

Ordinance no. 2024-\_\_

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA, AUTHORIZING THE BORROWING OF MONEY IN AN AMOUNT NOT TO EXCEED TWENTY-ONE MILLION DOLLARS FOR THE PURPOSE OF FINANCING CERTAIN REPAIRS AND THE REPLACEMENT OF DAMAGED PORTIONS OF THE FLAGLER BEACH FISHING PIER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Flagler Beach Fishing Pier incurred significant damage caused by Hurricanes Matthew, Nicole, and Ian; and

**WHEREAS**, the City Commission (the "Commission") of the City of Flagler Beach, Florida, (the "City") 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") in advance of receipt of certain grant proceeds described herein;

**WHEREAS**, the City wishes to borrow funds from a financial institution (the "Loan") in an aggregate principal amount not to exceed \$21,000,000 for the purpose of financing the Project and paying the related fees and costs of entering into the Loan;

**WHEREAS**, it is in the City's best interest and a valid and proper municipal purpose to enter into the Loan to finance the Project;

**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 to obtain the Loan in order to finance the Project and seek reimbursement pursuant to the Grants; and

**WHEREAS**, the City's repayment obligations under the Loan shall be evidenced by a promissory note which shall be payable solely from a covenant to budget and appropriate from legally available non-ad valorem revenues of the City (the "Non-Ad Valorem Revenues") and

amounts received by the City pursuant to the Grants to assist with the costs of the Project (“Grant Receipts”); and;

**WHEREAS**, the City issued a request for proposals for the Loan on September 20, 2024 and is seeking competitive bids to provide the financing;

**WHEREAS**, the Loan shall bear a variable rate of interest and have a final maturity no later than November 1, 2028;

**WHEREAS**, Section 2.10(b)(6) of the City Charter requires the City Commission to authorize the borrowing of money by ordinance; and

**NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA:**

**SECTION 1.** The above stated recitals are hereby incorporated as part of this Ordinance.

**SECTION 2.** The City Commission is hereby authorized to borrow funds in an amount not to exceed twenty-one million dollars (\$21,000,000) for the purpose of financing the costs of the Project and paying the related fees and costs of entering into the Loan.

**SECTION 3.** The Mayor, the City Manager and other authorized officers and employees of the City are hereby authorized to take any and all necessary actions in connection with the Loan and to negotiate the terms and provisions of a loan agreement, in a form consistent with the terms hereof and to submit such loan agreement to the City Commission for approval by supplemental resolution; provided, the Loan bears a variable rate of interest and has a final maturity no later than November 1, 2028. THE LOAN AUTHORIZED UNDER THIS ORDINANCE AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE CITY, OR ANY PART THEREOF, BUT SHALL BE PAYABLE FROM PROCEEDS OF THE GRANTS AND A COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES. NOTHING AUTHORIZED UNDER THIS ORDINANCE SHALL BE CONSTRUED AS OBLIGATING THE CITY TO REPAY THE LOAN OR THE INTEREST THEREON EXCEPT FROM PROCEEDS OF THE GRANTS AND A COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES, OR AS PLEDGING THE FAITH AND CREDIT OF THE CITY, FLAGLER COUNTY, FLORIDA OR THE STATE OF FLORIDA OR ANY OTHER POLITICAL SUBDIVISION THEREOF, OR AS OBLIGATING THE CITY, FLAGLER COUNTY, FLORIDA OR THE STATE OF FLORIDA OR ANY OTHER POLITICAL SUBDIVISION, DIRECTLY OR INDIRECTLY OR CONTINGENTLY, TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATEVER THEREFOR.

**SECTION 4.** All ordinances, resolutions, charter provisions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5.** If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion thereto.

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**SECTION 6.** This Ordinance shall become effective immediately upon its enactment.

**CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION**

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Patti King, Mayor

**ATTEST:**

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Penny Overstreet, City Clerk

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF OCTOBER, 2024.

PASSED AND ENACTED THIS \_\_\_\_\_ DAY OF NOVEMBER, 2024.