



# Town of Highland Beach Notice of Public Meeting Protocol

The Town of Highland Beach is committed to serving the needs of the public while also working to ensure the safety and health of the town's staff, the community, and visitors alike.

The following information is guidance for preregistration for Zoom or telephone participation, and for viewing and providing public comments at the meeting:

## ZOOM PARTICIPATION:

**Online or Telephone Access** – Access to the meeting will begin on the date and time of the meeting.

- To Join Meeting: All interested persons **must preregister** to participate by contacting Town Clerk Lanelda Gaskins at [publiccomments@highlandbeach.us](mailto:publiccomments@highlandbeach.us) or by calling (561) 278-4548 no later than one (1) business day prior to the meeting date (**e.g. by 4:30 P.M. on a Monday if the meeting is scheduled for that Tuesday; and by 4:30 P.M.**).
- Meeting access information and instructions will be provided to those persons two hours prior to the meeting.
- The video camera display feature will only be enabled for Public Hearing Quasi-Judicial matters and during public comments only. The video camera display feature will be disabled for public use.

For additional information on using Zoom, please visit Zoom Support by click on the following link: <https://support.zoom.us/hc/en-us>.

**Viewing Only** - To view the meeting, preregistration is not required. The public can view the meeting on the following:

- Highland Beach TV Channel 99 online streaming on the Town's website and via Highland Beach YouTube at <https://www.youtube.com/channel/UCTAGr8WCa44Y3Q2Bb6UN2mw>.

## PROVIDING PUBLIC COMMENT:

Persons desiring to provide public comments must do so by one of the methods listed below. Public comments will be limited to five minutes (three minutes for special Commission meeting items only) per person during the designated section of the agenda. If an interested person desires to provide written public comment, all comments must be directed to Lanelda Gaskins, Town Clerk as follows:

## TO SEND COMMENTS IN ADVANCE VIA EMAIL:

- To submit public comments, click on the link <https://mmportal6.teamunicode.com//> to go to the Agendas and Meeting webpage. At the top of the page click on "Public Comments" to submit your comments, or
- Submit your comments to [publiccomments@highlandbeach.us](mailto:publiccomments@highlandbeach.us).
- The Town will receive such public comments no later than two (2) hours prior to the meeting. If timely received, Town staff will read the public comment at the meeting.

- Live Zoom Video Participation - If attending via Zoom online, please follow Zoom instructions above. Once the meeting gets to the applicable public comment period, the host of the meeting will allow public participants (audio only) into the meeting from the waiting room, to provide live public comment.
- Live Zoom Telephone Participation - If attending via Zoom by telephone, please follow the instructions above. Once the meeting gets to the appropriate public comment period, the host of the meeting will allow public participants into the meeting from the waiting room, to provide live public comment.

Should you have any questions, please feel free to contact the Town Clerk's Office at (561) 278-4548.



# TOWN OF HIGHLAND BEACH TOWN COMMISSION MEETING AGENDA

Tuesday, June 07, 2022 AT 1:30 PM

## TOWN HALL COMMISSION CHAMBERS

3614 S. OCEAN BOULEVARD  
HIGHLAND BEACH, FL 33487

### Town Commission

Douglas Hillman	Mayor
Natasha Moore	Vice Mayor
Peggy Gossett-Seidman	Commissioner
Evalyn David	Commissioner
John Shoemaker	Commissioner
Marshall Labadie	Town Manager
Lanelda Gaskins	Town Clerk
Glen J. Torcivia	Town Attorney

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1. **CALL TO ORDER**
  2. **ROLL CALL**
  3. **PLEDGE OF ALLEGIANCE**
  4. **APPROVAL OF THE AGENDA**
  5. **PRESENTATIONS / PROCLAMATIONS**

A. None.

6. **PUBLIC COMMENTS**

Public Comments will be limited to five (5) minutes per speaker.

7. **ANNOUNCEMENTS**

Board Vacancies

Board of Adjustment and Appeals - One vacancy for a three-year term

Natural Resources Preservation Advisory Board - One vacancy for an unexpired term ending April 30, 2024

### Meetings and Events

June 14, 2022 - 1:00 P.M. Code Enforcement Regular Board Meeting

June 21, 2022 - 12:00 P.M. Town Commission Special Meeting

June 21, 2022 - 1:30 P.M. Town Commission Meeting

### Board Action Report

A. None

## 8. **ORDINANCES**

### A. Proposed Ordinance

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending the Town's Comprehensive Plan by adding a new property rights element; providing for severability; providing for conflicts; and providing an effective date.

## 9. **CONSENT AGENDA**

A. None.

## 10. **UNFINISHED BUSINESS**

A. Fire Rescue Implementation Update

B. Continued discussion on Town Entry Signage Design Concepts

## 11. **NEW BUSINESS**

### A. Resolution No. 2022-013

A Resolution of the Town Commission of the Town of Highland Beach, Florida; authorizing the Town to borrow funds from Synovus Bank in the principal amount not to exceed \$5,050,000 to pay a portion of the cost of constructing and equipping a new fire station; awarding the Note to Synovus Bank by negotiated sale; approving a Loan Agreement between the Town and Synovus Bank; designating the Note as a "Bank Qualified Obligation" under Section 265(b) of the Internal Revenue Code of 1986, as amended; providing for repeal of conflicting resolutions; and providing for severability, conflicts and an effective date.

B. Approval of the Commission Meeting Minutes

April 19, 2022 Commission Meeting Minutes

May 03, 2022 Commission Meeting Minutes

May 17, 2022 Commission Meeting Minutes

**12. TOWN COMMISSION COMMENTS**

Commissioner John Shoemaker

Commissioner Evalyn David

Commissioner Peggy Gossett-Seidman

Vice Mayor Natasha Moore

Mayor Douglas Hillman

**13. TOWN ATTORNEY'S REPORT**

**14. TOWN MANAGER'S REPORT**

**15. ADJOURNMENT**

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NOTE: Any person, firm or corporation decides to appeal any decision made by the Town Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record including testimony and evidence upon which the appeal is to be based. (State Law requires the above Notice. Any person desiring a verbatim transcript shall have the responsibility, at his/her own cost, to arrange for the transcript.) The Town neither provides nor prepares such record.

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall 561-278-4548 within a reasonable time prior to this meeting in order to request such assistance

**File Attachments for Item:**

A. Proposed Ordinance

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending the Town's Comprehensive Plan by adding a new property rights element; providing for severability; providing for conflicts; and providing an effective date.



# TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

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**MEETING TYPE:** Town Commission Meeting

**MEETING DATE** June 7, 2022

**SUBMITTED BY:** Ingrid Allen, Town Planner, Building Department

**SUBJECT:** AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING THE TOWN'S COMPREHENSIVE PLAN BY ADDING A NEW PROPERTY RIGHTS ELEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

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## **SUMMARY:**

House Bill 59 which became effective on July 1, 2021 updated Section 163.3177(6), Florida Statutes (F.S.) by requiring each local government to adopt a Property Rights Element into its Comprehensive Plan. Pursuant to Section 163.3177(6)(i), F.S., this new element must be adopted "by the earlier of the date of its adoption" of its next proposed Comprehensive Plan amendment that is initiated after July 1, 2021 or the date of the next scheduled evaluation and appraisal of the Comprehensive Plan (*Note that the next scheduled evaluation and appraisal of the Town Comprehensive Plan is January 1, 2025*).

On January 18, 2022, the Town Commission adopted a small-scale amendment to the Comprehensive Plan in order to correct a scrivener's error pertaining to the Future Land Use designation of a 0.8315 acre parcel located in the Boca Cove development. The latter parcel was not designated with the Multi Family Low Density Future Land Use classification which corresponds to all other parcels within the Boca Cove development. Upon transmitting a copy of the adopted small-scale amendment to the State Land Planning Agency (Department of Economic Opportunity), staff received an acknowledgement letter from Department indicating that their records did not reflect that the Town adopted a Property Rights Element and therefore the Town should consult with legal staff to determine if the adopted amendment should be rescinded and readopted after the Property Rights Element is adopted. Staff advised the Department that given the small-scale amendment was to correct a scrivener's error, the consideration of a Property Rights Element was not triggered as a result of this amendment. The Department restated their position, as noted above, and the Town Attorney has indicated that the small-scale amendment to correct a scrivener's error can be re-adopted after the Town adoption of the Property Rights Element.

The following proposed goals, objectives, and policies of the Property Rights Element are based on the model element authored by the 1000 Friends of Florida (dated July 20, 2021) as well as the requirements of Section 163.3177(6)(i)1, F.S.:

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*Goal 1*

*The Town will make planning and development decisions with respect for property rights and with respect for people’s rights to participate in decisions that affect their lives and property.*

*Objective 1.1 The Town will respect judicially acknowledged and constitutionally protected private property rights.*

*Policy 1.1.1. The Town will consider the following rights in its decision making.*

- 1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.*
- 2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.*
- 3. The right of property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.*
- 4. The right of a property owner to dispose of his or her property through sale or gift.*

Pursuant to Section 163.3184(3) Florida Statutes, this proposed amendment to the Comprehensive Plan requires both a transmittal and adoption public hearing under the Expedited State Review Process. Should the Town Commission agree to transmit the item, the State Land Planning Agency along with other State agencies shall have 30 days to provide comments. A second and final hearing (adoption hearing) is anticipated in August 2022.

**PLANNING BOARD ACTION:**

At the May 12, 2022 Planning Board meeting, the Board recommended approval of the Comprehensive Plan amendment to add a new Property Rights element (motion carried 7-0).

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**FISCAL IMPACT:**

NA

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**ATTACHMENTS:**

Ordinance

Department of Economic Opportunity acknowledgement letter

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**RECOMMENDATION:**

Approve transmittal of Comprehensive Plan amendment to the State Land Planning Agency.



**ORDINANCE NO.**

**AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING THE TOWN’S COMPREHENSIVE PLAN BY ADDING A NEW PROPERTY RIGHTS ELEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, House Bill 59, effective July 1, 2021, updated Section 163.3177(6)(i)1, Florida Statutes, to require each local government to include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decision-making; and

**WHEREAS**, the Town Commission of the Town of Highland Beach desires to amend its Comprehensive Plan in order to add such property rights element consistent with Section 163.3177(6)(i)1, Florida Statutes; and

**WHEREAS**, on May 12, 2022 the Planning Board, sitting as the Local Planning Agency, conducted a public hearing to review the proposed amendment to the Town’s Comprehensive Plan and providing a recommendation to the Town Commission; and

**WHEREAS**, having conducted all of the duly advertised public hearings required by Chapter 163, Florida Statutes, the Town Commission wishes to amend its Comprehensive Plan and determines that the adoption of this Ordinance is in the interests of the health, safety and welfare of the residents of the Town of Highland Beach.

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

**SECTION 1.** The Comprehensive Plan is hereby amended to create a “Property Rights Element,” which shall read as follows:

Goal 1

The Town will make planning and development decisions with respect for property rights and with respect for people’s rights to participate in decisions that affect their lives and property.

Objective 1.1 The Town will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1.1. The Town will consider the following rights in its decision making.

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

**SECTION 2.** The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated.

**SECTION 3.** In accordance with Section 163.3184(3), Florida Statutes, Town staff is hereby directed to transmit the Comprehensive Plan amendment documents to the Department of Economic Opportunity and other agencies within ten (10) working days after the initial public hearing.

**SECTION 4.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5.** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 6.** This Ordinance shall become effective thirty-one (31) days after the Department of Economic Opportunity notifies the Town that the Comprehensive Plan amendment package is complete or, if timely challenged, this Ordinance shall become effective upon entry of a final order by the Department of Economic Opportunity or the Administration Commission determining the adopted amendment to be in compliance.

The forgoing Ordinance, on first reading, was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Douglas Hillman	_____
Vice Mayor Natasha Moore	_____
Commissioner Peggy Gossett-Seidman	_____
Commissioner Evalyn David	_____
Commissioner John Shoemaker	_____

\_\_\_\_\_ on first reading at the Regular Commission meeting held on the \_\_\_ day of \_\_\_\_\_, 2022.

The forgoing Ordinance, on second reading, was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Douglas Hillman \_\_\_\_\_  
Vice Mayor Natasha Moore \_\_\_\_\_  
Commissioner Peggy Gossett-Seidman \_\_\_\_\_  
Commissioner Evalyn David \_\_\_\_\_  
Commissioner John Shoemaker \_\_\_\_\_

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

ATTEST:

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

**REVIEWED FOR LEGAL SUFFICIENCY**

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

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

## Property Rights Element

### Goal 1

The Town will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

### Objective 1.1

The Town will respect judicially acknowledged and constitutionally protected private property rights.

### Policy 1.1.1.

The Town will consider the following rights in its decision making.

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

**Ron DeSantis**  
GOVERNOR



**Dane Eagle**  
SECRETARY

January 24, 2022

Ms. Ingrid Allen  
Town Planner  
Town of Highland Beach  
3614 South Ocean Boulevard  
Highland Beach, Florida 33487

Dear Ms. Allen:

Thank you for submitting copies of the Town of Highland Beach's Small Scale Development Plan Amendment, adopted by Ordinance No. 2022-001 on January 18, 2022, for our records. The reference number for this amendment package is DEO# 22S01.

The State Land Planning Agency **will not** conduct a compliance review or issue a Notice of Intent regarding the adopted small scale development plan amendment in accordance with procedures contained in Section 163.3187(1), Florida Statutes.

Please be aware that Chapter No. 2021-195 Laws of Florida adds Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021, each local government is now required to adopt a property rights element into its comprehensive plan. The Department's records do not reflect that the property rights element has been adopted and therefore you may wish to consult with your legal department to determine if the adopted small scale amendment should be rescinded and readopted after the property rights element is adopted.

If you have any questions, please contact me for the DRI and Plan Processing Section at (850) 717-8483.

Sincerely,

D. Ray Eubanks, Administrator  
Plan Review and Processing

DRE/ts

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
(850) 245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org) | [www.Twitter.com/FLDEO](https://www.Twitter.com/FLDEO) | [www.Facebook.com/FLDEO](https://www.Facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.



# Town of Highland Beach

3614 South Ocean Boulevard • Highland Beach, Florida 33487

January 20, 2022

Ray Eubanks  
Plan Processing Administrator  
State Land Planning Agency  
Caldwell Building  
107 East Madison – MSC 160  
Tallahassee, Florida 32399

**RE: Adoption of small-scale amendment to the Future Land Use Map of the Town of Highland Beach Comprehensive Plan to correct a scrivener's error.**

Dear Mr. Eubanks:

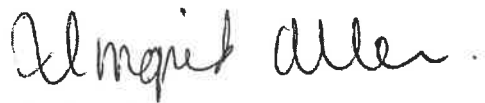
The Town of Highland Beach is submitting an adopted small-scale amendment pursuant to Section 163.3187(1), F.S. Enclosed please find a consolidated PDF document (pursuant to DEO's new electronic submittal platform) pertaining to this adopted small-scale amendment to the Future Land Use Map of the Town's Comprehensive Plan. This small-scale amendment corrects a scrivener's error for a 0.8315 acre parcel located within the Boca Cove development that did not have a future land use designation (see attached adopted Ordinance No. 2022-001). The following information is provided in accordance with the *Comprehensive Plan and Plan Amendment Processing and Submittal Guidelines* provided by the DEO's Community Planning Bureau:

1. The Town Commission held an adoption hearing on January 18, 2022 and voted unanimously (5-0) to approve the amendment (Ordinance No. 2022-001).
2. The Town of Highland Beach has only approved this small-scale amendment for this calendar year and therefore, the cumulative total number of acres for Town approved small-scale amendments is 0.8315.
3. The adopted small-scale amendment is not within an area of critical state concern and does not involve a site within a rural area of opportunity.

Please contact me regarding any questions pertaining to this amendment as follows:

Ingrid Allen, Town Planner  
3614 South Ocean Boulevard  
Highland Beach, FL 33487  
561-637-2012  
[iallen@highlandbeach.us](mailto:iallen@highlandbeach.us)

Sincerely,

A handwritten signature in cursive script that reads "Ingrid Allen".

Ingrid Allen  
Town Planner

Enclosure

cc: Marshall Labadie, Town Manager

**File Attachments for Item:**

B. Continued discussion on Town Entry Signage Design Concepts





# TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

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**MEETING TYPE:** Town Commission Meeting  
**MEETING DATE** 06/07/2022  
**SUBMITTED BY:** Natasha Moore, Vice Mayor – Commissioner  
**SUBJECT:** Resident Input for Town Entry Signs along AIA

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**SUMMARY:**

The town entry signs on AIA are in poor condition and beyond repair. Replacing the town entry signs is prioritized as the 12<sup>th</sup> project on our list of strategic priorities. Resident engagement is also a high priority. As a result, we would like to devise a plan to engage residents in the design of the town entry signs.

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**FISCAL IMPACT:**

Gathering resident input has no fiscal impact.

The amount included in our budget for all work related to replace the signs is \$150,000.

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**ATTACHMENTS:**

Proposal to engage residents in the design of the town entry signs.

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**RECOMMENDATION:**

Discuss the proposed process to engage residents in the design of the town entry signs.

# Proposal to Engage Residents in the Design of the Town Entry Signs Along AIA

## Proposed process to engage residents in the design of the town signs:

Announce a contest to all residents to submit designs for town entry signs:

- Communicate to residents via
  - Email blast
  - Town of Highland Beach Website
  - Signs posted at Town Hall
  - Manager's minute

Announcements will include:

- Purpose
  - Town entry signs on AIA are in poor condition and beyond repair
  - Opportunity for our residents to design the town entry sign
- Specifications for town entry signs
- Instructions on how to submit ideas
  - Residents may submit photos or drawings (each resident can submit more than one idea)
  - Digital copies of designs may be submitted via email. Town staff shall create an email address [TownSign@highlandbeach.us](mailto:TownSign@highlandbeach.us)
  - Hard copy designs may be submitted at the reception office of Town Hall. Town staff shall create a drop box at the front desk at Town Hall.
- Key dates
  - February 10, 2023 - due date for all design submissions
  - February 21, 2023 - Town Commissioners review all submissions and select design finalists at the February 21, 2023 Town Commission meeting to be eligible for voting
  - February 22, 2023 to March 31, 2023 - Residents may cast one vote for one of the design finalists between February 22, 2023 to March 31, 2023.
  - March 31, 2023 - Final day to cast a vote
  - April 4, 2023 – Winning design is announced at April 4, 2023 Town Commission Meeting
- Determination of the winning design
  - Town Commissioners review all submissions and select design finalists to be eligible for voting.
  - Residents may vote for one of the design finalists. Town Commissioners may not vote.
  - The design with the highest number of votes will be the winner.
  - The name of the winner will have their name on a plaque on each town entry sign (bragging rights!)

## Process

- Communicate to residents soon after June 7, 2022 Town Commission meeting and communicate frequently until the due date of February 10, 2023
- Designs are due February 10, 2023 and all designs are included in the February 17, 2023 Town Commission Agenda to be reviewed by the Town Commissioners
- At February 17, 2023 meeting, Town Commissioners shall determine the designs that qualify and that will be eligible for voting.
- The qualified design finalists are communicated in email blast, on website, and posted at Town Hall.
- Residents may cast their vote for one of the qualified design finalists during February 22, 2023 to March 31, 2023. Residents get one vote. Town Commissioners may not vote.
- To cast a vote must include Resident name, address, and phone number.
- Results are tallied and communicated at the April 4, 2023 Town Commission meeting.

Draft Communication to Residents...



Town of Highland Beach Entry Sign Design Contest!  
Winner will have their name memorialized on a small plaque on each sign

Two ways to submit your design

1. Email to [TownSign@highlandbeach.us](mailto:TownSign@highlandbeach.us)
2. Drop off hardcopy at reception office of Town Hall

What?

The Commissioners of Highland Beach are requesting designs to be submitted for consideration as replacement for the current town entry signs at the south and north ends of town located along S Ocean Blvd. Here's your chance to be part of Highland Beach history! Winner will have their name memorialized on a small plaque on each sign.

Why?

The current signs are in poor condition and beyond repair. It's an opportunity for residents to get involved and impact the look of Highland Beach.

When?

Submit a design anytime up through February 10, 2023. Last day to submit a design is February 10, 2023.

How?

- Submit photos of signs
- Submit drawings

Key dates

- February 10, 2023 – Last day to submit designs
- February 17, 2023 - Town Commissioners review all designs submitted at Town Commission meeting and shall select design finalists to be considered for voting
- February 22, 2023 to March 31, 2023 – Residents may cast their vote for one design
- March 31, 2023 – Last day to vote
- April 4, 2023 – Winning design is announced at Town Commission meeting

The design with the highest number of votes wins!

**File Attachments for Item:**

A. Resolution No. 2022-013

A Resolution of the Town Commission of the Town of Highland Beach, Florida; authorizing the Town to borrow funds from Synovus Bank in the principal amount not to exceed \$5,050,000 to pay a portion of the cost of constructing and equipping a new fire station; awarding the Note to Synovus Bank by negotiated sale; approving a Loan Agreement between the Town and Synovus Bank; designating the Note as a "Bank Qualified Obligation" under Section 265(b) of the Internal Revenue Code of 1986, as amended; providing for repeal of conflicting resolutions; and providing for severability, conflicts and an effective date.



### RESOLUTION NO. 2022-013

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA; AUTHORIZING THE TOWN TO BORROW FUNDS FROM SYNOVUS BANK IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$5,050,000 TO PAY A PORTION OF THE COST OF CONSTRUCTING AND EQUIPPING A NEW FIRE STATION; AWARDING THE NOTE TO SYNOVUS BANK BY NEGOTIATED SALE; APPROVING A LOAN AGREEMENT BETWEEN THE TOWN AND SYNOVUS BANK; DESIGNATING THE NOTE AS A "BANK QUALIFIED OBLIGATION" UNDER SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, THAT:**

**SECTION 1. Authority for this Resolution.** This Resolution is adopted pursuant to the provisions of Part II of Chapter 166, Florida Statutes, as amended, the Charter of the Town of Highland Beach, Ordinance No. 2022-005, and other applicable provisions of law.

Additionally, the Town has enacted Chapter 33 of its Code of Ordinances, which sets forth those methods by which the Town is permitted to acquire property, goods, and services. Specifically, the Town has determined that the Sealed Competitive Method would not have been a proper and appropriate method for the procurement of a loan to pay for a portion of the cost of constructing and equipping the Town's new fire station. In consideration of the numerous factors for this acquisition, the Town determined that it must utilize the Best Interest Acquisition method that is delineated within subsection 33-2(c) of the Town Code of Ordinances.

Therefore, the Town Commission hereby declares that the Sealed Competitive Method identified within Section 33-2(a) of the Town Code of Ordinances is not in the best interests of the Town. Specifically, the Town Commission makes these specific factual findings that support this determination:

1. The Mayor and Town Commission sought to evaluate multiple, dissimilar financing structures and products that might be commercially available for the partial funding of the new fire station project.
2. The Mayor and Town Commission have recognized that commercial financial institutions and banks utilize different or varied practices for the evaluation, structuring, and execution of loans to municipalities, which results in different financial structures being extended, offered or available to the Town in order to identify the Best Interest Acquisition for the loan.

3. The Mayor and Town Commission determined that the price, responsiveness, and responsibility is/was NOT the sole determining factor(s) that the Town needed in order to identify the various types of financial structures that might be available for the partial financing of the new fire station project and, therefore, the Town concluded that proceeding with a Sealed Competitive Method would be detrimental to its best interests for the procurement of the loan for the new fire station.
4. The Town's issuance of a Request for Proposals (RFP), which was remitted to numerous potentially interested lenders, through a process of competitive negotiation but without limiting itself to the sealed competitive bid process for prospective lenders was necessary to identify the best financial structure for the loan to fund the partial construction costs and equipment for the new fire station. The Town recognized that the limitation of the sealed competitive bid process for written quotes was not appropriate, and would limit its ability to properly consider the different financing structures that might be available to the Town.
5. The RFP sought to identify any interested lenders that would provide the Town with written quotes that encapsulated the changing financial environment and the volatility of the financial markets for securing the most cost-efficient loan structure. The Mayor and Town Commission determined to utilize the Best Interest Acquisition method to allow the Town to accept, evaluate and categorize proposals from interested lenders offering different financing structures, and to allow the Town to analyze the proposals that contained a combination of pricing indications and firm pricing commitments, which is consistent within the financial sector.
6. In recognition of the volatility of the financial market(s), and as has been previously articulated by the Town Commission during prior Commission Meetings, coupled with the myriad financing structures presented to the Town from the various interested lenders, the Mayor and Town Commission hereby expressly determine that the Sealed Competitive Method is NOT in the best interest of the Town, and that the Best Interest Acquisition has been identified to be in the best interest of the Town pursuant to Section 33-2(c)(11) of the Town Code of Ordinances and the Town's adopted Purchasing Policy and Procedures pursuant to Section 33-1 of the Town Code of Ordinances.

**SECTION 2. Definitions.** The following words and phrases shall have the following meanings when used herein:

“Act” means Part II of Chapter 166, Florida Statutes, as amended, the Charter of the Town of Highland Beach, and other applicable provisions of law.

“Clerk” means the Clerk or any Deputy Clerk of the Town.

“Code” means the Internal Revenue Code of 1986, as amended, including the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

“Commission Member” means a member of the Town Commission.

“Lender” means Synovus Bank, and its successors and assigns.

“Loan Agreement” means the Loan Agreement between the Town and the Lender authorized by Section 4 hereof.

“Mayor” means the Mayor or Vice Mayor of the Town.

“Note” means the Town’s Non-Ad Valorem Revenue Note, Series 2022, authorized by Section 3 hereof.

“Ordinance” means Ordinance No. 2022- 05 of the Town, enacted on May 17, 2022.

“Project” means the construction and equipping of a new fire station in the Town.

“Resolution” means this Resolution, pursuant to which the Note is authorized to be issued, including any resolution or resolutions supplemental hereto.

“State” means the State of Florida.

“Town” means Town of Highland Beach, a Florida municipal corporation.

“Town Manager” means the Town Manager or his or her designee.

**SECTION 3. Authorization of Note.** Subject and pursuant to the provisions of the Ordinance and this Resolution, an obligation of the Town is hereby authorized to be issued in the principal amount not to exceed \$5,050,000 for the purpose of providing funds, together with other available funds of the Town, to pay the costs of the Project and pay closing costs. Because of the characteristics of the Note, prevailing market conditions, and additional savings to be realized from an award of the Note by negotiated sale, it is in the best interest of the Town to award the Note to the Lender by negotiated sale in substantial accordance with the Lender's Term Sheet to the Town in response to the Town’s Request for Proposals, which letter is attached hereto as Exhibit “A” (the “Term Sheet”); provided, however, that the provisions of this Resolution and the Loan Agreement shall control to the extent of any conflict with the Term Sheet.

Prior to the issuance of the Note the Town shall receive from the Lender a disclosure statement containing the information required by Section 218.385, Florida Statutes. The Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Town and the Lender, and shall have such other terms and provisions, including the interest rate and maturity date, as stated in the form of Note attached to the Loan Agreement as Exhibit “A.” The Note is to be in substantially the form set forth on Exhibit “A” to the Loan Agreement, together with such changes as shall be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor.

The Note shall be executed in the name of the Town by the signature of the Mayor and its official seal shall be affixed thereto or imprinted or reproduced thereon and attested by the Clerk. The signatures of said Mayor and Clerk on the Note may be manual or facsimile signatures. In case any one or more of the officers who shall have signed or sealed the Note shall cease to be such officer of the Town before the Note so signed and sealed shall have been actually delivered, such

Note may nevertheless be delivered as herein provided and may be issued as if the person who signed or sealed such Note had not ceased to hold such office.

**SECTION 4. Loan Agreement.** Notwithstanding any other provision hereof, the Note shall not be issued nor shall the Town be obligated to issue the same nor shall the Lender be obligated to purchase the same, unless and until the Town and the Lender shall execute a Loan Agreement in substantially the form attached hereto as Exhibit “B” (the “Loan Agreement”). The form of the Loan Agreement is hereby approved by the Town and the Mayor is authorized to execute the same, with such changes as may be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor. The Loan Agreement shall be executed in the name of the Town by the signature of the Mayor and its official seal shall be affixed thereto or imprinted or reproduced thereon and attested by the Clerk.

**SECTION 5. Applicable Provisions of Law.** This Resolution shall be governed by and construed in accordance with the laws of the State.

**SECTION 6. Rules of Interpretation.** Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words “herein,” “hereby,” “hereunder,” “hereat,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

**SECTION 7. Captions.** The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**SECTION 8. Authorizations.** The Town Manager, the Clerk, and any Commission Member, and such other officials and employees of the Town as may be designated by the Mayor are each designated as agents of the Town in connection with the issuance and delivery of the Note and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the Town that are necessary or desirable in connection with the execution and delivery of the Note, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 9. Bank Qualified Issue.** The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which have been or will be issued by the Town during calendar year 2022 does not exceed \$10,000,000. There are no entities which are subordinate to or which issue obligations on behalf of the Town. The Town hereby designates the Note as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3)(B)(i) of the Code. The Town shall not to take any action or to fail to take any action if such action or failure would cause the Note to no longer be a “qualified tax-exempt obligation.”

**SECTION 10. Conflict Waiver.** The Town acknowledges that its bond counsel, Greenspoon Marder LLP, has previously represented and currently represents the Lender in other unrelated transactions, and consents to such representation. The Town Manager is authorized to execute a conflict waiver in a form approved by the Town Attorney.

**SECTION 11. Severability.** If any section or portion of a section of this Resolution proves



Resolution No. 2022-013

to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

**SECTION 12. Conflicts.** All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

**SECTION 13. Effective Date.** The Resolution shall take effect immediately upon passage.

**DONE AND ADOPTED** by the Town Commission of the Town of Highland Beach, Florida, this 7th day of June, 2022.

**ATTEST:**

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

**REVIEWED FOR LEGAL  
SUFFICIENCY**

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

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

**VOTES:**  
Mayor Douglas Hillman  
Vice Mayor Natasha Moore  
Commissioner Peggy Gossett-Seidman  
Commissioner Evalyn David  
Commissioner John Shoemaker

**YES NO**

EXHIBIT “A”

TERM SHEET FROM LENDER

EXHIBIT "B"

FORM OF LOAN AGREEMENT



## **LOAN AGREEMENT**

This LOAN AGREEMENT (this “Agreement”) is made and entered into as of June 9, 2022, and is by and between the Town of Highland Beach, Florida, a Florida municipal corporation (the “Town”), and Synovus Bank, and its successors and assigns as holder of the hereinafter defined Note (the “Lender”);

WHEREAS, the Town Commission of the Town did, on May 17, 2022, enact its Ordinance No. 2022-05 (the “Ordinance”) authorizing, among other things, the issuance of a promissory note of the Town in the principal amount not to exceed \$5,100,000 for the purpose of financing the herein described Project; and

WHEREAS, the Town Commission of the Town did, on June 7, 2022, adopt its Resolution No. 2022-\_\_ (the “Resolution”) awarding said note in the principal amount not to exceed \$5,050,000 (the “Note”) to Synovus Bank (the “Lender”); and

WHEREAS, the Town hereby determines that it is desirable and in the best interest of the Town to enter into this Agreement whereby the Town will borrow funds (the “Loan”) from the Lender to pay a portion of the costs of the Project; and

WHEREAS, the obligation of the Town to repay such Loan shall be evidenced by the delivery of the Note to the Lender in the principal amount of the Loan; and

WHEREAS, the Note shall be issued pursuant to the terms and provisions of the Resolution and this Agreement; and

WHEREAS, the execution and delivery of this Agreement have been duly authorized by the Resolution.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, DO HEREBY AGREE as follows:

### **ARTICLE I**

#### **DEFINITION OF TERMS**

Section 1.01. Definitions. The words and terms used in this Agreement shall have the meanings as set forth in the Resolution and in the recitals above, unless otherwise defined herein. Unless the context shall otherwise require, the following words and terms as used in this Agreement shall have the following meanings:

“Act” Part II of Chapter 166, Florida Statutes, as amended, the Charter of the Town of Highland Beach, and other applicable provisions of law.

“Agreement” means this Loan Agreement and any and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

“Annual Budget” means the annual budget for the Town for each Fiscal Year in accordance with Section 3.01(j) below and in accordance with the laws of the State of Florida.

“Annual Debt Service Requirement” means for a given Fiscal Year the aggregate amount required to pay the principal and interest coming due on the Note and all other Included Debt during that Fiscal Year.

In determining the amount of principal and interest becoming due on any Included Debt in any Fiscal Year, the following rules shall apply:

(i) For purposes of this definition, the interest rate on any Included Debt which bears interest at a variable rate will be deemed to be the greater of (i) the average rate of interest borne by such Included Debt over the preceding twelve (12) month period (for proposed variable rate Included Debt based on the formula for calculating the interest rate set forth therein), or (ii) five percent (5.00%) per annum.

(ii) With respect to Balloon Indebtedness, the principal and interest becoming due shall be calculated based upon the assumption that the amount of principal and interest which will be payable in a given period is equal to the amount which would be payable on such Balloon Indebtedness if such Balloon Indebtedness were amortized on a level annual debt service basis, calculated on a Fiscal Year basis, from the date of such calculation over a period equal to twenty years, at an interest rate, if such Balloon Indebtedness bears interest at a fixed interest rate for its entire term, equal to the actual interest rate on such Balloon Indebtedness, and if such Balloon Indebtedness does not bear interest at a fixed rate for its entire term, bearing interest at a rate calculated in accordance with the methodology established above for Included Debt which bears interest at a variable rate. For purposes of the foregoing, adjustments to the interest rate on Balloon Indebtedness that are contingent upon the existence of an event of default or a change in the federal income tax treatment of such interest shall not in and of themselves cause such interest rate to be treated as "variable."

(iii) in the event in any Fiscal Year the Town receives Subsidy Payments with respect to any Included Debt, the principal and interest due on such Included Debt in such Fiscal Year shall be calculated net of the Subsidy Payments (that is by reducing the actual principal and interest by the amount of the Subsidy Payments).

“Authorized Depository” means any bank, trust company, national banking association, savings and loan association, savings bank or other banking association selected by the Town as a depository, which is authorized under Florida law to be a depository of municipal funds and which has qualified with all applicable state and federal requirements concerning the receipt of Town funds.

"Balloon Indebtedness" means indebtedness 25% or more of the total principal payments of which are due in a single Fiscal Year and which indebtedness is not required to be paid over its term on a substantially level debt service basis (calculated using the same assumption for Included

Debt which bears interest at a variable rate set forth in the definition of "Annual Debt Service Requirement") on a Fiscal Year basis.

“Bond Counsel” means counsel experienced in matters relating to the validity of, and the exclusion from gross income for federal income tax purposes of interest on, obligations of states and their political subdivisions.

“Business Day” means any day other than a Saturday, Sunday or day on which banking institutions within the State of Florida are authorized or required by law to remain closed.

“Chief Financial Officer” means the chief financial officer of the Town as defined in Section 218.403, Florida Statutes.

“Clerk” means the Town Clerk or any Deputy Town Clerk.

“Code” means the Internal Revenue Code of 1986, as amended, including the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

“Dated Date” means the date of issuance of the Note.

“Debt Service Fund” means the fund of that name established pursuant to Section 5.03 hereof.

“Event of Default” shall mean an event of default specified in Article VII of this Agreement.

“Fiscal Year” means the period commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive 12-month period as may be hereafter designated as the fiscal year of the Town pursuant to general law.

“Governing Body” means the Town Commission of the Town, or its successor in function.

“Governmental Authority” shall mean the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Holder” means the registered owner (or its authorized representatives) of the Note from time to time, initially the Lender.

"Included Debt" means all indebtedness of the Town payable from Legally Available Non-Ad Valorem Revenues or by a pledge of a particular source or sources of Legally Available Non-Ad Valorem Revenues.

“Legally Available Non-Ad Valorem Revenues” means all revenues of the Town derived from any source whatsoever, other than ad valorem taxation on real and personal property, which are legally available to make the payments of principal and interest on the Note, but only after provision has been made by the Town for payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the Town, or which are legally mandated by applicable law.

“Lender” means Synovus Bank, and its successors and assigns.

“Loan” means the outstanding principal amount of the Note issued hereunder.

“Loan Documents” means this Agreement, the Note, the Resolution, the Ordinance and all other documents, agreements, certificates, schedules, notes, statements, and opinions, however described, referenced herein or executed or delivered pursuant hereto or in connection with or arising with the Loan or the transaction contemplated by this Agreement.

“Mayor” means the Mayor or Vice Mayor of the Town and such other person as may be duly authorized to act on his or her behalf.

“Maximum Annual Debt Service Requirement” means the maximum Annual Debt Service Requirement in the then current or any succeeding Fiscal Year.

“Note” means the Town’s Non-Ad Valorem Revenue Note, Series 2022, authorized to be issued pursuant to the Resolution in an aggregate principal amount not to exceed \$5,050,000.

“Ordinance” means Ordinance No. 2022-05, enacted by the Town on May 17, 2022, as the same may from time to time be amended, modified or supplemented.

“Person” means natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

“Pledged Revenues” means (a) Town Moneys and (b) proceeds of the Note deposited with the Town until applied for payment of costs of the Project.

“Project” means the construction and equipping of a new fire station for the Town.

“Resolution” means Resolution No. 2022-\_\_, adopted by the Town on June 7, 2022, as the same may from time to time be amended, modified or supplemented.

“State” means the State of Florida.

"Subsidy Payment" means any direct subsidy payments required to be made by the United States Department of Treasury or other federal governmental agency to the Town with respect to any Included Debt.



“Town” means the Town of Highland Beach, Florida, a Florida municipal corporation, and its successors and assigns.

“Town Manager” means the Town Manager or his or her designee.

“Town Moneys” means the moneys budgeted and appropriated by the Town and deposited into the Debt Service Fund from Legally Available Non-Ad Valorem Revenues pursuant to the Town’s covenant to budget and appropriate Legally Available Non-Ad Valorem Revenues contained in Section 3.04 of this Agreement.

Section 1.02. Interpretation. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

Section 1.03. Titles and Headings. The titles and headings of the articles and sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

## ARTICLE II

### REPRESENTATIONS OF TOWN

The Town represents and warrants to the Lender that:

Section 2.01. Powers of Town. The Town is a political subdivision duly organized and validly existing as a municipal corporation under the laws of the State. The Town has the power to borrow the amount provided for in this Agreement, to execute and deliver the Loan Documents, to secure the Note in the manner contemplated hereby, and to perform and observe all the terms and conditions of the Note and this Agreement on its part to be performed and observed. The Town may lawfully issue the Note in order to obtain funds to finance the Project.

Section 2.02. Authorization of Loan. The Town has, had or will have, as the case may be, full legal right, power, and authority to adopt the Resolution and to execute and deliver this Agreement, to issue, sell, and deliver the Note to the Lender, and to carry out and consummate all other transactions contemplated hereby and by the Loan Documents, and the Town has complied and will comply with all provisions of applicable law in all material matters relating to such transactions. The Town, by the Ordinance and the Resolution, has duly authorized the borrowing of the amount provided for in this Agreement, the execution and delivery of this Agreement, and the making and delivery of the Note to the Lender, and to that end the Town warrants that it will take all action and will do all things which it is authorized by law to take and to do in order to fulfill all covenants on its part to be performed and to provide for and to assure payment of the Note. The Town has duly enacted the Ordinance and adopted the Resolution and authorized the

execution, delivery, and performance of the Note and this Agreement and the taking of any and all other such action as may be required on the part of the Town to carry out, give effect to and consummate the transactions contemplated by the Loan Documents. The Note has been duly authorized, executed, issued and delivered to the Lender and constitutes a legal, valid and binding obligation of the Town enforceable in accordance with its terms and the terms of the Resolution, and is entitled to the benefits and security of the Resolution and this Agreement. All approvals, consents, and orders of and filings with any Governmental Authority or agency which would constitute a condition precedent to the issuance of the Note or the execution and delivery of or the performance by the Town of its obligations under the Loan Documents have been obtained or made and any consents, approvals, and orders to be received or filings so made are in full force and effect.

Section 2.03. Agreements. The making and performing by the Town of this Agreement will not violate any provision of the Act, or any ordinance or resolution of the Town, or any regulation, order or decree of any court, and will not result in a breach of any of the terms of any agreement or instrument to which the Town is a party or by which the Town is bound. The Loan Documents constitute legal, valid and binding obligations of the Town enforceable in accordance with their respective terms.

Section 2.04. Litigation, Etc. There are no actions or proceedings pending against the Town or affecting the Town or, to the knowledge of the Town, threatened, which, either in any case or in the aggregate, might result in any material adverse change in the financial condition of the Town, or which question the validity of this Agreement, the Note or any of the other Loan Documents or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby. The Town is not in default in any material respect under any agreement or other instrument to which it is a party or by which it may be bound.

Section 2.05. Financial information. The financial information regarding the Town furnished to the Lender by the Town in connection with the Loan is complete and accurate, and there has been no material and adverse change in the financial condition of the Town from that presented in such information.

### ARTICLE III

#### COVENANTS OF THE TOWN

Section 3.01. Affirmative Covenants. The Town covenants, for so long as any of the principal amount of or interest on the Note is outstanding and unpaid or any duty or obligation of the Town hereunder or under any of the other Loan Documents remains unpaid or unperformed, as follows:

- (a) Use of Proceeds. The Town covenants that the proceeds from the Note will be used only to pay the costs of the Project and to pay closing costs. The Town represents that upon issuance of the Note there will be no other bonds, loans or obligations of the Town secured by a covenant to budget and appropriate from Legally Available Non-Ad Valorem Revenues, or by a pledge of or lien on any particular source of Legally

Available Non-Ad Valorem Revenues, excepting only the Town's Promissory Note, Series 2007, currently outstanding in the principal amount of \$1,767,701.80.

- (b) Notice of Defaults. The Town shall within ten (10) days after it acquires knowledge thereof, notify the Lender in writing upon the happening, occurrence, or existence of any Event of Default, and any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Lender with such written notice, a detailed statement by a responsible officer of the Town of all relevant facts and the action being taken or proposed to be taken by the Town with respect thereto.
- (c) Records. The Town agrees that any and all records of the Town shall be open to inspection by the Lender or its representative's at all reasonable times at the offices of the Town.
- (d) Maintain Existence. The Town shall do all things lawfully within its power to maintain its existence as a municipal corporation of the State, and shall not voluntarily dissolve.
- (e) Notice of Liabilities. The Town shall promptly inform the Lender of any actual or potential contingent liabilities or pending or threatened litigation of an amount of \$5,000,000 or greater that could reasonably be expected to have a material and adverse effect upon the financial condition of the Town or the Pledged Revenues.
- (f) Insurance. The Town shall maintain such liability, casualty and other insurance as is reasonable and prudent for similarly situated municipal corporations of the State and shall upon the request of the Lender, provide evidence of such coverage to the Lender.
- (g) Comply with Laws. The Town is in compliance with and shall comply with all applicable federal, state and local laws and regulatory requirements.
- (h) Taxes. In the event the Note, this Agreement or any other Loan Document should be subject to the excise tax on documents or the intangible personal property tax, or any similar tax, of the State of Florida, the Town shall pay such taxes or reimburse the Lender for any such taxes paid by it.
- (i) Investments. The Town shall invest only in obligations permitted by Section 218.345, Florida Statutes, or as stated in the Town's Investment Policy approved by the Town Commission.
- (j) Operating Budget; Financial Statements. Before the first day of each Fiscal Year the Governing Body shall prepare, approve and adopt in the manner prescribed by law, a detailed Annual Budget. Such Annual Budget shall provide for revenues sufficient to comply with the Town's obligations hereunder, including any unsatisfied obligations from prior Fiscal Years. The Town shall annually provide to the Lender (i) the Town's Annual Comprehensive Financial Report within 270 days of the end of each Fiscal Year and (ii) the Annual Budget within 45 days of adoption. The Town will also provide the Lender with any financial information the Lender shall reasonably request.

Section 3.02. Lender Fees and Expenses. The Town hereby agrees to pay the fees and expenses of counsel to the Lender in connection with the issuance of the Note in the amount of \$7,500, said amounts to be due and payable upon the issuance of the Note.

Section 3.03. Registration and Exchange of Notes; Persons Treated as Owners. So long as the Note shall remain unpaid, the Town will keep books for the registration and transfer of the Note. The Note shall be transferable only upon such registration books. The Town will transfer the registration of a Note upon written request of the Lender specifying the name, address and taxpayer identification number of the transferee.

The Person in whose name the Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest on the Note shall be made only to or upon the written order of such Person. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid.

Section 3.04. Covenant to Budget and Appropriate. The Town covenants to budget and appropriate in its Annual Budget, by amendment if necessary, from Legally Available Non-Ad Valorem Revenues in each Fiscal Year, sufficient moneys to pay the principal of and interest on the Note in such Fiscal Year, until the Note is paid in full. Such covenant and agreement on the part of the Town shall be cumulative to the extent not paid, and shall continue until Legally Available Non-Ad Valorem Revenues or other available funds in amounts sufficient to make all required payments shall have been budgeted, appropriated and actually paid. Notwithstanding the foregoing covenant of the Town, the Town does not covenant to maintain any services or programs now provided or maintained by the Town, which generate non-ad valorem revenues.

Such covenant to budget and appropriate does not create any lien upon or pledge of such Legally Available Non-Ad Valorem Revenues until deposited into the Debt Service Fund, nor, except as provided in Section 3.10 hereof, does it preclude the Town from pledging in the future a particular source or sources of non-ad valorem revenues. Such covenant to budget and appropriate Legally Available Non-Ad Valorem Revenues is subject in all respects to the payment of obligations heretofore or hereafter (but only to the extent permitted by Section 3.10 hereof) entered into, including but not limited to the payment of debt service on bonds and other debt instruments. However, the covenant to budget and appropriate in its Annual Budget for the purposes and in the manner stated herein shall have the effect of making available in the manner described herein Legally Available Non-Ad Valorem Revenues and placing on the Town a positive duty to budget and appropriate, by amendment if necessary, amounts sufficient to meet its obligations hereunder.

Section 3.05. Payment of Principal and Interest; Note not a General Obligation of the Town. The Note is a special obligation of the Town and is payable solely in the manner and to the extent set forth in this Agreement. The Town hereby pledges and grants to the Lender, for the payment of the principal of, premium if any, and interest on, the Note in accordance with the terms and the provisions of this Agreement, the Pledged Revenues.

The Town promises that it will promptly pay the principal of and interest on the Note at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof. The Note shall not be or constitute a general obligation or indebtedness of the Town within the meaning of the Constitution of Florida, but shall be payable solely from and secured by the covenant of the Town to budget and appropriate Legally Available Non-Ad Valorem Revenues and a pledge of and lien on the Pledged Revenues, in the manner and to the extent herein 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 such Note or the interest thereon, nor shall any Holder be entitled to payment of such principal and interest from any other funds of the Town other than the than the Legally Available Non-Ad Valorem Revenues, all in the manner and to the extent herein provided. The Holders shall have no lien upon any real or tangible personal property of the Town.

Section 3.06. Redemption. The Town shall be entitled to prepay the Note prior to maturity in whole or in part, in the manner and subject to the conditions set forth in the form of Note attached as Exhibit "A" hereto.

Section 3.07. Business Days. In any case where the due date of interest on or principal of the Note is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that interest shall continue to accrue until the payment is actually received by the Lender.

Section 3.08. Officers and Employees of the Town Exempt from Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Agreement or the Note or for any claim based thereon or otherwise in respect thereof, shall be had against any Town Commission Member, or any officer, agent or employee, as such, of the Town past, present or future, it being expressly understood (a) that the obligation of the Town under this Agreement and the Note is solely a corporate one, (b) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the Town Commission, or the officers, agents, or employees, as such, of the Town, or any of them, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom, and (c) that any and all such personal liability of, and any and all such rights and claims against, every such Town Commission Member, and every officer, agent, or employee, as such, of the Town under or by reason of the obligations, covenants or agreements contained in this Agreement, or implied therefrom, are waived and released as a condition of, and as a consideration for, the execution of this Agreement and the issuance of the Note on the part of the Town.

Section 3.09. Note Mutilated, Destroyed, Stolen or Lost. In case the Note shall become mutilated, or be destroyed, stolen or lost, the Town shall issue and deliver a new Note of like tenor as the Note so mutilated, destroyed, stolen or lost, in exchange and in substitution for such mutilated Note, or in lieu of and in substitution for the Note destroyed, stolen or lost and upon the Holder furnishing the Town proof of ownership thereof and complying with such other reasonable regulations and conditions as the Town may prescribe and paying such expenses as the Town may incur. The Note so mutilated, destroyed, stolen or lost shall be canceled, and shall be of no further force and effect.

Section 3.10. Anti-Dilution Covenant. The Town shall not incur any Included Debt unless the amount of Legally Available Non-Ad Valorem Revenues during the Fiscal Year of the Town most recently concluded prior to the incurrence of such Included Debt and for which audited financial statements of the Town are available, adjusted as hereinafter provided, equals or exceeds 125% of the Maximum Annual Debt Service Requirement on all Included Debt, including the proposed debt.

For purposes of this Section 3.10, the amount of any Subsidy Payments received in any Fiscal Year that are applied to reduce the Annual Debt Service Requirement on any Included Debt pursuant to the definition of "Annual Debt Service Requirement" shall be excluded from the amount of Legally Available Non-Ad Valorem Revenues in such Fiscal Year.

For purposes of this Section 3.10, (a) the phrase "essential public purposes affecting the health, welfare and safety of the inhabitants of the Town" in the definition of Legally Available Non-Ad Valorem Revenues means expenditures under the line items "Public Safety" and "General Government," as well as "Operating Expenses" (excluding depreciation) of the Water and Sewer Fund in the Town's audited financial statements, and (b) other indebtedness of the Town includes any obligations under a lease that is generally considered a capital lease versus an operating lease.

Section 3.11. Tax Representations, Warranties and Covenants of the Town. Notwithstanding anything herein to the contrary, the Town hereby covenants and represents that it has taken and caused to be taken and shall make and take and cause to be made and taken all actions that may be required of it for the interest on the Note to be and remain excluded from the gross income of the Holder for federal income tax purposes, and that to the best of its knowledge it has not taken or permitted to be taken on its behalf, and covenants that to the best of its ability and within its control, it shall not make or take, or permit to be made or taken on its behalf, any action which, if made or taken, would adversely affect such exclusion under the provisions of the Code.

The Town acknowledges that the continued exclusion of interest on the Note from gross income for federal income tax purposes depends, in part, upon compliance with the arbitrage limitations imposed by Sections 103(b)(2) and 148 of the Code. The Town hereby acknowledges responsibility to take all reasonable actions necessary to comply with these requirements. The Town hereby agrees and covenants that it shall not permit at any time or times any of the proceeds of the Note or other funds of the Town to be intentionally used, directly or indirectly, to acquire or to replace funds which were used directly or indirectly to acquire any higher yielding investments (as defined in Section 148 of the Code), the acquisition of which would cause the Note to be an arbitrage bond for purposes of Sections 103(b)(2) and 148 of the Code. The Town further agrees and covenants that it shall do and perform all acts and things necessary in order to assure that the requirements of Sections 103(b)(2) and 148 of the Code are met.

Specifically, without intending to limit in any way the generality of the foregoing, the Town covenants and agrees:

- (a) to pay to the United States of America at the times required pursuant to Section 148(f) of the Code, the excess of the amount earned on all non-purpose investments

(as defined in Section 148(f)(6) of the Code) (other than investments attributed to an excess described in this sentence) over the amount which would have been earned if such non-purpose investments were invested at a rate equal to the yield on the Note, plus any income attributable to such excess (the “Rebate Amount”);

- (b) to maintain and retain all records pertaining to and to be responsible for making or causing to be made all determinations and calculations of the Rebate Amount and required payments of the Rebate Amount as shall be necessary to comply with the Code; and
- (c) to comply with all representations and restrictions contained in any Non Arbitrage Certificate executed by the Town in connection with the Note.

The Town understands that the foregoing covenants impose continuing obligations on it to comply with the requirements of Section 103 and Part IV of Subchapter B of Chapter 1 of the Code so long as such requirements are applicable.

Section 3.12. Additional Tax Covenants of the Town. For so long as the Note remains outstanding, the Town hereby covenants as follows:

It will comply with, and timely make or cause to be made all filings required by, all effective rules, rulings or regulations promulgated by the Department of the Treasury or the Internal Revenue Service;

- (a) It will not use, invest, direct or permit the investment of the proceeds of the Note or any investment earnings thereon in a manner that will result in such Note becoming a “private activity bond” within the meaning of Sections 141 and 145 of the Code;
- (b) It will not use or permit to be used more than ten percent (10%) of the proceeds of the Note (including any amounts used to pay costs associated with issuing such Note), including all investment income earned on such proceeds directly or indirectly, in any trade or business carried on by any person who is not the Town or a state or political subdivision or instrumentality thereof as those terms are used in Section 103 of the Code (an “Exempt Person”);
- (c) It will not use or permit the use of any portion of the proceeds of the Note, including all investment income earned on such proceeds, directly or indirectly, to make or finance loans to persons who are not Exempt Persons;
- (d) It has not entered into, and will not enter into, any arrangement with any person or organization (other than an Exempt Person) which provides for such person or organization to manage, operate, or provide services with respect to more than 10% of the property financed with the proceeds of the Note (a “Service Contract”), unless the guidelines set forth in Revenue Procedure 2017-13, to the extent applicable, or any new, revised or additional guidelines applicable to Service

Contracts) (the “Guidelines”), are satisfied, except to the extent it obtains a private letter ruling from the Internal Revenue Service or an opinion of nationally recognized Bond Counsel which allows for a variation from the Guidelines.

- (e) It will not cause the Note to be treated as “federally guaranteed” for purposes of Section 149 of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149 of the Code. For purposes of this paragraph, the Note shall be treated as “federally guaranteed” if (i) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (ii) 5% or more of the proceeds of the Note will be (A) used in making loans the payment of principal or interest with respect to which is to be guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (B) invested directly or indirectly in federally insured deposits or accounts, and (iii) such guarantee is not described in Section 149(b)(3) of the Code; and
- (f) It will comply with the information reporting requirements of Section 149(e)(2) of the Code.

The terms “debt service,” “gross proceeds,” “net proceeds,” “proceeds,” and “yield” have the meanings assigned to them for purposes of Section 148 of the Code.

## ARTICLE IV

### CONDITIONS OF LENDING

Section 4.01. Conditions of Lending. The obligations of the Lender to lend hereunder are subject to the following conditions precedent:

- (a) Representations and Warranties. The representations and warranties set forth in the Loan Documents are and shall be true and correct to the best of the Town's knowledge on and as of the date hereof.
- (b) No Default. On the date hereof the Town shall be in compliance with all the terms and provisions set forth in the Loan Documents on its part to be observed or performed, and no Event of Default nor any event that, upon notice or lapse of time or both, would constitute such an Event of Default, shall have occurred and be continuing at such time.
- (c) Supporting Documents. On or prior to the date hereof, the Lender shall have received the following supporting documents, all of which shall be satisfactory in form and substance to the Lender (such satisfaction to be evidenced by the purchase of the Note by the Lender):



- (i) The opinion of the Attorney for the Town, regarding the due authorization, execution, delivery, validity and enforceability of this Agreement and the Note, the Town's power to incur the debt evidenced by the Note and to secure such debt with a covenant to budget and appropriate the Town's Legally Available non-Ad Valorem Revenues, the due enactment of the Ordinance and adoption of the Resolution, and the absence of material litigation;
- (ii) The opinion of Bond Counsel to the effect that, (i) the interest on the Note is excluded from gross income for federal income tax purposes (ii) the Note is not an item of tax preference under Section 57 of the Code, (iii) the Note is a qualified tax-exempt obligation under Section 265(b)(3) of the Code, and (iv) the Note and this Agreement are valid obligations of the Town, enforceable against the Town in accordance with their terms; and
- (iii) Such additional supporting documents as the Lender may reasonably request.

Section 4.02 Procedure for Making Draws on the Note.

- (a) Draw Limitations. Draws may be made on the Note beginning on the Dated Date and ending eighteen (18) months from the Dated Date (the "Draw Period"). The total principal amount permitted to be drawn on the Note is \$5,050,000. The Town must draw at least \$50,001 on the Note on the Dated Date, but no further draws shall be required.
- (b) Conditions to Draws. Prior to each draw on the Note, the Town shall provide Lender with a Draw Certificate in the form attached hereto as Exhibit "B." The Lender may review each draw request to satisfy itself that the proceeds of the draw will be used for a purpose permitted hereunder.
- (c) Execution. Each Draw Certificate shall be signed by the Town by the Town Manager or the Town Finance Director.
- (d) Repayment of Draws. Each draw shall accrue interest from the date the Lender makes the advance thereon. Interest shall be payable semi-annually in arrears as provided in the Note. Principal shall be repaid in accordance with an amortization schedule to be provided by the Lender no later than ten (10) days from the date of the final draw.
- (e) No Reborrowing. The Town shall not be permitted to reborrow amounts that have been drawn and repaid.

**ARTICLE V**

**THE LOAN; TOWN'S OBLIGATION; DESCRIPTION AND PAYMENT TERMS**

Section 5.01. The Loan. The Lender hereby agrees to loan to the Town the amount of up to \$5,050,000 to be evidenced by the Note, to provide funds to pay a portion of the costs of the

Project and to pay closing costs upon the terms and conditions set forth in the Resolution and in this Agreement. The Town agrees to repay the principal amount borrowed plus interest thereon, upon the terms and conditions set forth in the Loan Documents.

Section 5.02. Description and Payment Terms of the Note. To evidence the Loan, the Town shall issue and deliver to the Lender the Note in substantially the form attached hereto as Exhibit "A."

Section 5.03. Establishment of Debt Service Fund. There is hereby created and established with the Town a fund designated the "Debt Service Fund." The Debt Service Fund shall constitute a trust fund for the purposes hereof.

Section 5.04. Application of Revenues.

(a) On or before 12:00 Noon on the last Business Day prior to each date on which principal of or interest on the Note is due, the Town shall deposit into the Debt Service Fund an amount of Legally Available Non-Ad Valorem Revenues (which at the time of such deposit become Town Moneys and Pledged Revenues) at least equal to the principal of and interest on the Note due on such date.

(b) The Town shall pay out of the Debt Service Fund to the Lender (i) on or before each interest payment date for the Note, the amount required for the interest payable on such date; and (ii) on or before each principal payment date for the Note, the amount of principal payable on such date.

Section 5.05. Accounting for Funds. The designation and establishment of the Debt Service Fund by this Agreement shall not be construed to require the establishment of any completely independent funds but rather is intended solely to constitute an allocation of certain revenues and assets of the Town for certain purposes and to establish certain priorities for application of certain revenues and assets as herein provided.

## ARTICLE VI

### EVENTS OF DEFAULT

Section 6.01. General. An "Event of Default" shall be deemed to have occurred under this Agreement if:

- (a) The Town shall fail to make any payment of the principal of or interest on the Note within five Business Days of when the same become due and payable, or
- (b) The Town shall default in the performance of or compliance with any term or covenant contained in the Loan Documents, other than a term or covenant a default in the performance of which or noncompliance with which is dealt with in this Section 6.01(a) or (c) through (g) hereof, which default or non-compliance shall continue and not be cured within thirty (30) days after (i) notice thereof to the Town by the Lender; or (ii)

the Lender is notified of such noncompliance or should have been so notified pursuant to the provisions of Section 3.01(b) of this Agreement, whichever is earlier; provided however, that such cure period shall be extended to ninety (90) days if the nature of such default is such that it cannot be corrected within thirty ((30) days, corrective action is initiated by the Town within such thirty (30) day period, and the Town is diligently pursuing such cure to completion. or

- (c) Any representation or warranty made in writing by or on behalf of the Town in any Loan Document shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or
- (d) The Town admits in writing its inability to pay its debts generally as they become due or files a petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver or trustee for itself; or
- (e) The Town is adjudged insolvent by a court of competent jurisdiction, or it is adjudged a bankrupt on a petition in bankruptcy filed by or against the Town, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the Town, a receiver or trustee of the Town or of the whole or any part of its property, and if the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or
- (f) The Town shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or the State of Florida; or
- (g) The Town shall fail to promptly remove any execution, garnishment or attachments of such consequence as will materially impair its ability to carry out its obligations hereunder and under the Note.

Section 6.02. Effect of Event of Default. Should the Town default in any obligation created by this Agreement or the Note, the Lender may, in addition to any other remedies set forth in this Agreement or the Note, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State of Florida, or granted or contained in this Agreement, and may enforce and compel the performance of all duties required by this Agreement or by any applicable statutes to be performed by the Town or by any officer thereof. Upon an Event of Default, the Lender may recover from the Town all expenses incurred including without limitation reasonable attorneys' fees, at all levels of the proceedings, whether incurred in connection with collection, bankruptcy proceedings, trial, appeal or otherwise. Provided, that acceleration shall not be an available remedy.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. No Waiver; Cumulative Remedies. No failure or delay on the part of the Lender in exercising any right, power, remedy hereunder, or under the Note or other Loan Documents shall operate as a waiver of the Lender's rights, powers and remedies hereunder, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof, or the exercise of any other right, power or remedy hereunder or thereunder. The remedies herein and therein provided are cumulative and not exclusive of any remedies provided by law or in equity.

Section 7.02. Amendments; Changes or Modifications to the Agreement. This Agreement shall not be amended, changed or modified except by written instrument between the Lender and the Town. The Town agrees to pay all of the Lender's costs and reasonable attorneys' fees incurred in modifying and/or amending this Agreement at the Town's request or behest.

Section 7.03. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

Section 7.04. Severability. If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any other provisions or sections hereof, and this Agreement shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced, as if such illegal or invalid clause, provision or section had not been contained herein.

Section 7.05. Term of Agreement. Except as otherwise specified in this Agreement, this Agreement and all representations, warranties, covenants and agreements contained herein or made in writing by the Town in connection herewith shall be in full force and effect from the date hereof and shall continue in effect until as long as the Note is outstanding.

Section 7.06. Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; the day it is sent, if sent by e-mail; the day after it is sent, if sent by overnight common carrier service; and five days after it is sent, if mailed, certified mail, return receipt requested, postage prepaid. In each case notice shall be sent to:

If to the Town:           Town of Highland Beach  
3614 South Ocean Boulevard  
Highland Beach, Florida 33487  
Attention:     Town Manager  
[mlabadie@highlandbeach.us](mailto:mlabadie@highlandbeach.us)

with a copy to:           Torcivia, Donlon, Goddeau & Rubin, P.A.  
701 Northpoint Parkway, Suite 209  
West Palm Beach, FL 33407  
Attention:     Glen Torcivia, Town Attorney

[glen@torcivialaw.com](mailto:glen@torcivialaw.com)

If to the Lender: Synovus Bank  
1148 Broadway  
Columbus, GA 31901

With a copy to:

Synovus Bank  
7768 Ozark Drive, Suite 100  
Jacksonville, FL 32256  
[andylafear@synovus.com](mailto:andylafear@synovus.com)

or to such other address as either party may have specified in writing to the other using the procedures specified above in this Section 7.06.

Section 7.07. Applicable Law. The Loan Documents shall be governed by applicable federal law and the internal laws of the State.

Section 7.08. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the successors in interest and permitted assigns of the parties. The Town shall have no right to assign any of its rights or obligations hereunder without the prior written consent of the Lender.

Section 7.09. Conflict. In the event any conflict arises between the terms of this Agreement and the terms of any other Loan Document, the terms of this Agreement shall govern in all instances of such conflict.

Section 7.10. No Third Party Beneficiaries. It is the intent and agreement of the parties hereto that this Agreement is solely for the benefit of the parties hereto and no person not a party hereto shall have any rights or privileges hereunder.

Section 7.11. Entire Agreement. Except as otherwise expressly provided, this Agreement and the other Loan Documents embody the entire agreement and understanding between the parties hereto and supersede all prior agreements and understandings relating to the subject matter hereof.

Section 7.12. Further Assurances. The parties to this Agreement will execute and deliver, or cause to be executed and delivered, such additional or further documents, agreements or instruments and shall cooperate with one another in all respects for the purpose of carrying out the transactions contemplated by this Agreement.

Section 7.13. Waiver of Jury Trial. The Town knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury, with respect to any litigation or legal proceedings based on or arising out of the Loan Documents, including any course of conduct, course of dealings, verbal or written statement or actions or omissions of any party which in any way relates to the Loan Documents.

Section 7.14. No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereunder (including in connection with any amendment, waiver or other modification hereof or of the Note), the Town acknowledges and agrees, that: (a) (i) the Town has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, (ii) the Town is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the Note, (iii) the Lender is not acting as a municipal advisor or financial advisor to the Town, and (iv) the Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act to the Town with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Lender has provided other services or is currently providing other services to the Town on other matters); (b) (i) the Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Town or any other person and (ii) the Lender has no obligation to the Town, with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the Note; and (c) the Lender may be engaged in a broad range of transactions that involve interests that differ from those of the Town, and the Lender has no obligation to disclose any of such interests to the Town. This Agreement and the Note are entered into pursuant to and in reliance upon the bank exemption and/or the institutional buyer exemption provided under the municipal advisor rules of the Securities and Exchange Commission, Rule 15Ba1-1 *et seq*, to the extent that such rules apply to the transactions contemplated hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective between them as of the date of first set forth above.

TOWN OF HIGHLAND BEACH,  
FLORIDA

By: \_\_\_\_\_  
Douglas Hillman, Mayor

(SEAL)

ATTEST:

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

REVIEWED FOR LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen Torcivia  
Town Attorney

SYNOVUS BANK

By: \_\_\_\_\_  
Andy LaFear, Relationship Manager  
Government Banking Solutions

**EXHIBIT “A”**

**FORM OF NOTE**

THIS NOTE MAY NOT BE TRANSFERRED BY THE REGISTERED OWNER HEREOF TO ANY PERSON OTHER THAN (I) TO A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933, AS AMENDED); OR (II) TO AN “ACCREDITED INVESTOR” (AS DEFINED IN RULE 501 OF REGULATION D UNDER THE SECURITIES ACT OF 1933, AS AMENDED).

June 9, 2022

\$5,050,000

TOWN OF HIGHLAND BEACH, FLORIDA

NON-AD VALOREM REVENUE NOTE, SERIES 2022

KNOW ALL MEN BY THESE PRESENTS that the Town of Highland Beach, Florida (the “Town”), a municipal corporation created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of SYNOVUS BANK, or registered assigns (hereinafter, the “Lender” or the “Holder”), the principal sum of not to exceed \$5,050,000 or such lesser amount as shall be drawn and outstanding hereunder from time to time, together with interest on the principal balance outstanding at the rate of 3.26% per annum (the “Note Rate”) (subject to adjustment as hereinafter provided), based upon a 360 day year consisting of twelve 30 day months.

Principal of and interest on this Note are payable in lawful money of the United States of America as provided in the hereinafter described Loan Agreement, or in such other manner as may be agreed upon by the Lender and the Town from time to time.

The principal on this Note shall be due and payable on March 30 and September 30 of each year, beginning March 30, 2024, through and including March 30, 2032 (the “Maturity Date”), in principal amounts to be established by the Lender in accordance with Section 4.02(d) of the herein described Loan Agreement.

Interest on this Note shall be due and payable semi-annually beginning on September 30, 2022 and on each March 30 and September 30 thereafter until the Maturity Date.

The entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on the Maturity Date. All payments by the Town pursuant to this Note shall apply first to accrued interest, then to other charges due the Lender, and the balance thereof shall apply to the principal sum due.

Upon the occurrence of an Event of Default (as defined in the hereinafter described Loan Agreement) until such Event of Default has been cured this Note shall bear interest at the lesser of



(a), the “prime rate” as announced by the Lender from time to time, plus 500 basis points, or (b) the maximum rate permitted by law.

As used in this Note,

(1) “Code” means the Internal Revenue Code of 1986, as amended, including the applicable regulations of the Department of the Treasury (including applicable final regulations, temporary regulations and proposed regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions;

(2) “Determination of Taxability” shall mean that, due to acts or omissions of the Town, interest on this Note is determined or declared, by the Internal Revenue Service or a court of competent jurisdiction to be includable in the gross income of the Registered Owner for federal income tax purposes under the Code.

Upon the occurrence of a Determination of Taxability, the interest rate on this Note shall be adjusted to a rate equal to the interest rate otherwise borne hereby divided by (1 minus the then maximum federal corporate income tax rate applicable to the Registered Owner) (the “Adjusted Interest Rate”) calculated on the basis of a 360-day year consisting of twelve 30-day months, as of and from the date such Determination of Taxability would be applicable with respect to this Note (the “Accrual Date”); and (i) the Town shall on the next interest payment date (or if this Note shall have matured, within thirty days after demand by the Registered Owner) hereon pay to the Registered Owner an amount equal to the sum of (1) the difference between (A) the total interest that would have accrued on this Note at the Adjusted Interest Rate from the Accrual Date to such interest payment date (or payment date following such demand), and (B) the actual interest paid by the Issuer on this Note from the Accrual Date to such interest payment date (or payment date following such demand), and (2) any interest and penalties required to be paid as a result of any additional State of Florida and federal income taxes imposed upon the Registered Owner arising as a result of such Determination of Taxability; and (ii) from and after the Date of Determination of Taxability, this Note shall continue to bear interest at the Adjusted Interest Rate for the period such determination continues to be applicable with respect to this Note. The adjustment shall survive payment of this Note until such time as the federal statute of limitations under which the interest on this Note could be declared taxable under the Code shall have expired.

The Town has designated this Note as a “qualified tax-exempt obligation” (QTEO) for purposed of Section 265 of the Code. If it should ever be determined that, due to acts or omissions of the Town, this Note is not a QTEO, then the interest rate on this Note shall be adjusted to 3.47%. This adjustment shall survive payment of this Note until such time as the federal statute of limitations under which this Note could be declared not to be a QTEO shall have expired.

No Determination of Taxability shall be deemed to occur unless the Town has been given timely written notice of such occurrence by the Registered Owner and, to the extent permitted by law, an opportunity to participate in and seek, at the Town’s own expense, a final administrative determination by the Internal Revenue Service or determination by a court of competent jurisdiction (from which no further right of appeal exists) as to the occurrence of such Determination of Taxability; provided that the Town, at its own expense, delivers to the Registered

Owner an opinion of bond counsel acceptable to such Registered Owner to the effect that such appeal or action for judicial or administrative review is not without merit and there is a reasonable possibility that the judgment, order, ruling or decision from which such appeal or action for judicial or administrative review is taken will be reversed, vacated or otherwise set aside.

Notwithstanding the foregoing, in no event shall the interest rate payable on this Note exceed the maximum rate permitted by law.

This Note shall be subject to redemption in whole or in part on any date at the option of the Issuer upon giving at least ten (10) days written notice to the Holder, at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest thereon. In the event of a partial redemption, prepayments shall be applied to principal in inverse order of maturity, unless the Town and the Holder shall agree otherwise in writing.

The Town to the extent permitted by law hereby waives presentment, demand, protest and notice of dishonor.

This Note is issued pursuant to a resolution duly adopted by the Town on June 7, 2022, as from time to time amended and supplemented (herein referred to as the “Resolution”), and a Loan Agreement, dated of even date herewith, between the Town and the Lender (the “Loan Agreement”) and is subject to all the terms and conditions of the Loan Agreement. All terms, conditions and provisions of the Loan Agreement are by this reference thereto incorporated herein as a part of this Note. Terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement. The Town will use the proceeds of the Note to finance the Project and refund the Refunded Note

This Note and the interest hereon are secured solely by and payable from the Town’s covenant to budget and appropriate in its Annual Budget, by amendment if necessary, from Legally Available Non-Ad Valorem Revenues in each Fiscal Year, sufficient moneys to pay the principal of and interest on the Note in such Fiscal Year, until the Note is paid in full, in the manner, to the extent and subject to the provisions of the Loan Agreement, and by a pledge of and lien on the Pledged Revenues, in the manner and to the extent in the Loan Agreement provided. Reference is hereby made to the Loan Agreement for the provisions, among others, relating to the terms, lien and security of the Note, the custody and application of the proceeds of the Note, the rights and remedies of the Holder of the Note, and the extent of and limitations on the Town's rights, duties and obligations, to all of which provisions the Holder hereof for himself and his successors in interest assents by acceptance of this Note.

**THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE A GENERAL DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE TOWN, OR A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL, LEGISLATIVE OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE HOLDER OF THIS NOTE THAT SUCH HOLDER SHALL NEVER HAVE THE RIGHT, DIRECTLY OR INDIRECTLY, TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE TOWN OR ANY OTHER POLITICAL SUBDIVISION**

OF THE STATE OF FLORIDA OR TAXATION IN ANY FORM ON ANY REAL OR PERSONAL PROPERTY FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE OR FOR THE PAYMENT OF ANY OTHER AMOUNTS PROVIDED FOR IN THE LOAN AGREEMENT

It is further agreed between the Town and the Holder of this Note that this Note and the indebtedness evidenced hereby shall not constitute a lien upon any tangible personal property of or in the Town, but the Note shall only be secured by the Town's covenant to budget and appropriate from Legally Available Non-Ad Valorem Revenues and a pledge of and lien on the Pledged Revenues, in the manner and to the extent provided in the Loan Agreement. Neither the members of the governing body of the Town nor any person executing the Note shall be liable personally on the Note by reason of its issuance.

This Note may be exchanged or transferred by the Holder hereof but only upon the registration books maintained by the Town and in the manner provided in the Loan Agreement.

This Note shall not require delivery for prepayment or principal installment payment.

The Town acknowledges that it has been notified by the Lender that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 signed into law October 26, 2001) (the "Act"), the Lender may be required to obtain, verify and record information that identifies the Town, which information includes the name and address of the Town and other information that will allow the Lender to identify the Town in accordance with the Act.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town of Highland Beach, Florida has caused this Note to be executed in its name by the manual signature of its Mayor, and attested by the manual signature of its Town Clerk and its corporate seal or a facsimile thereof affixed hereto, all as of this \_\_\_\_\_ day of June, 2022.

TOWN OF HIGHLAND BEACH, FLORIDA

By: \_\_\_\_\_  
Title: Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_

Title: Town Clerk

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Note in the books kept by the Town for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature of this assignment must correspond with the name as it appears upon the within Note in every particular, or any change whatever.

\_\_\_\_\_  
SOCIAL SECURITY NUMBER OR  
FEDERAL IDENTIFICATION  
NUMBER OF ASSIGNEE

[Form of Abbreviations]

The following abbreviations, when used in the inscription on the face of the within Note, shall be construed as though they were written out in full according to the applicable laws or regulations.

- TEN COM – as tenants in common
- TEN ENT – as tenants by the entireties
- JT TEN – as joint tenants with the right of survivorship and not as tenants in common
- UNIFORM TRANS MIN ACT - \_\_\_\_\_ Custodian for \_\_\_\_\_ (Cust.) (Minor) under Uniform Transfers to Minors Act of \_\_\_\_\_ (State).

Additional abbreviations may also be used though not in the above list.

Name and address of assignee for payment and notice purposes

Notice: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Payment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Assignee: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "B"**

**FORM OF DRAW CERTIFICATE**

Synovus Bank  
7768 Ozark Drive, Suite 100  
Jacksonville, FL 32256  
Attn: Andy LaFear  
Government Banking Solutions

The undersigned officer of the Town of Highland Beach, Florida (the "Town") DOES HEREBY CERTIFY THAT:

1. This certificate is being provided to Synovus Bank (the "Lender") in accordance with Section 4.02 of that certain Loan Agreement dated June \_\_, 2022 between the Town and the Lender (the "Loan Agreement"), in order to permit the Town to make a draw on the Note issued thereunder (the "Note"). Draws are permitted in the aggregate amount not to exceed \$5,050,000.

2. The Town hereby requests a draw in the amount of \$\_\_\_\_\_. The proceeds of this draw will be used to pay costs of the Project (as defined in the Loan Agreement) After this draw, the Town will have \$\_\_\_\_\_ available to be drawn.

3. As of the date of this certificate, the undersigned is the duly appointed and serving [Town Manager] [Finance Director] (circle one) of the Town as such is authorized to execute this certificate on behalf of the Town.

5. No Event of Default has occurred under the Loan Agreement and no event has occurred and is continuing under the provisions of the Loan Agreement which, with the lapse of time or the giving of notice, or both, would constitute an Event of Default thereunder.

WITNESS my hand and the corporate seal of the Town this \_\_\_\_ day of \_\_\_\_\_.

TOWN OF HIGHLAND BEACH,  
FLORIDA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[SEAL]

**File Attachments for Item:**

B. Approval of the Commission Meeting Minutes

April 19, 2022 Commission Meeting Minutes  
May 03, 2022 Commission Meeting Minutes

May 17, 2022 Commission Meeting Minutes



## TOWN OF HIGHLAND BEACH TOWN COMMISSION MEETING MINUTES

Town Hall / Commission Chambers  
3614 South Ocean Boulevard  
Highland Beach, Florida 33487

Date: April 19, 2022  
Time: 1:30 PM

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### **1. CALL TO ORDER**

Mayor Hillman called the meeting to order at 1:30 P.M.

### **2. ROLL CALL**

Commissioner John Shoemaker  
Commissioner Evalyn David  
Commissioner Peggy Gossett-Seidman  
Mayor Douglas Hillman  
Town Manager Marshall Labadie  
Town Attorney Glen Torcivia  
Town Clerk Lanelda Gaskins

ABSENT  
Vice Mayor Natasha Moore

### **3. PLEDGE OF ALLEGIANCE**

Town Commission led the Pledge of Allegiance to the United States of America.

### **4. APPROVAL OF THE AGENDA**

Items 10.B., Update on the Mission, and Vision Statements for Strategic Plan, and 10.C., Continued discussion on Town Entry Signage Design Concepts, were deferred to the next Town Commission meeting since Vice Mayor Moore was not available to attend the meeting.

**MOTION:** David/Gossett-Seidman - Moved to approve the agenda as amended, which passed unanimously 4 to 0.



**5. PRESENTATIONS / PROCLAMATIONS**

**A. Resolution No. 2022-008**

**A Resolution of the Town Commission of the Town of Highland Beach, Florida, ratifying the selection, appointments, and term of office of members of the Planning Board; and providing for an effective date.**

Mayor Hillman read the title of Resolution No. 2022-008.

The Town Commission interviewed applicants Mr. Jason Chudnofsky and Ms. Nievecita Maraj.

**MOTION:** David/Gossett-Seidman - Moved to approve Resolution No. 2022-008 naming Jason Chudnofsky to the Planning Board, which passed unanimously 4 to 0.

Town Clerk Gaskins clarified that the term would expire on April 19, 2024.

**6. PUBLIC COMMENTS**

There were no comments from the public.

**7. ANNOUNCEMENTS**

Mayor Hillman read the announcements as follows:

**Board Vacancies**

Natural Resources Preservation Advisory Board - One vacancy for an unexpired term ending April 30, 2024

**Meetings and Events**

May 03, 2022 - 1:30 P.M. Town Commission Meeting  
May 04, 2022 - 1:00 P.M. Natural Resources Preservation Board Quarterly Meeting  
May 05, 2022 - 2:00 P.M. Financial Advisory Board Quarterly Meeting  
May 10, 2022 - 1:00 P.M. Code Enforcement Board Regular Meeting  
May 12, 2022 - 9:30 A.M. Planning Board Regular

**Board Action Report**

A. None.

**8. ORDINANCES**

**A. Proposed Ordinance**

**An Ordinance of the Town Commission of the Town of Highland Beach, Florida adopting the current edition of the Florida Fire Prevention Code and providing for local amendments; providing for repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective date.**

Assistant Town Manager Terisha Cuebas presented this item. She discussed the proposed Florida Fire Prevention Code applicable to Highland Beach. In addition, there were conversations between the Town Commission, Consultant Glen Joseph with GJ Consulting, and Building Official Jeffrey Remas concerning the local amendments to the Fire Prevention Code.

**MOTION:** David/Shoemaker - Moved to accept the proposed Highland Beach Fire Rescue ordinance. The motion passed unanimously 4 to 0.

**9. CONSENT AGENDA**

A. None.

**10. UNFINISHED BUSINESS**

**A. Fire Rescue Implementation Update**

Town Manager Labadie gave an update on the Fire Rescue Implementation.

B. Update on the Mission and Vision Statements for Strategic Plan - Vice Mayor Moore

C. Continued discussion on Town Entry Signage Design Concepts

**D. Discussion of the public participation and planning board review process of the proposed ordinance amendments for Marine Accessory Structures.**

Mayor Hillman read the title of Item 10.D.

It was the consensus of the Town Commission for town staff to coordinate/create a map of all waterways depth using the Town's GIS system and provide the information to the Planning Board members and the Town Commission. The Planning Board members and Town Commissioners will need to visit the physical site of the waterways separately. The Town Planner and Chief of Police will coordinate individual trips via the Police Department's Marine Patrol Unit for those Planning Board members or Town Commissioners who do not have access to a boat. Town staff will also coordinate and schedule independent site

observation trips for those Planning Board members or Town Commissioners who have access to a boat. Once the Planning Board members complete the site observations, town staff will send letters to all waterfront property owners (on the west side of State Road A1A) prior to a Planning Board meeting. The board will discuss the proposed concepts for the amendments.

Mayor Hillman mentioned that if the Planning Board sees a likeness in an area, the district concept could become semi-viable. The Planning Board may want to invite a neighborhood to a meeting for public participation.

Mayor Hillman opened the item for public comments.

Mr. Jason Chudnofsky asked, “what was the charge to the Planning Board concerning the exercise?” Town Manager Labadie explained the Board members are to physically observe the existing marine accessory structures because the Board will discuss the proposed amendment concepts at a future meeting.

Mayor Hillman closed the public comments.

## **11. NEW BUSINESS**

- A. Approve the recommendation of the Evaluation Committee and authorize staff to conduct negotiations with the first-ranked firm, Kaufman Lynn Construction, and establish a contract in accordance with the Request for Qualifications (RFQ) No. 22-001 for the Construction Manager at Risk.**

Mayor Hillman read the title of Item 11.A.

Interim Finance Director Eric Marmer presented this item. Additionally, Mr. Ben Baffer, Senior Vice President, Operations, and Mr. Ryan Rider, Director of Government Relations with Kaufman Lynn Construction, commented on the Construction Manager at Risk.

**MOTION:** David/Hillman - Moved to authorize the negotiations with Kaufman Lynn Construction RFQ (Request for Qualifications) No. 22-001 for the Construction Manager at Risk, which passed unanimously 4 to 0.

- B. Discussion on fees related to the establishment of the Fire Rescue Department.**

Assistant Town Manager Terisha Cuebas introduced this item. Also, Consultant Glen Joseph with GJ Consulting, Inc. presented a PowerPoint illustrating the Fire Rescue Department fees and discussed the same.

The Town Commission was good with the fees for the Fire Rescue Department.

**C. Approval of the Commission Meeting Minutes**

February 16, 2022, Commission Special Meeting Minutes  
March 01, 2022, Commission Meeting Minutes

**MOTION:** David/Gossett-Seidman - Moved to approve February 16, 2022, Commission Special Meeting Minutes and March 01, 2022, Commission Meeting Minutes as amended, which passed unanimously 4 to 0.

**12. TOWN COMMISSION COMMENTS**

Commissioner John Shoemaker talked about the Town's entry signs, a document from Anne M. Gannon, Constitutional Tax Collector of Palm Beach County, the increasing cost of condominium insurance, the engineering certification program, and the seawalls, docks, and boat lifts.

Commissioner Evalyn David spoke about engineering and electrical inspections, the uncertainty of the economy, and the increasing cost of property insurance.

Commissioner Peggy Gossett-Seidman mentioned the lakes are in good shape ecologically.

Mayor Douglas Hillman spoke about the insurance companies pulling out of Florida, the increasing cost of property insurance, and electrical costs. He mentioned that he and Palm Beach County Mayor Robert Weinroth had lunch. They talked about the overtime dollars, the recertification of buildings, and requiring condominiums to establish reserves.

**13. TOWN ATTORNEY'S REPORT**

Town Attorney Torcivia had nothing to report.

**14. TOWN MANAGER'S REPORT**

Town Manager Labadie reported the following:

The Sanitary Sewer Lining Project will be hitting the street within a day or two and the Town will be soliciting bidders for this project.

The Town was on track with Fire Rescue.

He welcomed Mr. Jason Chudnofsky to the Planning Board. In addition, he recognized those employees who provided a presentation today.

**15. ADJOURNMENT**

The meeting adjourned at 4:15 p.m.

**APPROVED** on June 07, 2022, Town Commission Meeting.

ATTEST:

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Douglas Hillman, Mayor

Transcribed by  
Lanelda Gaskins

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June 07, 2022

Date

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Lanelda Gaskins, MMC  
Town Clerk

Disclaimer: Effective May 19, 2020, per Resolution No. 20-008, all meeting minutes are transcribed as a brief summary reflecting the event of this meeting. Verbatim audio/video recordings are permanent records and are available on the Town's Media Archives & Minutes webpage: <https://highlandbeach-fl.municodemeetings.com/>.



## TOWN OF HIGHLAND BEACH TOWN COMMISSION MEETING MINUTES

Town Hall / Commission Chambers  
3614 South Ocean Boulevard  
Highland Beach, Florida 33487

Date: May 03, 2022  
Time: 1:30 PM

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### **1. CALL TO ORDER**

Mayor Hillman called the meeting to order at 1:30 P.M.

### **2. ROLL CALL**

Commissioner John Shoemaker  
Commissioner Evalyn David  
Commissioner Peggy Gossett-Seidman  
Vice Mayor Natasha Moore  
Mayor Douglas Hillman  
Town Manager Marshall Labadie  
Town Attorney Glen Torcivia  
Town Clerk Lanelda Gaskins

### **3. PLEDGE OF ALLEGIANCE**

The Town Commission led the Pledge of Allegiance to the United States of America.

### **4. APPROVAL OF THE AGENDA**

**MOTION:** David/Moore - Moved to approve the agenda as presented, which passed unanimously 5 to 0.

### **5. PRESENTATIONS / PROCLAMATIONS**

- A. Building Safety Month Proclamation**
- B. Drinking Water Week Proclamation**
- C. Professional Municipal Clerk Week**

Mayor Hillman read the proclamations and presented them to the Building Department, Public Works, and Town Clerk's Office staff.

**6. PUBLIC COMMENTS**

Mayor Hillman called for public comments.

Mr. Jack Halpern of 45 Ocean thanked Town Manager Labadie. He commented on the recent Managers Minutes, a potential lawsuit filed by a resident related to beach raking, the referendum election, and signage.

**7. ANNOUNCEMENTS**

Mayor Hillman read the announcements as follows. He also announced that there would be a Town Commission Special Meeting on May 24, 2022, at 11:30 A.M.

**Board Vacancies**

Natural Resources Preservation Advisory Board - One vacancy for an unexpired term ending April 30, 2024, and one vacancy for a three-year term

**Meetings and Events**

May 09, 2022 - 11:30 A.M. Financial Advisory Board Regular Meeting  
May 10, 2022 - 1:00 P.M. Code Enforcement Regular Board Meeting  
May 12, 2022 - 9:30 A.M. Planning Board Regular Meeting  
May 17, 2022 - 1:30 P.M. Town Commission Meeting

**Board Action Report**

A. None.

**8. ORDINANCES**

**A. Proposed Ordinance**

**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.**

Town Manager Labadie presented this item.

**MOTION:** David/Moore - Moved to accept 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. The motion passed unanimously 5 to 0.

**9. CONSENT AGENDA**

A. None.

**10. UNFINISHED BUSINESS**

**A. Fire Rescue Implementation Update**

Town Manager Labadie provided an update on the Fire Rescue Implementation.

**B. Update on the Mission and Vision Statements for Strategic Plan - Vice Mayor Moore**

Vice Mayor Moore presented this item and a PowerPoint presentation illustrating the proposed mission and vision statements for Highland Beach.

The Town Commission discussed the vision, mission, and motto statements and decided the statements are to read as follows:

Vision: The Town of Highland Beach is a beautiful, safe harbor in paradise whose residents never leave.

Mission: To provide exceptional governance and municipal services, in partnership with our residents, in a fiscally responsible manner with an emphasis on planning for the future.

Motto: 3 miles of paradise.

**C. Continued discussion on Town Entry Signage Design Concepts**

Vice Mayor Moore presented this item and a PowerPoint presentation illustrating the proposal to engage the residents in the design of the Town entry signs along State Road A1A.

Vice Mayor Moore will work on a more specific communication plan. Mayor Hillman will work with Town Manager Labadie concerning the sign dimensions.



**11. NEW BUSINESS**

- A. Approve and authorize the Town Manager to execute a Pre-Construction Agreement between the Town of Highland Beach and Kaufman Lynn Construction for the Construction Manager at Risk.**

Mayor Hillman announced this item.

Town Manager Labadie presented this item. He explained that there are multiple phases of the Construction Manager at Risk (CMAR). The first phase in the Town's process would be to execute the pre-construction agreement with Kaufman Lynn Construction. Additionally, Mr. Ryan Rider, Director of Government Relations with Kaufman Lynn Construction, commented on this item.

**MOTION:** David/Gossett-Seidman - Moved that we accept the professional services agreement for pre-construction services from the Construction Manager at Risk (RFQ No. 22-001), which passed unanimously 5 to 0.

**12. TOWN COMMISSION COMMENTS**

Commissioner John Shoemaker provided comments about the beach, including observing women marking the sea turtle nesting areas, sargassum on the beach, and beach raking. He would like to see the Town do something for the women involved in the sea turtle site nesting. He inquired about Senate Bill (SB) 518, which restricts property rights on cutting trees or shrubs. Commissioner Gossett-Seidman that the legislation has called a special session to be held the last week in May to address the property insurance rates. She also spoke about SB 518 related to the trees and shrubs. Town Manager Labadie also commented on SB 518. Lastly, he commented on the commitment to cooperate with the residents.

Commissioner Evalyn David had no comments.

Commissioner Peggy Gossett-Seidman spoke about the three State appropriations, of which two appropriations are expected to pass. She also commented about several residents writing the Governor of Florida.

Vice Mayor Natasha Moore had no comments.

Mayor Hillman asked the Chief of Police Hartmann to provide the Town Commission with a matrix on the Marine Patrol Unit for the next six months via email.

Commissioner Gossett-Seidman spoke about the positive feedback she has heard from residents concerning the management of the Intracoastal waterway.

**13. TOWN ATTORNEY'S REPORT**

Town Attorney Torcivia had nothing to report.

**14. TOWN MANAGER'S REPORT**

Town Manager Labadie reported the following:

The departments are actively working to align their operations plan with the Strategic Priorities Plan.

Chief of Police Hartmann will discuss the hurricane preparedness plan at the next Town Commission meeting.

Mayor Hillman commented on the increase in the condominium insurance rates and the building recertification.

**15. ADJOURNMENT**

The meeting adjourned at 3:27 P.M.

**APPROVED** on June 07, 2022, Town Commission Meeting.

ATTEST:

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

Transcribed by  
Lanelda Gaskins

\_\_\_\_\_  
June 07, 2022

Date

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

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## TOWN OF HIGHLAND BEACH TOWN COMMISSION MEETING MINUTES

Town Hall / Commission Chambers  
3614 South Ocean Boulevard  
Highland Beach, Florida 33487

Date: May 17, 2022  
Time: 1:30 PM

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### **1. CALL TO ORDER**

Mayor Hillman called the meeting to order at 1:30 P.M.

### **2. ROLL CALL**

Commissioner John Shoemaker  
Commissioner Evalyn David  
Commissioner Peggy Gossett-Seidman  
Vice Mayor Natasha Moore  
Mayor Douglas Hillman  
Town Manager Marshall Labadie  
Town Attorney Aleksandr Boksner  
Town Clerk Lanelda Gaskins

### **3. PLEDGE OF ALLEGIANCE**

The Town Commission led the Pledge of Allegiance to the United States of America.

### **4. APPROVAL OF THE AGENDA**

Mayor Hillman moved Item 11.C., Discussion on the recommendation from the Financial Advisory Board (FAB) for the Request for Proposals (RFP) related to the Bank Loan for the Fire Rescue Department, to Item 7.A. under Announcements.

**MOTION:** David/Moore – Moved to approve the agenda as amended, which passed unanimously 5 to 0.

### **5. PRESENTATIONS / PROCLAMATIONS**

#### **A. National Safe Boating Week Proclamation**

Mayor Hillman read the National Safe Boating Week Proclamation. Mr. Rafael Baez, Immediate Past Flotilla Commander - Flotilla 36 with the United States Guard Auxiliary, District 7, Division 3, was present to accept the proclamation.

**B. National Public Works Week Proclamation**

**C. National Police Week Proclamation**

Mayor Hillman read the above-referenced proclamations and presented them to the Public Works and Police Departments.

**D. Resolution No. 2022-012**

**A Resolution of the Town Commission of the Town of Highland Beach, Florida, ratifying the selection, appointments, and term of office of members of the Natural Resources Preservation Advisory Board; and providing for an effective date.**

Mayor Hillman announced this item.

Town Commission interviewed applicant Mr. Joshua Davison (joined virtually).

**MOTION:** David/Gossett-Seidman - Moved to accept Resolution No. 2022-012, which passed 5 to 0 unanimously.

**6. PUBLIC COMMENTS**

There were no public comments.

**7. ANNOUNCEMENTS**

Mayor Hillman read the announcements as follows:

**Board Vacancies**

Board of Adjustment and Appeals - One vacancy for a three-year term

Natural Resources Preservation Advisory Board - One vacancy for an unexpired term ending April 30, 2024, and one vacancy for a three-year term

**Meetings and Events**

May 24, 2022 - 1:30 P.M. Town Commission Special Meeting

May 30, 2022 - Town Hall Closed in Observance of Memorial Day

June 07, 2022 - Town Commission Meeting

**Board Action Report**

None.

**A. Discussion on the recommendation from the Financial Advisory Board (FAB) for the Request for Proposals (RFP) related to the Bank Loan for the Fire Rescue Department (Formally Item 11.C.).**

Town Manager Labadie introduced this item.

Mr. Johnathan Ford of Ford & Associates, Inc. (Financial Advisors), presented a summary of proposals & advisor recommendations related to the bank loan for the Fire Rescue Department. He discussed the comparison of loan structures with PNC Bank, N.A. Webster Bank and Synovus Bank. Mr. Skip Miller, of Greenspoon Marder LLP (Bond Counsel), joined the meeting virtually. The Town Commission asked Mr. Ford to contact the above-referenced banks concerning the interest rates and the draw structure. Therefore, a motion was made as follows:

**MOTION:** David/Gossett-Seidman - Moved to TABLE this until John comes back with answers from the banks, which passed unanimously 5 to 0.

The Town Commission continued with this item at 3:13 P.M. Mr. Ford explained that at the request of the Town Commission, he contacted PNC Bank, N.A., Synovus Bank, and Webster Bank. He asked them for their best and final offers related to the prepayment provisions, pricing, and the drawdown period on loan. In addition, he discussed the results of PNC Bank, N.A., Synovus Bank, and Webster Bank.

**MOTION:** David/Moore – Moved to accept the loan deal from Synovus Bank. Upon roll call, Commissioner David (Yes), Vice Mayor Moore (Yes), Commissioners Shoemaker (Yes), Gossett-Seidman (Yes), and Mayor Hillman (Yes). Motion passed unanimously 5 to 0.

The Town Commission agreed to cancel the May 24, 2022, Town Commission Special Meeting.

**8. ORDINANCES**

**A. Ordinance No. 2022-004 (Second Reading/Public Hearing)**

**An Ordinance of the Town of Commission of the Town of Highland Beach, Florida, adopting the current edition of the Florida Fire Prevention Code and providing for local amendments; providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective date (First Reading was April 19, 2022).**

Mayor Hillman read the title of Ordinance No. 2022-004.

There were no comments from the public.

**MOTION:** David/Shoemaker - Moved to accept Ordinance No. 2022-004 on second reading. Upon roll call, Commissioners David (Yes), Shoemaker (Yes), Gossett-Seidman (Yes), Vice Mayor Moore (Yes), and Mayor Hillman (Yes). Motion passed unanimously 5 to 0.

**B. Ordinance No. 2022-005 (Second Reading/Public Hearing)**

**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 (First Reading was May 03, 2022).**

Mayor Hillman read the title of Ordinance No. 2022-005.

**MOTION:** David/Shoemaker - Moved to approve Ordinance No. 2022-005 on second reading. Upon roll call, Commissioners David (Yes), Shoemaker (Yes), Gossett-Seidman (Yes), Vice Mayor Moore (Yes), and Mayor Hillman (Yes). Motion passed unanimously 5 to 0.

**9. CONSENT AGENDA**

**A. Resolution No. 2022-009**

**A Resolution of the Town Commission of the Town of Highland Beach, Florida, ratifying the selection, appointments, and term of office of members of the Planning Board; and providing for an effective date.**

**B. Resolution No. 2022-010**

**A Resolution of the Town Commission of the Town of Highland Beach, Florida, ratifying the selection, appointments, and term of office of members of the Code Enforcement Board; and providing for an effective date.**

**MOTION:** Moore/David - Moved to accept Items 9.A. and 9.B., which passed unanimously 5 to 0.

**10. UNFINISHED BUSINESS**

**A. Fire Rescue Implementation Update**

Mayor Hillman announced this item.

Town Manager Labadie provided an update on the Fire Rescue Implementation.

## **11. NEW BUSINESS**

### **A. Police Department Updates**

Chief of Police Craig Hartmann presented a PowerPoint Presentation updating the Town Commission on the Marine Patrol Unit and Hurricane Season Preparedness. Furthermore, he spoke about the traffic conjunction and bicyclist commuting on State Road A1A and State of Florida bicycle regulations.

### **B. Resolution No. 2022-011**

**A Resolution of the Town Commission of the Town of Highland Beach, Florida, adopting a schedule of fees for the Fire Rescue Department; providing for conflicts; providing for severability; and providing for an effective date.**

Mayor Hillman announced this item.

**MOTION:** David/Hillman - Moved to approve Resolution No. 2022-011 as amended, which passed unanimously 5 to 0.

### **C. Discussion on the recommendation from the Financial Advisory Board (FAB) for the Request for Proposals (RFP) related to the Bank Loan for the Fire Rescue Department (*This item was moved to 7.A.*)**

### **D. Discussion of potential East Palmetto Road Re-Design - City of Boca Raton**

Mayor Hillman explained that the City of Boca Raton City Council had approved the funds to conduct a traffic study for the East Palmetto Park Road Re-Design. This would change the roadway along East Palmetto Park Road, which could cause a significant impact on the traffic flow along Spanish River Boulevard and State Road A1A. Mayor Hillman will get the details on the traffic study. Commissioner Gossett-Seidman will provide Town Manager Labadie with the facts, background information, and statistics concerning the traffic/bridges.

### **E. Approval of the Commission Meeting Minutes**

March 15, 2022, Commission Meeting Minutes  
April 05, 2022, Commission Meeting Minutes

**MOTION:** David/Gossett-Seidman - Moved to accept the Minutes from March 15, 2022, and April 05, 2022, as corrected, which passed unanimously 5 to 0.

**12. TOWN COMMISSION COMMENTS**

Commissioner John Shoemaker provided comments about the Florida Department of Transportation (FDOT) installing signs in Delray Beach (on the east side of State Road A1A), dogs on the beach, shelters during hurricane season, a webinar he attended concerning electronic vehicles, the Veteran's tab on the Town's webpage and an article he is writing about veteran resident Doctor Richard Greenwald.

Commissioner Evalyn David had no comments.

Commissioner Peggy Gossett-Seidman had no comments.

Vice Mayor Natasha Moore inquired about the protocol for presenting the quarterly financial reports to the Town Commission. Town Manager Labadie replied that a monthly variance report would be provided at the second Town Commission meeting each month. Finance Director David DiLena commented on generating monthly financial reports.

Commissioner Gossett-Seidman asked the Town Attorney Boksner to weigh in on the legal ramification and any baring the town may have since a part of the road belongs to the county and the other portion belongs to the city. Town Attorney Boksner explained that he could work with the Town Commission to establish something that the town could legally do. He could also work with Town Manager Labadie concerning this matter.

Mayor Douglas Hillman asked Town Manager Labadie to contact FDOT about the overgrown vegetation on the county property on the east side of State Road A1A next to the second house near the Boca Highland's north entry area. He also encouraged the Town Commission to consider developing a Fire Rescue Foundation before May 2024. The Town Commission agreed that the Mayor would sponsor this assignment and work with Town Manager Labadie.

**13. TOWN ATTORNEY'S REPORT**

Town Attorney Aleksandr Boksner commented that it is a pleasure being here.

**14. TOWN MANAGER'S REPORT**

Town Manager Labadie reported the following:

He is working close to tying down some staffing.

He is also working through the Human Resources function in preparation to onboard Fire Rescue personnel.

He will provide the Town Commission with a proposed drawing on EMS graphics today.



**15. ADJOURNMENT**

The meeting adjourned at 4:07 P.M.

**APPROVED** on June 07, 2022, Town Commission Meeting.

ATTEST:

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Douglas Hillman, Mayor

Transcribed by  
Lanelda Gaskins

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June 07, 2022

Date

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Lanelda Gaskins, MMC  
Town Clerk

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