

**RESOLUTION 22-06**

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA CALLING A REFERENDUM SEEKING ELECTOR APPROVAL FOR THE CONTINUED LEVY OF A SPECIAL AD VALOREM TAX WITHIN THE HIDEAWAY BEACH DISTRICT AT A MILLAGE RATE NOT TO EXCEED 2.6 MILLS LEVIED ON ALL TAXABLE PROPERTY WITHIN THE DISTRICT, COMMENCING JANUARY 1, 2024, AND ENDING ON SEPTEMBER 30, 2034, TO FUND OPERATING EXPENSES AND CAPITAL COSTS OF THE DISTRICT IN PROVIDING BEACH RENOURISHMENT/ACCESS SERVICES AND IMPROVEMENTS WHICH MAY INCLUDE ISSUANCE BY THE CITY OF NOT TO EXCEED \$2,900,000 IN LIMITED GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, TO BE SECURED THEREBY, THE PROCEEDS OF WHICH TO BE USED FOR BEACH RENOURISHMENT AND BEACH ACCESS CAPITAL PROJECTS; PROVIDING THAT SUCH TAX SHALL BE USED TO PAY FOR OPERATION AND MAINTENANCE EXPENSES AND CAPITAL COSTS OF THE DISTRICT AND TO SECURE ANY SUCH BONDS; APPROVING THE FORM AND AUTHORIZING EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE DISTRICT IN THE EVENT THE REFERENDUM IS APPROVED; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Marco Island, Florida (the "City") created the Hideaway Beach District (the "District") pursuant to Ordinance No. 04-05, as amended, to improve, renourish, preserve, maintain, monitor and provide public access to the beach property located within the boundaries of the District, and such other improvements and appurtenances within the District as may be necessary for the improvement, renourishment, preservation, maintenance, monitoring and providing of access to such beach lands; and

WHEREAS, in accordance therewith, the City Council of the City (the "City Council") adopted Resolution No. 04-36 on June 21, 2004 which called a referendum of the qualified electors of the District (the "2004 Referendum") to determine whether the City would be authorized to levy a special ad valorem tax within the District for purposes of funding annual operation and

maintenance expenses of the District and securing debt obligations of the District for a period not to exceed ten years, beginning January 1, 2005, in an amount not to exceed 2.6 mills; and

**WHEREAS**, the 2004 Referendum was held on August 31, 2004 during which the qualified electors of the District approved the levy of such special ad valorem taxes; and

**WHEREAS**, the City Council thereafter adopted Resolution No. 12-12 on April 2, 2012 which called a referendum of the qualified electors of the District (the "2012 Referendum") to determine whether the City would be authorized to continue levying a special ad valorem tax within the District for purposes of funding annual operation and maintenance expenses of the District and securing debt obligations of the District for an additional period of not to exceed ten years beginning January 1, 2014, in an amount not to exceed 2.6 mills; and

**WHEREAS**, the 2012 Referendum was held on August 14, 2012 during which the qualified electors of the District approved the levy of such special ad valorem taxes; and

**WHEREAS**, revenues derived from the ad valorem tax levy approved by the 2004 Referendum and the 2012 Referendum have funded annual operations, maintenance and capital projects and facilities of the District; and

**WHEREAS**, the ten year period for the levy of ad valorem taxes approved by the 2012 Referendum will conclude on December 31, 2023; and

**WHEREAS**, on January 12, 2022, the Board of Supervisors of the District (the "Board") adopted Resolution No. 2022-02 requesting that the City Council call a referendum seeking approval by the qualified electors of the District for continuation of the levy of a special ad valorem tax levied within the District commencing January 1, 2024 and ending on September 30, 2034, at a millage rate not to exceed 2.6 mills levied on all taxable property within the District, to fund operating expenses and capital costs of the District in providing beach renourishment/access

services and improvements and seeking approval of the issuance of not to exceed \$2,900,000 in limited general obligation bonds, in one or more series, to be secured thereby, the proceeds of which to be used for beach renourishment and beach access capital projects; and

**WHEREAS**, the City Council has determined to grant such request and schedule the referendum to be held in conjunction with the August 2022 primary election or as soon thereafter as may be held.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This Resolution is adopted pursuant to the Constitution and laws of the State of Florida, including Chapter 166, Florida Statutes and other applicable provisions of law.

**SECTION 2. REFERENDUM.**

(A) The City Council hereby calls a referendum of the qualified electors of the District to be held in conjunction with the primary election on August 23, 2022, or as soon thereafter as may be held, to determine whether the City shall be authorized to continue the levy of a special ad valorem tax levied within the District at a millage rate not to exceed 2.6 mills levied on all taxable property within the District, commencing January 1, 2024 and ending on September 30, 2034, to fund operating expenses and capital costs of the District in providing beach renourishment/access services and improvements and seeking approval of the issuance of the City's not to exceed \$2,900,000 in limited general obligation bonds, in one of more series, to be secured thereby, the proceeds of which to be used for beach renourishment and beach access capital projects.

(B) In the event the referendum is approved, (1) revenues resulting from such special ad valorem tax shall be used first for payment of any limited general obligation bonds issued by the City thereunder, and then for payment of operation and maintenance expenses of the District, and (2) the City shall enter into an interlocal agreement with the District, in substantially the form attached hereto as Exhibit A, to provide for (i) the City's collection of the special ad valorem tax and remittance of the balance of the proceeds thereof, after payment of annual debt service on the City's bonds, to the District to pay its operation and maintenance expenses, and (ii) transfer of the net proceeds of the City's bonds, after payment of costs of issuance associated with the bonds, to the District to pay the costs of the Project. The City Council hereby authorizes execution and delivery of such interlocal agreement on behalf of the City by the Chairman or Vice Chairman, to be attested by the City Clerk or any Deputy City Clerk, in the event the referendum is approved.

(C) The District shall pay all costs and expenses incurred in calling the referendum including but not limited to expenses associated with required notices of the referendum, required translation services, if any, and any fees charged by the Supervisor of Elections of Collier County, Florida (the "Supervisor of Elections") to hold, administer, and conduct the referendum in the manner prescribed by law.

**SECTION 3. OFFICIAL BALLOT.** The ballot for voting in the referendum shall be in substantially the following form:

**OFFICIAL BALLOT  
HIDEAWAY BEACH DISTRICT  
CITY OF MARCO ISLAND, FLORIDA  
TAX AND BOND REFERENDUM**

**Shall City re-authorize special ad valorem tax of up to 2.6 mills in District from January 1, 2024 through September 30, 2034, to pay District operating expenses and capital costs in providing beach renourishment/access services and improvements, which may**

include issuance of up to \$2,900,000 in limited general obligation bonds payable from such tax, not exceeding maximum legal interest rates, maturing by September 30, 2034, in multiple series, to finance beach renourishment/access projects?

\_\_\_\_\_ Yes — For Bonds and Levy of Tax

\_\_\_\_\_ No — Against Bonds and Levy of Tax

If a majority of the votes cast at the referendum shall be "Yes — For Bonds and Levy of Tax," the continued levy of the special ad valorem tax and issuance of limited obligation bonds shall be approved, and then any such bonds shall be issued as shall be provided by supplemental resolution of the governing body of the City. If less than a majority of the votes cast at the referendum shall be "Yes - For Bonds and Levy of Tax," the continued levy of the special ad valorem tax shall be defeated and no bonds shall be issued pursuant to this Resolution.

**SECTION 4. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED this 22<sup>nd</sup> day of February 2022.**

(SEAL)

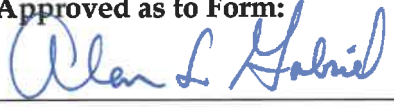
**ATTEST**

  
\_\_\_\_\_  
Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Erik Brechnitz, Chairman

**Approved as to Form:**

  
\_\_\_\_\_  
Alan L. Gabriel, City Attorney

**EXHIBIT A**

**FORM OF INTERLOCAL AGREEMENT**

## INTERLOCAL AGREEMENT

This INTERLOCAL AGREEMENT, dated as of \_\_\_\_\_, 20\_\_, is entered into by and between the CITY OF MARCO ISLAND, FLORIDA (the "City") and the HIDEAWAY BEACH DISTRICT (the "District").

### WITNESSETH:

**WHEREAS**, the City created the District by City Ordinance No. 04-05, as amended, to effectuate its purpose to improve, renourish, preserve, maintain, monitor and provide public access to the beach property located within the boundaries of the District, and such other improvements and appurtenances within the District as may be necessary for the improvement, renourishment, preservation, maintenance, monitoring and providing of access to such beach lands; and

**WHEREAS**, Resolution No. 2022-01 was adopted by the Board of Supervisors of the District on January 12, 2022, requesting the City call a referendum (the "District Referendum") seeking approval by the qualified electors of the District for continuation of the levy of a special ad valorem tax within the District at a millage rate not to exceed 2.6 mills levied on all taxable property within the District, commencing January 1, 2024 and ending on September 30, 2034, to fund operating expenses and capital costs of the District in providing beach renourishment/access services and improvements and seeking approval of the issuance of not to exceed \$2,900,000 in limited general obligation bonds, in one or more series to be secured thereby (collectively, the "Bonds"), the proceeds of which to be used for beach renourishment and beach access capital projects (collectively, the "Project"); and

**WHEREAS**, Resolution No. 2022-01 also authorized execution and delivery of this Interlocal Agreement in the event the District Referendum was approved, to provide for (i) the City's collection of the special ad valorem tax and remittance of the balance of the proceeds thereof, after payment of annual debt service on the City's Bonds, to the District to pay its operation and maintenance expenses, and (ii) transfer of the net proceeds of the City's Bonds, after payment of costs of issuance associated with the Bonds, to the District to pay the costs of the Project; and

**WHEREAS**, the City Council of the City (the "City Council") adopted Resolution No. \_\_\_\_, on \_\_\_\_\_, 2022, calling for the District Referendum and authorizing execution and delivery of this Interlocal Agreement in the event the District Referendum was approved; and

**WHEREAS**, the District Referendum was held and approved by a majority of the qualified electors in the District on August 23, 2022.

**NOW, THEREFORE**, the parties hereto do hereby agree as follows:

**SECTION 1. DEFINITIONS.** All capitalized terms herein not specifically defined shall have the meanings specified in District Resolution No. 2022-01.

**SECTION 2. CITY OBLIGATIONS.** In consideration of the District's undertaking of the Project, the City agrees as follows:

(A) To assess, levy and collect a special ad valorem tax at a millage rate not to exceed 2.6 mills levied on all taxable property within the District, in an amount which will be sufficient to pay the principal of and interest on the Bonds as they become due.

(B) To apply the proceeds of such special ad valorem tax first for the payment of annual debt service on any Bonds issued by the City to finance the cost of the Project. The balance of the proceeds of such ad valorem taxes, after payment of annual debt service on such Bonds, shall be remitted by the City to the District to pay the District's annual operation and maintenance expenses.

(C) Upon issuance of any Bonds by the City, the City will first apply the proceeds thereof to pay costs of issuance associated with the Bonds. The balance of the proceeds of the Bonds shall be remitted by the City to the District to pay the costs of the Project.

**SECTION 3. FILING AND EFFECTIVE DATE.** This Agreement shall become effective upon the occurrence of both of (a) the execution of this Agreement by the proper officers of the City and the District as of the date set forth above; and (b) the filing with the Collier County, Florida, Clerk of the Circuit Court as required by Section 163.01(11), Florida Statutes.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement by and through their duly authorized officers, as of the date first above written.

**CITY OF MARCO ISLAND, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
Erik Brechnitz, Chairman

Attest:

By: \_\_\_\_\_  
Laura M. Litzan, City Clerk

**HIDEAWAY BEACH DISTRICT**

By: \_\_\_\_\_  
Dick Delawder, Chair

Attest:

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

