

ORDINANCE NO. 2020-\_\_\_\_\_

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING ORDINANCE NO. 2018-58 ENACTED ON JUNE 26, 2018, TO MODIFY A COMPONENT OF THE STREETS, SIDEWALKS, BRIDGES AND STREETSCAPING PROJECTS DESCRIBED THEREIN TO BE FINANCED BY THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2018; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A CERTIFICATE OF THE CITY EVIDENCING CERTAIN MATTERS RELATING TO THE MODIFIED PROJECT FOR PURPOSES OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AUTHORIZING THE PROPER OFFICIALS OF THE CITY TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE MATTERS PROVIDED FOR HEREIN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1. DEFINITIONS; AUTHORITY FOR THIS AMENDING SERIES ORDINANCE; AMENDING SERIES ORDINANCE CONSTITUTES CONTRACT.** All capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in the Master Ordinance and 2018 Series Ordinance (as such capitalized terms are

hereinafter defined), unless otherwise provided or unless the context otherwise clearly requires. The City is authorized to adopt this Series Ordinance (the “Amending Series Ordinance”) under the authority granted by the provisions of the Act, Ordinance No. 2018-49 enacted by the City on April 24, 2018 (the “Master Ordinance”), as supplemented by Ordinance No. 2018-58 enacted by the City on June 26, 2018 (the “2018 Series Ordinance”) and the Bond Referendum. This Amending Series Ordinance is a Series Ordinance with respect to the Series 2018 Bonds within the meaning of the Master Ordinance. In consideration of the purchase of the Series 2018 Bonds by those who shall own the same from time to time, this Amending Series Ordinance shall be deemed to be and shall constitute a contract between the City and such owners of the Series 2018 Bonds. To the extent necessary to effectuate the terms and conditions hereof, the Master Ordinance is hereby incorporated herein by this reference.

**SECTION 2.**      **FINDINGS.** It is hereby found and determined that:

A.      Pursuant to the Referendum Resolution, the City, among other matters, authorized the issuance of its Bonds in connection with the Projects set forth in the Referendum Resolution, subject to the approval of a majority of the qualified electors of the City voting in the Bond Referendum authorized and called to be held in the City pursuant to the Referendum Resolution.

B.      The Projects were described on Exhibit A to the Referendum Resolution and grouped into three categories, referred to, respectively as (i) the “Public Safety Projects” (which consist generally of police, fire, emergency management and lifeguard facilities and related costs); (ii) the “Parks Recreation and Leisure Projects” (which consist generally of parks, recreation and leisure facilities and related costs); and (iii) the “Streets, Sidewalks, Bridges and

Streetscaping Projects” (which consist generally of streets, sidewalks, bridges and streetscaping, related utilities and drainage and related costs).

C. Pursuant to the Referendum Resolution, three separate ballot questions were presented and separately voted on in the Bond Referendum, corresponding to the Public Safety Projects, the Parks, Recreation and Leisure Projects, and the Streets, Sidewalks, Bridges and Streetscaping Projects, respectively.

D. The Bond Referendum was held on March 13, 2018 and a majority of the votes cast by the qualified electors within the City voting in the Bond Referendum approved the issuance of the general obligation bonds that were the subject of the Bond Referendum for each of the Public Safety Projects, the Parks, Recreation and Leisure Projects, and the Streets, Sidewalks, Bridges and Streetscaping Projects.

E. In accordance with the Act, the City certified the returns of the Bond Referendum pursuant to Resolution No. 2018-109 adopted on March 27, 2018.

F. Pursuant to the Act and the Bond Referendum, the City enacted the Master Ordinance authorizing the Bonds, in general terms, to finance the Costs of the Projects and providing, among other matters, for each Series of the Bonds to be further authorized by one or more Series Ordinances.

G. On June 26, 2018, the City enacted the 2018 Series Ordinance as a Series Ordinance (the “2018 Series Ordinance” and, together with the Master Ordinance, the “Ordinance”) to provide for the issuance of its General Obligation Bonds, Series 2018 (the “Series 2018 Bonds”) to finance all or a portion of the cost of certain components of the Projects (the portion of the Projects so financed being designated as the “Series 2018 Projects”). The City issued the Series 2018 Bonds on October 2, 2018 in the aggregate principal amount of \$99,375,000.

Included in the Series 2018 Projects were certain Streets, Sidewalks, Bridges and Streetscaping Projects, as reflected in the Official Statement relating to the Series 2018 Bonds.

H. Subsequent to the issuance of the Series 2018 Bonds, the City's staff has determined that is advisable to modify the "Collier City Neighborhood Improvements" component of the Streets, Sidewalks, Bridges and Streetscaping Projects, as such modification is described on Exhibit A hereto (the "Modified Component").

I. The Ordinance provides that the City may, in its sole discretion, by official action evidenced by a resolution or ordinance of the City Commission adopted or enacted from time to time, modify or amend all or any portion of the items included in the Series 2018 Projects to (1) delete one or more of the listed items if the City determines it is not feasible or is otherwise not in the best interest of the City to pursue or (2) substitute or modify one or more of the listed items, if the City determines such substitution or modification better serves City purposes, provided such modified or substituted facility, improvement or equipment shall be included in the City's five-year capital improvement program, as adopted from time to time, and is related to (i) police, fire, emergency management or lifeguard services with respect to the Public Safety Projects, (ii) parks, community centers, piers, amphitheaters, pavilions, ballfields or other recreation and leisure purposes with respect to the Parks, Recreation and Leisure Projects, and (iii) streets, streetscaping, landscaping, sidewalks, lighting, related utilities and drainage, parking, or bridges with respect to the Streets, Sidewalks, Bridges and Streetscaping Projects.

J. The City Commission hereby determines that it is necessary and desirable for the promotion of municipal purposes and for the health, safety and welfare of the residents of the City, and serves a paramount public purpose, for the City to include the Modified Component

as part of the Streets, Sidewalks, Bridges and Streetscaping Projects included in the Series 2018 Projects.

K. In furtherance of the foregoing, the City Commission determines that (i) that the Modified Component is part of the Projects approved by the Referendum Resolution and the Bond Referendum; (ii) any portion of the Modified Component not paid from proceeds of the Series 2018 Bonds available for that purpose may be paid from a future Series of Bonds; (iii) the modification of the Streets, Sidewalks, Bridges and Streetscaping Projects included in the Series 2018 Projects to include the Modified Component and the payment of all or a portion of the cost thereof better serves City purposes; and (iv) the Modified Component, including the cost thereof as reflected on Exhibit A, is or shall be included in the City's five-year capital improvement program, as adopted from time to time, prior to the date any proceeds of the Series 2018 Bonds are expended on the cost of the Modified Component.

**SECTION 3. APPROVAL AND AUTHORIZATION OF MODIFICATIONS TO THE SERIES 2018 PROJECT AND AMENDMENT OF THE 2018 SERIES ORDINANCE.**

A. The Series 2018 Projects are hereby modified to include the Modified Component as part of the Streets, Sidewalks, Bridges and Streetscaping Projects included in the Series 2018 Projects. Accordingly, all or a portion of the cost of the Modified Component may be financed by the proceeds of the Series 2018 Bonds on deposit in the Streets, Sidewalks, Bridges and Streetscaping Projects Construction Account established under the Ordinance. The 2018 Series Ordinance is deemed modified and amended to effectuate the matters set forth herein upon the effective date of this Amending Series Ordinance.

B. Prior to or contemporaneously with the first expenditure of any proceeds of the Series 2018 Bonds on the Modified Components, the Mayor or his designee is authorized and

directed to execute, and the City Clerk or her designee is authorized and directed to attest, a certificate substantially in the form annexed hereto as Exhibit B.

C. Appropriate representatives of the City are hereby authorized to file this Amending Series Ordinance with the Municipal Securities Rulemaking Board, through its Electronic Municipal Market Access (“EMMA”) web portal, pursuant to the Continuing Disclosure Certificate executed in connection with the Series 2018 Bonds (the “Continuing Disclosure Certificate”).

**SECTION 4. GENERAL AUTHORITY.** The Mayor, City Manager, City Clerk and any other proper officials of the City are hereby authorized and directed to do all acts and things required of them by the Ordinance and this Amending Series Ordinance, the Continuing Disclosure Certificate or that may otherwise be desirable or consistent with accomplishing the full, punctual and complete performance of all the terms, covenants and agreements contained in any of the foregoing and each member, employee, attorney and officer of the City is hereby authorized and directed to execute and deliver any and all papers and instruments and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated thereby.

**SECTION 5. SEVERABILITY AND INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, but not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of the other provisions hereof or of the Series 2018 Bonds.

**SECTION 6. ORDINANCE TO CONTINUE IN FORCE; CONFLICTS.** Except as herein expressly provided, the Ordinance and all the terms and provisions thereof, are and shall remain in full force and effect; provided, however, any provisions of the Ordinance in conflict with this Amending Series Ordinance are hereby superseded by this Amending Series Ordinance to the extent of such conflict.

**SECTION 7. EFFECTIVE DATE.** This Amending Series Ordinance shall be automatically effective upon the date of its passage and enactment.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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**REX HARDIN, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

MEB:jrm  
12/17/19  
L:ord/2020-90

## EXHIBIT A

### MODIFIED COMPONENT

All costs are estimates only and may be greater or less for the Modified Component, and include costs of design, engineering and other professional services and reserves for contingencies. The components of the Modified Component are subject to modification as provided in the Ordinance. Strike-through indicate deletions and underlining indicates additions in the below.

**Collier City Neighborhood Improvements:** **\$3,000,000**

~~Design, construct and equip streetscape improvements in the Collier City neighborhood, including, but not limited to, lighting and landscaping.~~

**Collier City Neighborhood Improvements:** **\$1,000,000**

Design, construct and equip streetscape improvements in the Collier City neighborhood including, but not limited to, lighting and landscaping.

**FPL Light Fixtures Conversion Project:** **\$2,000,000**

Design, construct and upgrade existing lighting system equipment to City neighborhoods including, but not limited to, Cresthaven and Highlands neighborhoods.



**EXHIBIT B**

**ADDENDUM TO FEDERAL TAX CERTIFICATE**