietary works of authorship created, developed or purchased by Municipal Advisor or any, third party under contract to Municipal Advisor that have not been created specifically for the Town and/or have general applicability to Municipal Advisor' s business, whether they were created prior to or during the term of this Agreement, including without limitation, methodologies, templates and documentation, as well as

copyrights, trademarks, service marks, ideas, concepts, know-how, techniques, knowledge or data, and any derivatives thereof collectively, "Municipal Advisor Information").

To the extent that Municipal Advisor incorporates any Municipal Advisor Information into the work product, upon final payment for the Services and work product under this Agreement, Municipal Advisor hereby grants to the Town a nonexclusive, nontransferable. license to use such Municipal Advisor Information solely for internal purposes and solely in connection with the Town's use of the work product in the normal course of business.

SECTION 15 – GENERAL PROVISIONS

15.1 AUDIT AND INSPECTIONS:

Upon reasonable verbal or written notice to Municipal Advisor, and at any time during normal business hours (i. e. 9AM— 5PM, Monday through Fridays, excluding nationally recognized holidays), and as often as the Town Manager may, in his/her reasonable discretion and judgment, deem necessary, there shall be made available to the Town Manager, and/or such representatives as the Town Manager may deem to act on the Town's behalf, to audit, examine, and/or inspect, any and all other documents and/or records relating to all matters covered by this Agreement. Municipal Advisor shall maintain any and all such records at its place of business at the address set forth in the "Notices" section of this Agreement.

15.2 ASSIGNMENT, TRANSFER OR SUBCONSULTING:

Municipal Advisor shall not subcontract, assign, or transfer all or any portion of any work and/or service under this Agreement without the prior written consent of the Town Manager, which consent, if given at all, shall be in the Manager's sole judgment and discretion. Neither this Agreement, nor any term or provision hereof, or right hereunder, shall be assignable unless as approved pursuant to this Section, and any attempt to make such assignment (unless approved) shall be void.

15.3 PUBLIC ENTITY CRIMES:

Prior to commencement of the Services, the Municipal Advisor shall file a State of Florida Form PUR 7068, Sworn Statement under Section 287.133(3)(a) Florida Statute on Public Entity Crimes with the Town's Procurement Division.

15.4 NO DISCRIMINATION:

In connection with the performance of the Services, the Municipal Advisor shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income, or family status.

15.5 CONFLICT OF INTEREST:

Municipal Advisor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of the

Services. Municipal Advisor further covenants that in the performance of this Agreement, Municipal Advisor shall not employ any person having any such interest.

15.6 MUNICIPAL ADVISOR' S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW:

(A) Municipal Advisor shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.

(B) The term " public records" shall have the meaning set forth in Section 119.011 (12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the Town.

(C) Pursuant to Section 119. 0701 of the Florida Statutes, if the Municipal Advisor meets the definition of "Municipal Advisor" as defined in Section 119.0701(1)(a), the Municipal Advisor shall:

(1) Keep and maintain public records required by the Town to perform the service;

(2) Upon request from the Town' s custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Agreement if the Municipal Advisor does not transfer the records to the Town;

(4) Upon completion of the Agreement, transfer, at no cost to the Town, all public records in possession of the Municipal Advisor or keep and maintain public records required by the Town to perform the service. If the Municipal Advisor transfers all public records to the Town upon completion of the Agreement, the Municipal Advisor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Municipal Advisor keeps and maintains public records upon completion of the Agreement, the Municipal Advisor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(D) REQUEST FOR RECORDS; NONCOMPLIANCE.

(1) A request to inspect or copy public records relating to the Town' s contract for services must be made directly to the Town. If the Town does not possess the requested records, the Town shall immediately notify the Municipal Advisor of the request, and the Municipal

Advisor must provide the records to the Town or allow the records to be inspected or copied within a reasonable time.

(2) Municipal Advisor' s failure to comply with the Town' s request for records shall constitute a breach of this Agreement, and the Town; at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/ or (3) avail itself of any available remedies at law or in equity.

(3) A Municipal Advisor who fails to provide the' public records to the Town within a reasonable time may be subject to penalties under s. 119.10.

(E) CIVIL ACTION.

(1) If a civil action is filed against a Municipal Advisor to compel production of public records relating to the Town's contract for services, the court shall assess and award against the Municipal Advisor the reasonable costs of enforcement, including reasonable attorneys' fees, if: a. The court determines that the Municipal Advisor unlawfully refused to comply with the public records request within a reasonable time; and b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Municipal Advisor has not complied with the request, to the Town and to the Municipal Advisor.

(2) A notice complies with subparagraph (1)(b) if it is sent to the Town's custodian of public records and to the Municipal Advisor at the Municipal Advisor' s address listed on its contract with the Town or to the Municipal Advisor' s registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(3) A Municipal Advisor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

(F) IF THE MUNICIPAL ADVISOR HAS QUESTIONS REGARDING THE APPLICATION (OF CHAPTER 119, FLORIDA STATUTES, TO THE MUNICIPAL ADVISOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

TOWN OF HIGHLAND BEACH:

LANELDA GASKINS, TOWN CLERK

3614 SOUTH OCEAN BOULEVARD

HIGHLAND BEACH, FLORIDA 33487

E- MAIL: lgaskins@highlandbeach.us

PHONE: 561-278-4548

SECTION 16 – NOTICES

All notices and communications in writing required or permitted hereunder, shall be delivered personally to the representatives of the Municipal Advisor and the Town listed below or may be mailed by U. S. Certified Mail, return receipt requested, postage prepaid, or by a nationally recognized overnight delivery service.

Until changed by notice, in writing, all such notices and communications shall be addressed as follows:

TO MUNICIPAL ADVISOR: Ford & Associates, Inc.
109 South Mac Dill Avenue
Tampa, Florida 33609

TO TOWN: Town Manager' s Office
Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, Florida 33487

Notice may also be provided to any other address designated by the party to receive notice if such alternate address is provided via U. S. certified mail, return receipt requested, hand delivered, or by overnight delivery. In the event an alternate notice address is properly provided, notice shall be sent to such alternate address in addition to any other address which notice would otherwise be sent, unless other delivery instruction as specifically provided for by the party entitled to notice.

Notice shall be deemed given on the date of an acknowledged receipt, or, in all other cases, on the date of receipt or refusal.

SECTION 17 – MISCELLANEOUS PROVISIONS

17.1 CHANGES AND ADDITIONS:

This Agreement cannot be modified or amended without the express written consent of the parties. No modification, amendment; or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

17.2 SEVERABILITY:

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

17.3 WAIVER OF BREACH:

A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A party's waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17.4 JOINT PREPARATION:

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

17.5 ENTIRETY OF AGREEMENT:

The Town and Municipal Advisor agree that this is the entire Agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

TOWN OF HIGHLAND BEACH, FLORIDA

By: _____
Douglas Hillman, Mayor

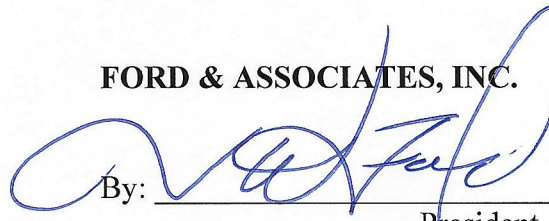
ATTEST:

Approved as to form and legal sufficiency:

Lanelda Gaskins, MMC, Town Clerk

Glen J. Torcivia, Town Attorney

FORD & ASSOCIATES, INC.

By: 
_____, President

[Corporate Seal]

STATE OF FLORIDA)

COUNTY OF HILLSBOROUGH)

The foregoing instrument was acknowledged before me this 10th day of MARCH, 2022 by JERRY W. FORD, as President of Ford & Associates, Inc., and who is personally known to me or who has produced the following _____ as identification.



Notary Public



Print Name: HERMINIA C. HOHMANN

My commission expires: 6/26/2025

EXHIBIT A – SCOPE OF SERVICES

The Scope of Services applies solely to the provision of those services to be provided by the Municipal Advisor in connection with one or more bank financings for the construction and/or renovation of Fire Station #6, which is located at 3614 South Ocean Boulevard, Highland Beach, Florida 33487 (each a “Financing”).

1. Services Included in the Flat Fee

- 1.1. Evaluate options or alternatives with respect to a Financing, as requested by the Town.
- 1.2. Review recommendations made to the Town by other parties with respect to a Financing, as requested by the Town.
- 1.3. Assist the Town in establishing the structure, timing, terms and other similar matters related to a Financing and prepare related financing schedules.
- 1.4. Consult and meet with representatives of the Town and its agents or consultants with respect to a Financing and attend meetings of the Town’s governing body, as requested.
- 1.5. Assist with the preparation, distribution, and evaluation of Requests for Proposals (the “RFP”) for a Financing, including assisting in the preparation and/or review, based on information provided by the Town and/or third parties of financial, statistical, and debt related information to be included in such RFP.
- 1.6. Assist the Town in responding to questions from potential respondents to the RFP.
- 1.7. As necessary, arrange and facilitate meetings with, prepare materials for, and make recommendations to the Town in connection with potential bank respondents to the RFP.
- 1.8. Work with bond counsel and other transaction participants to prepare and/or review necessary financial terms and conditions of authorizing documentation of the Town and other documents necessary to finalize and close the Issue.
- 1.9. Coordinate the closing and delivery of a Financing and transfer of funds.
- 1.10. Prepare a closing memorandum or transaction summary related to a Financing.
- 1.11. Provide such other usual and customary municipal advisory services specifically related to a Financing as may be requested by the Town.
- 1.12. Serve as an Independent Registered Municipal Advisor (“IRMA”) to the Town for issues related to a Financing.

2. Services Not Included in the Flat Fee

Advise the Town on and assist with the investment of proceeds of a Financing, including but not limited to advice on or brokerage of municipal investment products, including, but not limited to, guaranteed investment contracts, repurchase agreements, forward delivery/purchase agreements

for the investment of proceeds of the Financing, or the recommendation and brokerage of municipal escrow investments, and/or serving as bidding agent in connection with a Financing.

3. Additional Services

Should the Town desire services of the Municipal Advisor not related to a Financing and/or not specifically identified in the services outlined above, an amendment to this agreement outlining such services and the related compensation for the same mutually agreeable to the Town and to the Municipal Advisor will be required in advance of the provision of any such services.

EXHIBIT B – COMPENSATION

For performance of services identified in Exhibit A related to a Financing that are provided during the 120-day period preceding the closing date of such Financing, a flat fee of \$25,000 (the “Flat Fee”) plus reasonable out-of-pocket expenses as approved by the Town.

2. Hourly Fees

For performance of services identified in Exhibit A related to a Financing that are provided outside of the 120-day period preceding the closing date of such Financing, the Municipal Advisor shall be compensated at the hourly rates shown below:

- | | | |
|------|---------------------------|------------|
| i. | Senior Professional Staff | \$225/hour |
| ii. | Analyst Staff | \$150/hour |
| iii. | Administrative Staff | \$150/hour |

The Municipal Advisor shall provide the Town with an accounting of any such hours billed.

3. Investment of Financing Proceeds

Fees for assisting with the investment of Financing proceeds as outlined in Exhibit A item 2.1 of this agreement shall be as agreed upon in writing prior to the provision of such services. Such fees shall be limited to those necessary to comply with the Safe Harbor provisions within the “Special rule for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow” under IRC 1.148-5 as a “qualified administrative cost”, or such lesser fee as agreed to by the Town and the Municipal Advisor.

4. Payment of Fees and Expenses

Payment of fees and expenses are due and payable by check or by Federal Funds wire upon the closing of the Financing.