

LOAN AGREEMENT

dated _____, 202__

by and between

**CITY OF FLAGLER BEACH, FLORIDA
(the "City")**

and

**REGIONS CAPITAL ADVANTAGE, INC.
(the "Lender")**

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LOAN AGREEMENT

THIS LOAN AGREEMENT (the "Agreement") made and entered the ____ day of December, 2024, by and between the **CITY OF FLAGLER BEACH, FLORIDA** (the "City"), a municipal corporation of the State of Florida duly organized under the laws of the State of Florida and its successors and assigns, and **REGIONS CAPITAL ADVANTAGE, INC.**, a Tennessee corporation and its successors and assigns (the "Lender").

WITNESSETH:

WHEREAS, capitalized terms used in these recitals and not otherwise defined shall have the meanings specified in **Article I** of this Agreement; and

WHEREAS, the Flagler Beach Fishing Pier incurred significant damage caused by multiple hurricanes; and

WHEREAS, the City Commission (the "Commission") of the City of Flagler Beach, Florida, has determined that it is necessary and desirable to borrow funds to finance the repair and replacement of damaged portions of the Flagler Beach Fishing Pier (the "Project") and to provide financing for the Project in advance of receipt of certain grant proceeds described herein;

WHEREAS, pursuant to the terms of that certain Hurricane Matthew Disaster Declaration (FEMA-4283-DR-FL) Federally Funded Public Assistance Agreement, with an effective date of January 7, 2017, by and between the State of Florida Division of Emergency Management and the City, the City was awarded federal funding from the Federal Emergency Management Agency ("FEMA") to be applied to the costs of the Project (the "FEMA Grant"); and

WHEREAS, pursuant to the terms of that certain State of Florida Department of Environmental Protection Standard Grant Agreement, dated March 25, 2024, by and between State of Florida Department of Environmental Protection ("FDEP") and the City, as amended on April 22, 2024, the City was awarded state funding to be applied to the costs of the Project (the "FDEP Grant", and collectively with the FEMA Grant, the "Grants"); and

WHEREAS, the City has determined that it is in the best interest of the City and its inhabitants, and a valid and proper municipal purpose to borrow funds from the Lender (the "Loan") in order to finance the Project and seek reimbursement pursuant to the Grants; and

WHEREAS, the obligation of the City to repay the principal of and interest on the Loan will not constitute a general obligation or indebtedness of the City as a "bond" within the meaning of any provision of the Constitution or laws of the State, but shall be and is hereby declared to be a special, limited obligation of the City, payable from and secured solely by legally available non-ad valorem revenues of the City (the "Non-Ad Valorem Revenues"), and amounts received by the City pursuant to the Grants ("Grant Receipts"), in the manner and to the extent provided herein; and

WHEREAS, the City, pursuant to the provisions of the Constitution and the laws of the State of Florida, Chapter 166, Parts I and II, Florida Statutes, Ordinance no. 2024 - _____ enacted by the City Commission (the "City Commission") on November 14, 2024, as supplemented by Resolution No. 2024-____ adopted by the Commission on December 12, 2024, the municipal charter of the City, and other applicable provisions of law (collectively, the "Act") is authorized to borrow money to (i) provide financing for the Project and (ii) pay the costs of issuance of the Note; and

WHEREAS, the City has determined, based on recommendations from the Financial Advisor (hereinafter defined), and City staff, that it is in the best interest of the City to accept the terms of the Lender's proposal dated October 15, 2024; and

WHEREAS, the Lender is willing to provide the Loan to the City as provided herein, but only upon the terms and conditions of this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I DEFINITION OF TERMS

Section 1.01. Definitions. Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings as follows:

"Act" shall have the meaning assigned to that term in the recitals hereof.

"Agreement" shall mean this Loan Agreement and all modifications, alterations, amendments and supplements hereto made in accordance with the provisions hereof.

"Authorized Investments" means any investment, obligation, agreement or other financial instrument to the extent not inconsistent with the terms of the investment policy of the City and applicable law.

"Business Day" shall mean any day other than a Saturday, a Sunday, or a day on which banks in the City of Flagler Beach, Florida or Birmingham, Alabama are authorized or required to be closed.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the applicable rules and regulations promulgated thereunder.

"City" shall mean the City of Flagler Beach, Florida, a municipal corporation of the State of Florida.

"City Clerk" means the City Clerk of the City and its designees.

"Date of Delivery" shall mean December ___, 2024.

"Debt Service" means principal of and interest on the Note, and other debt related costs, due in connection with the Note and this Agreement.

"Debt Service Fund" means the City of Flagler Beach, Florida Capital Improvement Non-Ad Valorem Revenue Note, Series 2024 Debt Service Fund created under Section 4.03 of this Agreement.

"Default Rate" shall mean the Note Rate plus 6% per annum.

"Event of Default" shall mean an Event of Default as defined in Section 5.01 of this Agreement.

"Fiscal Year" shall mean the twelve-month period commencing October 1 of each year and ending on the succeeding September 30, or such other twelve month period as the City may designate as its "fiscal year" as permitted by law.

"Financial Advisor" shall mean the City's financial advisor, Hilltop Securities Inc., Orlando, Florida.

"Grants" shall mean collectively the FEMA Grant and the FDEP Grant (each as defined in the WHEREAS clauses hereto).

"Grant Receipts" shall mean reimbursement payments received by the City pursuant to the terms of the Grants.

"Lender" shall mean Regions Capital Advantage, Inc., and its successors or affiliates or assigns.

"Loan" shall collectively refer to the loan in a principal amount of not to exceed Twenty-One Million Dollars (\$21,000,000), together with the interest accrued thereon pursuant to and in accordance with this Agreement and the Note.

"Maturity Date" shall mean November 1, 2027.

"Maximum Rate" means the maximum rate of interest permitted for non-rated governmental bonds as set forth in Section 215.84(3), Florida Statutes, as may be amended from time to time.

"Note" shall mean the City of Flagler Beach, Florida Capital Improvement Non-Ad Valorem Revenue Note, Series 2024 issued by the City under this Agreement to evidence amounts due under this Agreement, the form of which is attached hereto as Exhibit A.

"Note Counsel" shall mean, initially, Bryant Miller Olive P.A., or any other attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions.

"Noteholder," "Owner" or "Holder" shall mean the Lender as the initial holder of the Note and any subsequent registered holder of the Note.

"Note Rate" shall mean a variable rate per annum equal to seventy-nine percent (79%) of One-Month Term SOFR, plus seventy basis points (0.70%) and shall be calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months, subject to adjustment as provided in Section 3.03 or Section 5.01 hereof.

"Non-Ad Valorem Revenues" means all revenues of the City other than revenues generated from ad valorem taxation on real or personal property, which are legally available to make payments on the Note.

"One-Month Term SOFR" means with respect to any Term SOFR Interest Period the forward-looking term rate based on SOFR for a period comparable to the term of such Term SOFR Interest Period as published by the Term SOFR Administrator (or as published by such other comparable financial information reporting service used by Lender, in its sole discretion, at the time such rate is determined) on the day that is two (2) SIFMA Business Days prior to the first day of such Term SOFR Interest Period (or if not so reported, then as determined by the Lender from another recognized source, in Lender's sole discretion), subject to any corrections published by the Term SOFR Administrator. In any event, One-Month Term SOFR will not be less than zero percent (0%) per annum.

"Ordinance" means Ordinance No. 2024-___ enacted by the City Commission of the City on November 14, 2024.

"Resolution" shall mean the Resolution No. 2024-___ adopted by the City Commission of the City on December 12, 2024, which, among other things, authorized and confirmed the borrowing of the Loan and execution and delivery of this Agreement and the issuance of the Note.

"SIFMA Business Day" means any day that is not (i) a Saturday, (ii) a Sunday, or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"SOFR" means a rate per annum equal to the secured overnight financing rate administered by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"Term SOFR Administrator" means the CME Group Benchmark Administration Limited (CBA) (or a successor administrator of One-Month Term SOFR selected by the Lender in its sole discretion).

"Term SOFR Interest Period" means the one-month period commencing on the first day of each month and each subsequent period shall commence on the first day of each month; provided

that the first Term SOFR Interest Period shall commence on the date the Series 2024 Note is first issued and end on the last day of the month in which the Series 2024 Note is issued.

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. Any capitalized terms used in this Agreement not herein defined shall have the meaning ascribed to such terms in the Resolution. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose 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, which 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 AND WARRANTIES OF THE PARTIES

Section 2.01. Representations and Warranties of City. The City represents and warrants to the Lender as follows:

(a) **Existence.** The City is a municipal corporation of the State of Florida, duly created and validly existing under the laws of the State of Florida, with full legal right, power and authority to adopt the Resolution, to enter into this Agreement, to perform its obligations hereunder and to issue and deliver the Note to the Lender. The making, execution and performance of this Agreement on the part of the City and the issuance and delivery of the Note have been duly authorized by all necessary action on the part of the City and will not violate or conflict with the Act, or any agreement, indenture or other instrument by which the City or any of its material properties is bound. All conditions precedent to the execution and delivery of this Agreement and the issuance of the Note have been satisfied.

(b) **Validity, Etc.** This Agreement, the Note and the Resolution are valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) **No Financial Material Adverse Change.** There are no actions, proceedings or investigations pending against the City or affecting the City (or any basis therefor known to the City) which, either in any case or in the aggregate, might result in any material adverse change in the financial condition, business, prospects, affairs or operations of the City or in any of its properties or assets, or in any material impairment of the right or ability of the City to

carry on its operations as now conducted or proposed to be conducted, or in any material liability on the part of the City and none which questions the validity of this Agreement, the Note or the Resolution or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

(d) Non-Ad Valorem Revenues. The City currently receives the Non-Ad Valorem Revenues and is legally entitled to covenant to budget, appropriate and deposit into the Debt Service Fund from such Non-Ad Valorem Revenues amounts necessary to pay the Debt Service on the Note and any other amounts due hereunder and to make the other payments, if any, required under the Note and this Agreement when due. The Non-Ad Valorem Revenues are estimated to be sufficient to pay the Debt Service on the Note and to make the other payments, if any, required under the Note or this Agreement and to make all other payments required to be made from Non-Ad Valorem Revenues as the same become due.

(e) No Litigation. There are no suits or proceedings pending or threatened, of which the City Attorney has notice, in any court or before any regulatory commission, board or other administrative governmental agency against or affecting the City, which would have a material adverse effect on the ability of City to fulfill its obligations under this Agreement.

Section 2.02. Representations and Warranties of Lender. The Lender represents and warrants to the City as follows:

(a) Existence. The Lender is a Tennessee corporation, with full power to enter into this Agreement, to perform its obligations hereunder and to make the Loan. The performance of this Agreement on the part of the Lender and the making of the Loan have been duly authorized by all necessary action on the part of the Lender and will not violate or conflict with applicable law or any material agreement, indenture or other instrument by which the Lender or any of its material properties is bound.

(b) Validity. This Agreement is a valid and binding obligation of the Lender enforceable against the Lender in accordance with its terms, except to the extent that enforceability may be subject to valid bankruptcy, insolvency, financial emergency, reorganization, moratorium or similar laws relating to or from time to time affecting the enforcement of creditors' rights, and except to the extent that the availability of certain remedies may be precluded by general principles of equity.

(c) Knowledge and Experience. The Lender (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of making the Loan to the City which is evidenced by the Note, (ii) has received and reviewed such financial information concerning the City as it has requested in order to fairly evaluate the merits and risks of making the Loan to the City which is evidenced by the Note, and (iii) is purchasing the Note for its own account in connection with making the Loan to the City and not with a present view toward resale to the public.

ARTICLE III
THE NOTE

Section 3.01. The Loan; Purpose and Use. On the date of this Agreement, the Lender shall provide the Loan to the City in the aggregate principal amount of not to exceed Twenty-One Million Dollars (\$21,000,000). The Loan constitutes a non-revolving draw-down loan facility. The proceeds of the Loan shall be used to (i) finance the Project and (ii) pay the costs of issuance of the Note.

Section 3.02. The Note. The Note shall be substantially in the form set forth as Exhibit "A" to this Agreement. The general terms of the Note shall be as follows:

(a) Amount of Note. The Note shall have a principal amount of not to exceed Twenty-One Million Dollars (\$21,000,000).

(b) Interest. The Note shall bear interest at the Note Rate from the Date of Delivery until paid. Interest on the Note shall be computed on the basis of a 360-day year consisting of twelve (12) thirty (30) day months. Interest shall accrue only on the outstanding principal amount of the Loan. Anything provided herein or in the Note to the contrary notwithstanding, in no event shall the Note bear interest in excess of the Maximum Rate.

The Note shall bear interest on the outstanding principal amount drawn against it for each day from and including the date such draws or advances are made until the Note is paid in full, at a rate equal to the Note Rate in effect as of the first day of each Term SOFR Interest Period. The Lender shall determine the Note Rate as of the first day of each Term SOFR Interest Period, and such rate shall become effective on such day until the first day of the next succeeding Term SOFR Interest Period and interest at such rate shall accrue each day until the new Note Rate is established.

The Note Rate, as determined by this Agreement, is subject to change from time to time based on changes in One-Month Term SOFR. One-Month Term SOFR is not necessarily the lowest rate charged by the Lender on its loans. In the event that Lender shall have reasonably determined (which determination shall be conclusive absent manifest error) that, by reason of circumstances beyond Lender's reasonable control affecting the One-Month Term SOFR, the One-Month Term SOFR is unavailable or cannot be determined at any time, then the Lender upon notice to and in consultation with the City, will designate a substitute index (the "Replacement Index"). The Replacement Index shall be used as a temporary substitute for One-Month Term SOFR. Thereafter, the Replacement Index shall be used to determine the interest rate on the Note until One-Month Term SOFR is once again available. If the Replacement Index is used as the basis for determining the interest rate on the Note, then the interest rate on the Note shall be calculated as the sum of the Replacement Index adjusted (plus or minus) by a margin, as reasonably determined by Lender to produce a comparable interest rate to the interest rate that would have applied had One-Month Term SOFR been available. If and when

One-Month Term SOFR is once again available, it will be used as the basis for determining the interest rate on the Note.

(c) Advances under the Note. The Note may be drawn upon at any time until the Maturity Date, provided however, after the initial draw on the Date of Delivery, subsequent draws ("Advances") will be limited to a maximum of two (2) draws per month and each draw must be a minimum of \$400,000. Each draw request shall be requested by the City by submitting a written requisition executed by the Mayor, the City Manager or the Finance Director of the City in the form attached hereto as Exhibit B (each a "Requisition"). Each Advance constitutes a representation by the City that it remains in full compliance with the terms of this Agreement, that no Determination of Taxability has occurred, that no Event of Default currently exists and that no Event of Default, that has not been cured within any applicable grace and notice period, would exist with the passage of time or the giving of notice. The aggregate amount of all Advances, including the initial draw, that may be made hereunder shall not exceed \$21,000,000.

The City shall deliver a Requisition to Lender at least three (3) Business Days in advance of when the Advance is needed in such manner as agreed to by the Lender and the City.

(d) Payments. Interest on the Note shall be paid semi-annually on every May 1 and November 1, commencing May 1, 2025 until the Note is paid in full. Principal on the Note, plus any accrued and unpaid interest, will be payable at the Maturity Date, if not earlier prepaid, subject to prepayment by the City prior to the Note's maturity as provided in subsection 3.02(e) below.

(e) Prepayment. The City may prepay the Note in whole or in part, at any time, with Grant Receipts without a prepayment premium or penalty upon two (2) Business Days written notice to the Lender.

Section 3.03. Adjustments to Note Rate. In the event of a Determination of Taxability due to any actions or omissions of the City, the Note Rate payable on the Note shall be subject to a full gross-up modification, at a rate that would provide the Lender with the same after-tax yield on the then outstanding principal amount of the Loan at least equal to the after-tax yield the Lender would have received if the Determination of Taxability had not occurred (the "Taxable Rate"), effective retroactively to the date on which such Determination of Taxability was made. In addition, upon a Determination of Taxability, the City agrees to pay to the Owner subject to such Determination of Taxability the Additional Amount upon demand. "Additional Amount" means (i) the difference between (a) interest on the Note for the period commencing on the date on which any interest on the Note ceased to be excludable from gross income for federal income tax purposes and ending on the earlier of the date the Note ceased to be outstanding or such adjustment is no longer applicable to the Note (the "Taxable Period") at a rate per annum equal to the Taxable Rate, and (b) the aggregate amount of interest paid on the Note for the Taxable Period under the provisions of the Note without considering the Determination of Taxability, plus (ii) any penalties and interest paid or payable by such Owner

to the Internal Revenue Service by reason of such Determination of Taxability. As used herein, "Determination of Taxability" shall mean: (a) the receipt by the City or Owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence from the Internal Revenue Service which legally holds that the interest on the Note is includable in the gross income of the Owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest on the Note is includable in the gross income of the Owner thereof; or (c) receipt by the City or Owner of a written opinion of Note Counsel to the effect that the interest on the Note has become includable in the gross income of the Owner thereof for federal income tax purposes. For all purposes of this definition, a Determination of Taxability shall be deemed to occur on the date as of which the interest on the Note is deemed includable in the gross income of the Owner thereof for federal income tax purposes.

The Owner shall provide to the City such documentation to evidence any adjustment to the Note Rate and the calculations made in connection therewith. All calculations and determinations by the Owner of the amounts payable pursuant to the Note Rate adjustment provisions or of any element thereof, if made in accordance with its then standard procedures for so calculating or determining such amounts, shall be conclusive, absent manifest arithmetic error.

Section 3.04. Compliance with Section 215.84. The City represents, warrants, and covenants that the Note Rate, as currently calculated in accordance with Section 215.84, Florida Statutes, is in compliance with Section 215.84, Florida Statutes.

Section 3.05. Conditions Precedent to Funding. Prior to or simultaneously with the delivery of the Note by the City there shall be filed with the Lender the following, each in form and substance reasonably acceptable to the Lender:

(a) an opinion of counsel to the City to the effect that (i) the City is a municipal corporation within the State of Florida, duly created and validly existing and has full legal right, power and authority to adopt and perform its obligations under the Resolution, and to authorize, execute and deliver and to perform its obligations under this Agreement and the Note; (ii) the City has duly enacted the Ordinance, adopted the Resolution, entered into this Agreement and issued the Note, and such instruments constitute legal, binding and valid obligations of the City, enforceable in accordance with their respective terms; provided, however, the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity and the exercise of judicial discretion; (iii) except for post-closing disclosures to be filed with the State Division of Bond Finance and Form 8038-G to be filed with the Internal Revenue Service, all authorizations, consents, approvals and reviews of governmental bodies or regulatory authorities required for the City's adoption, execution, approval and performance of this Agreement, the Note and the Resolution have been obtained, provided that no opinion shall be required with respect to any authorizations, consents, approvals or reviews required by the securities laws of the United States of America

or of any state, or of any other jurisdiction; (iv) the meetings of the City during which matters relating to the Ordinance, the Resolution, this Agreement and the Note were considered were held in accordance with all applicable rules and all of the laws of the State that govern the meetings of the City; (v) the adoption of the Resolution and the authorization, execution and delivery of this Agreement and the Note, and compliance with the provisions hereof and thereof, will not conflict with, or constitute a breach of or default under, any law, administrative regulation, consent decree, resolution or any agreement or other instrument to which the City is subject nor will such adoption, execution, delivery, authorization or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City, or under the terms of any law, administrative regulation, resolution or instrument, except as expressly provided by the Resolution; (vi) this Agreement and the Note have been duly executed and delivered and the City is in compliance with all conditions contained in the Ordinance, the Resolution and this Agreement precedent to the issuance of the Note; and (vii) as of the Date of Delivery that there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best of her knowledge, threatened against the City, affecting or seeking to prohibit, restrain or enjoin the City from adopting the Resolution, entering into this Agreement or the issuance or delivery of the Note or contesting or affecting as to the City the validity or enforceability of the Act in any respect relating to the authorization of this Agreement or authorization for the issuance of the Note, and adoption of the Resolution, or contesting the tax-exempt status of interest on the Note, or contesting the powers of the City to impose, levy or collect the Non-Ad Valorem Revenues or to covenant to budget and appropriate Non-Ad Valorem Revenues as provided herein or any authority for the issuance of the Note or the adoption of the Resolution or which otherwise would materially and adversely affect the financial condition of the City. Notwithstanding the foregoing, no opinion shall be required as to the applicability of any approvals, consents or orders as may be required under the blue sky or securities laws or legal investment laws of any state in connection with the offering and sale of the Note or in connection with the registration of the Note under the Federal securities laws.

(b) an opinion of Note Counsel (who may rely on the opinion of Counsel to the City), stating that such counsel is of the opinion that: (i) the Resolution and this Agreement constitute valid and binding obligations of the City enforceable upon the City in accordance with their respective terms; (ii) the Note is a valid and binding special obligation of the City enforceable in accordance with its terms, payable solely from the sources provided therefor in the Resolution and this Agreement and (iii) assuming compliance by the City with certain covenants in this Agreement relating to requirements contained in the Code, interest on the Note is excluded from gross income for purposes of federal income taxation, and is not an item of tax preference for purposes of the federal alternative minimum tax.

(c) a copy of a completed and executed Form 8038-G to be filed with the Internal Revenue Service by the City; and

(d) a certificate of the City indicating that since September 30, [2023], there has been no material adverse change in the financial condition, operations or prospects of the City or laws, rules or regulations (or their interpretation or administration) that, in any case, may adversely affect the City's ability to comply with its obligations hereunder and under the Note.

(e) such other documents as the Lender reasonably may request (including, without limitation, appropriate executed Florida Division of Bond Finance forms).

When the documents and items mentioned in clauses (a) through (e), inclusive, of this Section shall have been filed with the Lender, and when the Note shall have been executed as required by this Agreement, and all conditions of the Resolution have been met, the City shall deliver the Note to or upon the order of the Lender, but only against the City's receipt of the proceeds of the Loan.

Section 3.06. Registration of Transfer; Assignment of Rights of Lender. The City shall keep at the office of the City Clerk in the City's records the registration of the Note and the registration of transfers of the Note as provided in this Agreement. Subject to the restriction set forth in the fourth paragraph of this Section, the transfer of the Note may be registered only upon the books kept for the registration of the Note and registration of transfer thereof upon surrender thereof to the City together with an assignment duly executed by the Lender or its attorney or legal representative in the form of the assignment set forth on the form of the Note attached as Exhibit "A" to this Agreement. In the case of any such registration of transfer, the City shall execute and deliver in exchange for the applicable Note a new Note registered in the name of the transferee. In all cases in which the Note shall be transferred hereunder, the City shall execute and deliver at the earliest practicable time a new Note in accordance with the provisions of this Agreement. The City may make a charge for every such registration of transfer of the Note sufficient to reimburse it for any tax or other governmental charges required to be paid (other than a tax or other governmental charge imposed by the City) with respect to such registration of transfer, but no other charge shall be made for registering the transfer hereinabove granted. The Note shall be issued in fully registered form and shall be payable in any coin or currency of the United States.

The registration of transfer of the Note on the registration books of the City shall be deemed to affect a transfer of the rights and obligations of the Lender under this Agreement to the transferee. Thereafter, such transferee shall be deemed to be the Lender under this Agreement and shall be bound by all provisions of this Agreement that are binding upon the Lender. The City and the transferor shall execute and record such instruments and take such other actions as the City and such transferee may reasonably request in order to confirm that such transferee has succeeded to the capacity of Lender under this Agreement and the Note.

In the event any Note is mutilated, lost, stolen, or destroyed, the City shall execute a new Note of like date and denomination as that mutilated, lost, stolen or destroyed, provided that, in the case of such a mutilated Note, such mutilated Note shall first be surrendered to the City,

and in the case of a lost, stolen, or destroyed Note, there first shall be furnished to the City evidence of such loss, theft or destruction together with an indemnity satisfactory to it.

The Note may be exchanged or transferred by the registered owner thereof, but only upon the registration books maintained by the City; provided, however, the Note may not be assigned or transferred except in whole or in part and in a denomination of not less than \$100,000 to a Permitted Lender. A "Permitted Lender" means any bank, trust company, savings institution or insurance company that is engaged as a regular part of its business in making loans, an "accredited investor" (as defined under Regulation D under the Securities Act of 1933, as amended), or a "Qualified Institutional Buyer" as defined under Rule 144A promulgated under the Securities Act of 1933, as amended. The person or entity in whose name the Note shall be registered shall be deemed the registered Noteholder and the absolute owner thereof for all purposes, and the payment of principal and interest on such Note shall be made only to the Noteholder. Subject to the foregoing, the Lender or any subsequent Noteholder shall be entitled to transfer, sell or assign the Note, as long as such sale or transfer is in accordance with all applicable rules, laws, and regulations.

Section 3.07. Ownership of the Note. The person in whose name the Note is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the Note shall be made only to the registered owner thereof or such owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note, and interest thereon, to the extent of the sum or sums so paid.

The registered owner of the Note is hereby granted power to transfer absolute title to this Agreement and the Note in whole by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against such owner's assignor or any person in the chain of title and before the maturity of the Note. Every prior registered owner of the Note shall be deemed to have waived and renounced all of such owner's equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

Section 3.08. Use of Proceeds of Loan Permitted Under Applicable Law. The City represents, warrants and covenants that the proceeds of the Loan will be used solely to (i) finance the costs of the Project and (ii) pay the costs of issuance of the Note.

ARTICLE IV COVENANTS OF THE CITY

Section 4.01. Performance of Covenants. The City covenants that it will perform faithfully at all times its covenants, undertakings and agreements contained in this Agreement and the Note or in any proceedings of the City relating to the Loan.

Section 4.02. Payment of the Note. The City promises that it will promptly pay the Debt Service on the Note and all other amounts due under this Agreement at the place, on the dates and in the manner provided in Section 3.02 hereof and in the Note according to the true intent and meaning hereof and thereof. Debt Service on the Note and all other amounts due under this Agreement shall not be or constitute a general obligation or indebtedness of the City as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the Non-Ad Valorem Revenues and the Grant Receipts in accordance with the terms hereof and of the Note. The holder of the Note shall never have the right to compel the exercise of any ad valorem taxing power to pay Debt Service on the Note or be entitled to payment of such from any funds of the City except from the Non-Ad Valorem Revenues deposited in the Debt Service Fund and the Grant Receipts, as described herein and in the Note.

Section 4.03. Covenant to Budget and Appropriate.

Subject to the next paragraph, the City covenants to budget and appropriate in each Fiscal Year such amount of Non-Ad Valorem Revenues sufficient to provide for the timely payment of the principal of and interest on the Note and any other amounts required to be paid hereunder. Subject to the next paragraph, the City 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 the Debt Service Fund amounts sufficient to pay the principal of, premium, if any, and interest on the Note not being paid from other amounts as the same shall become due. Such covenant and agreement on the part of the City to budget, appropriate and deposit such amounts of Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated, deposited and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted, appropriated and deposited as provided herein. The City further acknowledges and agrees that the obligations of the City to include the amount of such amendments in each of its annual budgets and to budget and pay such amounts from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein.

Until such monies are budgeted, appropriated and deposited in the Debt Service Fund as provided herein, such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the City from pledging in the future its Non-Ad Valorem Revenues, nor does it require the City to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Noteholders a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the City. Such covenant to budget and appropriate Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments). Anything in this Agreement, the Resolution or the Note to the contrary notwithstanding, it is understood and agreed that nothing herein shall compel the City to

maintain or continue any of the activities of the City which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. Notwithstanding Anything herein to the contrary, it is understood and agreed that all obligations of the City hereunder shall be payable from the portion of Non-Ad Valorem Revenues budgeted and appropriated as provided for herein and nothing herein shall be deemed to pledge ad valorem tax power or ad valorem taxing revenues or to permit or constitute a mortgage or lien upon any assets owned by the City and no holder of the Note nor any other Person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the City or the use or application of ad valorem tax revenues in order to satisfy any payment obligations hereunder or to maintain or continue any of the activities of the City which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. Until such monies are budgeted, appropriated and deposited as provided herein, neither this Agreement, the Resolution, nor the obligations of the City hereunder shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the City, but shall be payable solely as provided herein subject to the availability of Non-Ad Valorem Revenues after satisfaction of funding requirements for obligations having an express lien on or pledge of such revenues, payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the City, and the provisions of Section 129.03 and 129.07, Florida Statutes insofar as there are not sufficient Non-Ad Valorem Revenues to comply with such covenant after the satisfaction of the funding requirements for obligations having an express lien on or pledge of any Non-Ad Valorem Revenues and the funding requirements for essential governmental services of the City. The City agrees that its covenant and agreement to budget, appropriate and deposit Non-Ad Valorem Revenues shall be deemed entered into for the benefit of the registered owner of the Note and this obligation may be enforced by a court of competent jurisdiction in accordance with the remedies set forth herein or in the Resolution.

There is hereby created and established a "Capital Improvement Non-Ad Valorem Revenue Note, Series 2024 Debt Service Fund," which shall be maintained on the books of the City as a separate account (but need not be maintained as a separate bank or deposit account) (the "Debt Service Fund"). Moneys in the Debt Service Fund shall be used only to pay principal of and interest on the Note and for no other purpose.

Amounts on deposit in the Debt Service Fund may be invested and reinvested by the City in Authorized Investments maturing or redeemable at the option of the City not later than the date such amounts are needed for the payments required hereunder. All income from the investment of moneys in the Debt Service Fund shall be retained therein and used for the purposes thereof.

The City shall not be required to make any further payments into the Debt Service Fund when the aggregate amount of money and Authorized Investments therein is at least equal to the maximum principal amount outstanding on the Note plus accrued interest thereon through maturity.

The designation of the Debt Service Fund as a special fund for this Loan Agreement

shall not be construed to require the establishment of completely independent, self-balancing fund, as such term is commonly used and defined in governmental accounting, but is intended solely to constitute an earmarking of certain moneys and investments for certain purposes and to establish certain priorities for application of such moneys and investments as herein provided. The moneys and investments required to be accounted for in such funds may be pooled with other moneys in a single fund or account, provided that adequate accounting records are maintained to reflect the allocation of the moneys and investments on deposit therein to the respective funds and to control the restricted uses of such moneys and investments for the various purposes as herein provided.

Until applied in accordance with this Resolution, the Non-Ad Valorem Revenues of the City on deposit in the Debt Service Fund and other amounts on deposit from time to time therein, plus any earnings thereon, are pledged to the repayment of the Note. In addition, the Grant Receipts are hereby pledged to the repayment of the Note. The City has lawful power and authority to pledge such Non-Ad Valorem Revenues and Grant Receipts and expects that Non-Ad Valorem Revenues of the City together with the Grant Receipts will be sufficient to pay the principal of and interest on the Series 2024 Note when due as provided herein and in the Note.

Section 4.04. Tax Covenant. The City covenants to the Noteholder that the City will not make any use of the proceeds of the Note at any time during the term of such Note which, if such use had been reasonably expected on the date the Note was issued, would have caused such Note to be an "arbitrage bond" within the meaning of the Code. The City will comply with the requirements of the Code and any valid and applicable rules and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Note from the gross income of the holders thereof for purposes of federal income taxation.

Section 4.05. Budget and Other Financial Information. The City shall:

1. Within two hundred forty (240) days following the end of each Fiscal Year of the City, provide the Noteholder with its audited financial statements for the preceding Fiscal Year. So long as the Lender is the Noteholder, such report shall be mailed to Regions Capital Advantage, Inc., 1900 Fifth Avenue N., Suite 2400, Birmingham, AL 35203; and

2. The City shall provide the Lender with a copy of its annual budget within 30 days of adoption by the City Commission (but no later than 30 days after the start of each Fiscal Year); and

3. Provide the Lender with such other financial information as the Lender may reasonably request.

Section 4.06. Anti-Dilution Test. The City may incur additional debt secured by all or a portion of the Non-Ad Valorem Revenues only if the total amount of Non-Ad Valorem Revenues for the prior Fiscal Year for which audited financial statements are available were at least 1.5 times the maximum annual debt service of all debt expected to be paid from Non-Ad Valorem Revenues (collectively, "Debt"), including any Debt payable from one or several specific revenue sources.

For purposes of calculating maximum annual debt service if the terms of the Debt are such that interest thereon for any future period of time is to be calculated at a rate which is not then susceptible of precise determination ("Variable Rate Debt"), interest on such Variable Rate Debt shall be computed assuming that interest accrues on such Debt at the current "Bond Buyer 25-Bond Revenue Index" as published in The Bond Buyer (or comparable Index if "Bond Buyer 25-Bond Revenue Index" no longer exists) no more than three weeks prior to any such calculation. In addition, with respect to debt service on any Variable Rate Debt which is subject to a hedge agreement, interest on such Debt during the term of such hedge agreement shall be deemed to be the hedge payments coming due during such period of time but only up to the notional amount of the hedge agreement. For purposes of calculating maximum annual debt service, balloon indebtedness shall be assumed to amortize over 25 years on an approximately level debt service basis. For purposes of this paragraph, "balloon indebtedness" includes indebtedness if 25% or more of the original principal amount thereof comes due in any one year. For purposes of calculating maximum annual debt service, with respect to debt service on any Debt to which the City elects to receive or is otherwise entitled to receive direct subsidy payments from the United States Department of Treasury, when determining the interest on such Debt for any particular interest payment date the amount of the corresponding subsidy payment shall be deducted from the amount of interest which is due and payable with respect to such Debt on the interest payment date. With respect to debt service on any Debt which the City has covenanted to budget and appropriate sufficient Non-Ad Valorem Revenues as a secondary source of funds to satisfy such obligation, only that portion of the debt service on such Debt which was paid for from Non-Ad Valorem Revenues in the immediately preceding Fiscal Year shall be considered in calculating maximum annual debt service.

Section 4.07. Audited Financial Statements. The financial statements of the City for its fiscal year ended September 30, 2023, previously provided to the Lender, were prepared in accordance with generally accepted accounting principles and present fairly the financial conditions of the City as of such date and the results of its operations for the period then ended. Since such date there has been no material adverse charge in the financial condition, revenues (including, without limitation, the Non-Ad Valorem Revenues), properties or operations of the City.

Section 4.08. Grant Receipts. The city shall deposit Grant Receipts into the Debt Service Fund upon receipt and apply such amount to pay or prepay the principal of and interest on the Note.

ARTICLE V EVENTS OF DEFAULT AND REMEDIES

Section 5.01. Events of Default. Each of the following is hereby declared an "Event of Default:"

1. payment of the principal of or interest on the Note or other fees or amounts due under this Agreement shall not be made when such amounts are due and payable;

2. the City shall default in the due and punctual performance of any other of the material covenants, conditions, agreements and provisions contained in the Note or in this Agreement and such default shall continue for thirty (30) consecutive days after written notice shall have been given to the City by the Noteholder specifying such default and requiring the same to be remedied; provided, however, that if, in the reasonable judgment of the Noteholder, the City shall proceed to take such curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of thirty (30) days, then such period shall be increased to such extent as shall be necessary to enable the City to diligently complete such curative action;

3. any representation or warranty of the City contained in this Agreement or in any certificate or other closing document executed and delivered by the City in connection with the closing of the Loan shall prove to have been untrue in any material respect when executed and delivered, thereby adversely impairing the security for the Note;

4. any proceedings are instituted with the consent or acquiescence of the City, for the purpose of effecting a compromise between the City and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereinafter enacted;

5. the City 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, declares a financial emergency or consents to the appointment of a receiver or trustee for itself or 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 any state thereof;

6. the City is adjudged insolvent by a court of competent jurisdiction or is adjudged bankrupt on a petition of bankruptcy filed against the City, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the City, a receiver or trustee of the City or of the whole or any part of its property and any of 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;

7. if, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property and such custody or control shall not be terminated within ninety (90) consecutive days from the date of assumption of such custody or control; or

During the occurrence and continuation of an Event of Default, the Note Rate shall be increased to the Default Rate until such time as such Event of Default is cured.

Additionally, if an Event of Default shall occur, the City shall also pay all of the Noteholder's expenses incurred, including without limitation the Noteholder's reasonable

attorney's fees, at all levels of the proceedings, whether incurred in connection with collection, bankruptcy, trial, appellate proceedings, or otherwise.

Section 5.02. Exercise of Remedies. Upon the occurrence and during the continuance of an Event of Default, the Noteholder may proceed to protect and enforce its rights under the laws of the State of Florida or under this Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Noteholder shall deem most effective to protect and enforce such rights. Without limiting the generality of the foregoing, the Noteholder shall have the right to bring a mandamus action to require the City to perform its obligations under Article IV of this Agreement.

In the enforcement of any remedy under this Agreement, to the extent permitted by law, the Noteholder shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the City for principal, interest or otherwise under any of the provisions of this Agreement or of the Note then unpaid, together with any and all costs and expenses of collection and of all proceedings hereunder and under the Note (including, without limitation, reasonable legal fees in all proceedings, including administrative, appellate and bankruptcy proceedings), but payable from Non-Ad Valorem Revenues, without prejudice to any other right or remedy of the Noteholder, and to recover and enforce any judgment or decree against the City, but solely as provided herein and in the Note, for any portion of such amounts remaining unpaid and interest, costs, and expenses as above provided, and to collect (but from the Non-Ad Valorem Revenues) in any manner provided by law, the monies adjudged or decreed to be payable. Notwithstanding anything herein, or in the Note to the contrary, acceleration of the payment of principal of and interest on the Note shall not be a remedy hereunder or in the Note in the case of an Event of Default.

Section 5.03. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Noteholder is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

Section 5.04. Waivers, Etc. No delay or omission of the Noteholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein; and every power and remedy given by this Agreement to the Noteholder may be exercised from time to time and as often as may be deemed expedient.

The Noteholder may waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Agreement or before the completion of the enforcement of any

other remedy under this Agreement, but no such waiver shall be effective unless in writing and no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

**ARTICLE VI
MISCELLANEOUS PROVISIONS**

Section 6.01. Covenants of City, Etc.; Successors. All of the covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time, and upon any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Section 6.02. Term of Agreement. This Agreement shall be in full force and effect from the date hereof until the Note and all other sums payable to the Lender hereunder have been paid in full.

Section 6.03. Notice of Changes in Fact. Promptly after the City becomes aware of the same, the City will notify the Lender of any changes in any material fact or circumstance represented or warranted by the City in this Agreement or in connection with the issuance of the Note.

Section 6.04. Amendments and Supplements. This Agreement may be amended or supplemented from time to time only by a writing duly executed by the City and the Noteholder.

Section 6.05. Notices. Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the City or the Lender, shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when sent by certified mail, return receipt requested:

As to the City:

City of Flagler Beach, Florida
105 S. Second Street
Flagler Beach, Florida 32136
Attention: City Manager

As to the Lender:

Regions Capital Advantage, Inc.
1900 Fifth Avenue N., Suite 2400

Birmingham, AL 35203
Attention: Bo Buckner

Either party may, by notice sent to the other, designate a different or additional address to which notices under this Agreement are to be sent.

Section 6.06. Waiver of Jury Trial. To the extent permitted by applicable law, each of the City and the Lender irrevocably and voluntarily waives any right it may have to a trial by jury with respect to any controversy or claim between the City and the Lender, whether arising in contract or tort or by statute, including but not limited to any controversy or claim that arises out of or relates to this Agreement, the Note or the Resolution. This provision is a material inducement for the Lender's determination to make the Loan and for the parties to enter into this Agreement.

Section 6.07. Benefits Exclusive. Except as herein otherwise provided, nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the City and the Noteholder, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the City and the Noteholder.

Section 6.08. Severability. In case any one or more of the provisions of this Agreement, any amendment or supplement hereto or of the Note shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, any amendment or supplement hereto or the Note, but this Agreement, any amendment or supplement hereto and the Note shall be construed and enforced at the time as if such illegal or invalid provisions had not been contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof from time to time. In case any covenant, stipulation, obligation or agreement contained in the Note or in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent from time to time permitted by law.

Section 6.09. Business Days. In any case where the date of maturity of interest on or principal of the Note or the date fixed for prepayment of the Note shall not be a Business Day, then payment of such interest or principal shall be made on the next succeeding Business Day with the same force and effect as if paid on the date of maturity or the date fixed for prepayment.

Section 6.10. 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 6.11. Applicable Law. This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Florida.

Section 6.12. No Personal Liability. Notwithstanding anything to the contrary contained herein or in the Note, or in any other instrument or document executed by or on behalf of the City in connection herewith, no stipulation, covenant, agreement or obligation of any present or future member of the City Commission, officer, employee or agent of the City, officer, employee or agent of a successor to the City, in any such person's individual capacity, and no such person, in his or her individual capacity, shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of the principal of or interest on the Note or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his or her individual capacity, either directly or through the City or any successor to the City, under any rule or law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise and all such liability of any such person, in his or her individual capacity, is hereby expressly waived and released.

Section 6.13. U.S. Patriot Act. The City represents and warrants to the Lender that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of any such person. The City further represents and warrants to the Lender that the City and its principals, shareholders, members, partners, or affiliates, as applicable, are not directly or indirectly, engaged in, nor facilitating, the transactions contemplated by this transaction on behalf of any person named as a Specially Designated National and Blocked Person.

Section 6.14. Incorporation by Reference. All of the terms and obligations of the Resolution and the Exhibit A hereto are hereby incorporated herein by reference as if all of the foregoing were fully set forth in this Agreement. All recitals appearing at the beginning of this Agreement are hereby incorporated herein by reference.

Section 6.15. Privately Negotiated Loan. The City acknowledges and agrees that the Lender is purchasing the Note as evidence of a privately negotiated loan and in that connection the Note shall not be (i) assigned a separate rating by any municipal securities rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of offering document or official statement or (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service.

Section 6.16. Role of Lender. The City acknowledges that Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the

solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to the Term Sheet dated October 15, 2024 (the "Term Sheet") and any other information, materials or communications provided by the Lender: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Lender and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to the Term Sheet, information, materials or communications; (c) the Lender and its representatives are acting for their own interests; and (d) the City has been informed that the City should discuss the Term Sheet and any such other information, materials or communications with any and all internal and external advisors and experts that the City deems appropriate before acting on the Term Sheet or any such other information, materials or communications.

[Remainder of page intentionally left blank – Signatures follow]

(Counterpart Signature Page
Loan Agreement – City of Flagler Beach, Florida)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first set forth herein.

"CITY"

(SEAL)

CITY OF FLAGLER BEACH, FLORIDA

By: _____
Patti King, Mayor

ATTEST:

By: _____
Penny Overstreet, City Clerk

(Counterpart Signature Page
Loan Agreement – City of Flagler Beach, Florida)

LENDER:

REGIONS CAPITAL ADVANTAGE, INC.

By: _____

Name: Kyle Portwood

Title: Vice President

EXHIBIT A

FORM OF NOTE

ANY HOLDER SHALL, PRIOR TO BECOMING A HOLDER, EXECUTE A LENDER'S CERTIFICATE IN THE FORM ATTACHED TO THE RESOLUTION (HEREIN DEFINED).

**CITY OF FLAGLER BEACH, FLORIDA
CAPITAL IMPROVEMENT NON-AD VALOREM REVENUE NOTE,
SERIES 2024**

Principal Sum	Interest Rate	Maturity Date	Date of Issuance
Not to Exceed \$21,000,000	Variable Rate	November 1, 2027	December __, 2024

The City of Flagler Beach, Florida (the "City"), for value received, hereby promises to pay to the order of REGIONS CAPITAL ADVANTAGE, INC., or its assigns (the "Holder"), at 1900 Fifth Avenue N., Suite 2400, Birmingham, AL 35203 or at such other place as the Holder may from time to time designate in writing, solely from the Non-Ad Valorem Revenues and Grant Receipts as defined in and in the manner and to the extent described in that certain Loan Agreement by and between the Holder and the City, dated December __, 2024 (the "Agreement"), the Principal Sum stated above loaned to the City by the Holder pursuant to the Agreement, together with interest thereon as hereinafter provided until the Maturity Date or the date the principal amount of this Note is paid in the manner hereinafter set forth in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, which payments shall be made to the Holder hereof by check mailed to the Holder at the address designated in writing by the Holder for purposes of payment or by bank wire or bank transfer as such Holder may specify in writing to the City or otherwise as the City and the Holder may agree. Interest shall be payable at a rate per annum equal to the sum of (i) 79% of One-Month Term SOFR plus (ii) 70 basis points (0.70%) calculated on the basis of a 360-day year consisting of twelve (12) thirty (30) day months. The Interest Rate on this Note is subject to adjustment as provided herein and in the Agreement. This Note represents a non-revolving draw-down loan as described in the Agreement.

All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

In the event of a Determination of Taxability due to the actions or omissions of the City, the Interest Rate payable on this Note shall be subject to a full gross-up modification, at a rate that would provide the Lender with the same after-tax yield on the then outstanding principal amount of the Loan at least equal to the after-tax yield the Lender would have received if the

Determination of Taxability had not occurred (the "Taxable Rate"), effective retroactively to the date on which such Determination of Taxability was made. In addition, upon a Determination of Taxability, the City agrees to pay to the Owner subject to such Determination of Taxability the Additional Amount upon demand. "Additional Amount" means (i) the difference between (a) interest on this Note for the period commencing on the date on which any interest on this Note ceased to be excludable from gross income for federal income tax purposes and ending on the earlier of the date this Note ceased to be outstanding or such adjustment is no longer applicable to this Note (the "Taxable Period") at a rate per annum equal to the Taxable Rate, and (b) the aggregate amount of interest paid on this Note for the Taxable Period under the provisions of this Note without considering the Determination of Taxability, plus (ii) any penalties and interest paid or payable by such Owner to the Internal Revenue Service by reason of such Determination of Taxability. As used herein, "Determination of Taxability" shall mean: (a) the receipt by the City or Owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence from the Internal Revenue Service which legally holds that the interest on this Note is includable in the gross income of the Owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest on this Note is includable in the gross income of the Owner thereof; or (c) receipt by the City or Owner of a written opinion of Note Counsel to the effect that the interest on this Note has become includable in the gross income of the Owner thereof for federal income tax purposes. For all purposes of this definition, a Determination of Taxability shall be deemed to occur on the date as of which the interest on this Note is deemed includable in the gross income of the Owner thereof for federal income tax purposes.

The Owner shall provide to the City such documentation to evidence any adjustment to the Interest Rate and the calculations made in connection therewith. All calculations and determinations by the Owner of the amounts payable pursuant to the Interest Rate adjustment provisions or of any element thereof, if made in accordance with its then standard procedures for so calculating or determining such amounts, shall be conclusive absent manifest arithmetic error.

During the occurrence and continuation of an Event of Default, the Interest Rate shall be increased to the Default Rate until such time as such Event of Default is cured. Upon the occurrence of an Event of Default the Holder shall have such remedies as described in the Agreement.

Interest on this Note shall be paid semi-annually on May 1 and November 1, commencing May 1, 2025 until this Note is paid in full. Principal on this Note shall be due and payable on the Maturity Date, subject to prepayment by the City prior to the Note's maturity as provided below.

The City may prepay this Note in whole or in part, at any time, without premium or prepayment penalty upon two (2) Business Days written notice to the Holder.

Notwithstanding any provision in this Note to the contrary, in no event shall the Note bear interest in excess of the Maximum Rate, as defined in the Agreement.

THIS NOTE, WHEN DELIVERED BY THE CITY PURSUANT TO THE TERMS OF THE AGREEMENT AND THE RESOLUTION, SHALL NOT BE OR CONSTITUTE AN INDEBTEDNESS OF THE CITY OR THE STATE OF FLORIDA (THE "STATE"), WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR OTHER LIMITATIONS OF INDEBTEDNESS, BUT SHALL BE PAYABLE SOLELY FROM THE NON-AD VALOREM REVENUES AS PROVIDED IN THE AGREEMENT AND THE RESOLUTION. THE HOLDER SHALL NEVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE CITY OR THE STATE, OR TAXATION IN ANY FORM OF ANY PROPERTY THEREIN TO PAY THIS NOTE OR THE INTEREST THEREON.

The City hereby waives presentment, demand, protest and notice of dishonor. This Note is governed and controlled by the Resolution and the Agreement and reference is hereby made thereto.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City has caused this Note to be signed by the Mayor, on behalf of the City Commission, either manually or with facsimile signature, and the seal of the City to be affixed hereto or imprinted or reproduced hereon, and attested by the City Clerk of the City Commission, either manually or with facsimile signature, and this Note to be dated the Date of Delivery set forth above.

CITY OF FLAGLER BEACH, FLORIDA

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Clerk

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto _____ (please print or typewrite name, address and tax identification number of assignee) _____ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ Attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Name of Noteholder: _____

By: _____

EXHIBIT B

FORM OF REQUISITION

**NOT TO EXCEED \$21,000,000
CITY OF FLAGLER BEACH, FLORIDA
CAPITAL IMPROVEMENT REVENUE NOTE,
SERIES 2024**

REQUISITION NO.: _____

In the Amount of \$_____

TO: Regions Capital Advantage, Inc., as Lender

Pursuant to Section 3.02(c) of that certain Loan Agreement dated December __, 2024 (the "Loan Agreement") by and between the City of Flagler Beach, Florida (the "City") and Regions Capital Advantage, Inc. (the "Lender"), the City hereby requests an advance in the amount specified below for payment of costs of the Project.

Amount

Payable to:

[City's account number]
[third party payment/wire
instructions must be attached]

Representations and Warranties of the City

1. Funding of this Requisition shall be in accordance with the terms and provisions of the Loan Agreement.
2. All of the information submitted to the Lender in connection with this Requisition is true and accurate as of the date of submission.
3. The representations and warranties set forth in the Loan Agreement are true and correct as of the date hereof with the same effect as if made on this date unless such representation or warranty relates to a specific time.
4. The City represents and warrants to the Lender that there has occurred no Event of Default or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default on the part of the City under the terms of the Loan Agreement or the Note.
5. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Loan Agreement.

Executed this ___ day of _____, 20[___].

CITY OF FLAGLER BEACH, FLORIDA

Name:
Title: