

ORDINANCE NO. 2020-2213

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, AUTHORIZING THE ISSUANCE OF NON-AD VALOREM REVENUE NOTES IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$11,000,000 TO FINANCE THE COSTS OF CONSTRUCTION, RENOVATION AND/OR EQUIPPING OF VARIOUS CAPITAL IMPROVEMENTS INCLUDING WITHOUT LIMITATION AN ISSUER-OWNED PARKING GARAGE, FIRE STATION AND PUBLIC LIBRARY, AND PAYING COSTS RELATED THERETO; PROVIDING THAT THE NOTES SHALL BE LIMITED OBLIGATIONS OF THE CITY PAYABLE FROM NON-AD VALOREM REVENUES BUDGETED, APPROPRIATED AND DEPOSITED AS PROVIDED HEREIN; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNERS OF THE NOTES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

**Section 1:** *Authority for this Ordinance.* This Ordinance is enacted pursuant to the Constitution of the State of Florida (the "State"), Chapter 166, Florida Statutes, Chapter 163, Part III, Florida Statutes, the municipal charter of the City of New Port Richey, Florida (the "Issuer"), and other applicable provisions of law (collectively, the "Act").

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

"Act" shall have the meaning ascribed thereto in Section 1 hereof.

"Ad Valorem Revenues" shall mean all revenues of the Issuer derived from the levy and collection of ad valorem taxes that are allocated to and accounted for in the General Fund.

"City Council" shall mean the City Council of the Issuer.

"Issuer" shall mean the City of New Port Richey, Florida, a municipal corporation of the State of Florida.

"Non-Ad Valorem Revenues" shall mean all revenues of the Issuer other than Ad Valorem Revenues, and which are lawfully available to be used to pay debt service on the Notes.

"Notes" shall mean the City of New Port Richey, Florida, Non-Ad Valorem Revenue Notes issued by the Issuer in one or more series pursuant to this Ordinance and the Resolution.

"Pledged Revenues" shall mean the Non-Ad Valorem Revenues budgeted, appropriated and deposited as provided in the Resolution.

"Resolution" shall mean the resolution of the City Council, to be subsequently adopted on even date herewith, determining details with respect to the Notes, as the same may from time to time be amended and/or supplemented.

"Project" shall mean construction, renovation and/or equipping of various capital improvements including without limitation an Issuer-owned parking garage, fire station and public library.

"State" shall mean the State of Florida.

**Section 3: Findings.**

(A) For the benefit of its inhabitants, the Issuer finds, determines and declares that it is necessary for the continued preservation of the welfare, convenience and safety of the Issuer and its inhabitants to finance the costs of the Project. Issuance of the Notes to finance the costs of the Project satisfies a paramount public purpose.

(B) Debt service on the Notes will be secured by the Issuer's covenant to budget and appropriate Non-Ad Valorem Revenues in the manner and to the extent described in the Resolution, and by a pledge of the Pledged Revenues as provided herein.

(C) Debt service on the Notes and all other payments hereunder and under the Resolution shall be payable solely from moneys deposited in the manner and to the extent provided herein and therein. The Issuer shall never be required to levy ad valorem taxes or use the proceeds thereof to pay debt service on the Notes or to make any other payments to be made hereunder or thereunder or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any other Non-Ad Valorem Revenues. The Notes shall not constitute a lien on any property owned by or situated within the limits of the Issuer.

(D) It is estimated that the Non-Ad Valorem Revenues will be available after satisfying funding requirements for obligations having an express lien on or pledge thereof and after satisfying funding requirements for essential governmental services of the Issuer, in amounts sufficient to provide for the payment of the principal of and interest on Notes and all other payment obligations hereunder and under the Resolution.

**Section 4:** *Issuance of Notes.* Obligations of the Issuer to be designated as the "City of New Port Richey, Non-Ad Valorem Revenue Notes" in one or more series, in the aggregate principal amount of not to exceed \$11,000,000, are hereby authorized to be issued. The Notes shall be issued for the purposes of (a) financing the costs of the Project, and (b) paying costs and expenses of issuing the Notes. The principal of, redemption premium, if any, and interest on the Notes shall be payable from the Pledged Revenues, to the extent provided herein and in the Resolution.

The Notes shall be dated such date or dates, shall bear interest at such rate or rates, not exceeding the maximum interest rate permitted by applicable law, shall mature on such dates not later than October 1, 2030 and in such amounts, may be subject to optional, extraordinary optional and/or mandatory redemption before maturity, at such price or prices and under such terms and conditions, all as may be determined pursuant to or in accordance with the Resolution. The City Council shall determine the form of the Notes, the manner of executing such Notes, the denomination or denominations of such Notes, the place or places and dates of payment of the principal and interest, and such other terms and provisions of the Notes as it deems appropriate, as shall be determined pursuant to the Resolution. The Notes may be issued as fixed rate notes, variable rate notes, serial notes, term notes or any combination thereof, as shall be determined pursuant to the Resolution.

The Notes shall be secured in the manner provided herein and by the Resolution which shall include, but without limitation, provisions as to the rights and remedies of the Noteholders and such other matters as are customarily in such an instrument.

**Section 5:** *Payment of Principal and Interest; Limited Obligations; Covenant to Budget and Appropriate.* The Issuer promises that it will promptly pay the principal of and interest on the Notes at the place, on the dates and in the manner provided in this Ordinance and the Resolution according to the true intent and meaning hereof and thereof. The Notes shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of Article VII, Section 12 of the Constitution of the State, but shall be payable solely from the Pledged Revenues in accordance with the terms hereof and of the Resolution. No holder of the Notes issued hereunder and under the Resolution shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real or personal property thereon or the use or application of ad valorem tax revenues to pay the Notes, or be entitled to payment of the Notes from any funds of the Issuer except from the Pledged Revenues as described herein and in the Resolution.

Subject to the limitations set forth in the Resolution, the Issuer covenants and agrees and has a positive and affirmative duty to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, and to deposit into a debt service fund to be created in the Resolution, amounts sufficient to pay principal of and interest on the Notes and all other payments due hereunder and under the Resolution not being paid from other amounts as the same shall become due, all in the manner and to the extent set forth in the Resolution.

**Section 6: *Severability*.** If any provision of this Ordinance shall be held or deemed to be or shall, in fact, be illegal, inoperative, or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative, or unenforceable to any extent whatever.

**Section 7: *Effective Date*.** This Ordinance shall take effect immediately upon its passage and adoption by the City Council.

The above Ordinance was read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 20<sup>th</sup> day of October, 2020.

The above Ordinance was read and enacted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 4<sup>th</sup> day of November, 2020.

CITY OF NEW PORT RICHEY, FLORIDA

(SEAL)

By: \_\_\_\_\_  
Name: Rob Marlowe  
Title: Mayor

ATTEST:

By: \_\_\_\_\_  
Name: Judy Meyers, CMC  
Title: City Clerk

APPROVED AS TO LEGAL FORM AND  
CONTENT:

By: \_\_\_\_\_  
Name: Timothy P. Driscoll  
Title: City Attorney