

1 Introduced by the Council President at the request of the Mayor and
2 amended by the Rules Committee:

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5 **ORDINANCE 2023-875-E**

6 AN ORDINANCE DECLARING THE PUBLIC NECESSITY FOR
7 ACQUIRING FEE SIMPLE TITLE AND TEMPORARY
8 CONSTRUCTION EASEMENTS THROUGH CONDEMNATION BY
9 RIGHT OF EMINENT DOMAIN TO CERTAIN REAL PROPERTY
10 IN COUNCIL DISTRICT 4, SUCH REAL PROPERTY BEING
11 A PORTION OF: R.E. NO. 152854-0505; R.E. NO.
12 152866-1300; R.E. NO. 152854-0550; AND R.E. NO.
13 152576-0250 (THE "PROPERTIES"), WITH A TOTAL
14 APPRAISED VALUE OF \$1,115,950, AS REQUIRED FOR
15 THE BELFORT ROAD WIDENING PROJECT (THE
16 "PROJECT"); APPROPRIATING \$1,300,000 FROM
17 BELFORT ROAD WIDENING/DM OTHER CONSTRUCTION
18 COSTS TO DM RIGHT-OF-WAY ACQUISITION TO FUND THE
19 PURCHASE OF CERTAIN REAL PROPERTY DESCRIBED
20 HEREIN FOR THE BELFORT ROAD WIDENING PROJECT, AS
21 INITIATED BY B.T. 24-029; AMENDING THE 2024-2028
22 FIVE-YEAR CAPITAL IMPROVEMENT PLAN APPROVED BY
23 ORDINANCE 2023-505-E TO INCLUDE A FUNDING SOURCE
24 FOR LAND ACQUISITION AND SITE PREPARATION TO THE
25 PROJECT; AUTHORIZING THE REAL ESTATE DIVISION OF
26 THE DEPARTMENT OF PUBLIC WORKS TO MAKE OFFERS
27 AND NEGOTIATE FOR THE PURCHASE OF THE
28 PROPERTIES; AUTHORIZING ISSUANCE OF A
29 DECLARATION OF TAKING; AUTHORIZING AND DIRECTING
30 THE OFFICE OF GENERAL COUNSEL TO INSTITUTE
31 APPROPRIATE CONDEMNATION PROCEEDINGS; PROVIDING

1 AN EFFECTIVE DATE.
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3 **WHEREAS**, the City of Jacksonville is authorized to construct and
4 maintain streets and highways, and improve those streets and highways
5 as needed, for the general public, and is vested by law with the
6 power of eminent domain to acquire interests in real property; and

7 **WHEREAS**, the City of Jacksonville has determined that the
8 Belfort Road Widening Project (the "Project") referenced in this
9 Ordinance serves a public purpose; and

10 **WHEREAS**, the City of Jacksonville has determined that the
11 acquisition of the Properties and the easements described herein are
12 reasonably necessary for the completion of the Project; and

13 **WHEREAS**, to meet the requirements of Section 73.015, *Florida*
14 *Statutes*, it will be necessary to make a written offer to the impacted
15 property owners prior to the commencement of any eminent domain
16 action; and

17 **WHEREAS**, the City of Jacksonville therefore desires to pre-
18 approve those contracts and agreements reached with property owners
19 based on written offers and to authorize the Chief of the Real Estate
20 Division, or designee, to negotiate for the acquisitions as set forth
21 herein; and

22 **WHEREAS**, the City of Jacksonville has determined that the
23 Project is time sensitive and may require the taking of possession
24 and title to real property in advance of the final judgment in an
25 eminent domain action, as authorized by Section 74.021, *Florida*
26 *Statutes*; and

27 **WHEREAS**, in order to timely and cost-effectively complete the
28 Project, the City of Jacksonville desires to authorize the Chief of
29 the Real Estate Division, or designee, to invoke the procedures under
30 Chapter 74, *Florida Statutes*, and further to issue and execute a
31 declaration of taking pursuant to Section 74.031, *Florida Statutes*;

1 now therefore,

2 **BE IT ORDAINED** by the Council of the City of Jacksonville:

3 **Section 1. Declaration of Necessity.** The City hereby
4 declares the public necessity for acquiring through condemnation by
5 right of eminent domain, fee simple title and temporary construction
6 easements located in Council District 4 as more fully described by
7 the sketches and legal descriptions in **Exhibit 1** attached hereto and
8 by the maps and aerials in **Revised Exhibit 2**, labeled as "Revised
9 Exhibit 2, Rev List & Maps, January 16, 2024 - Rules" attached hereto
10 (the "Property") to complete the Project. In making this determination
11 of necessity, the City has ordered and reviewed the Traffic Study,
12 the Environmental Letter of Finding, and reviewed a Right-of-Way Map,
13 each in the form placed **On File** with the Legislative Services
14 Division. In addition, the City has had the opportunity to ask
15 questions of the respective engineers and other professionals
16 conducting assessments and studies of the Property, including
17 appropriate City staff, and has considered the following:

18 1. Availability of alternate alignments, or parcels - Due to the
19 nature of the widening project, the City is not able to utilize
20 alternate alignments. All of the acquisitions for this project
21 are directly related to the upcoming FDOT project improving the
22 interchange at Belfort Road and J. Turner Butler Boulevard and
23 increasing capacity at Belfort Road. The only impact to the
24 hospital parcel is the existing sidewalk and drainage swale,
25 which will both be replaced in kind as part of the project.

26 2. Costs - The City has considered many different designs and has
27 chosen the most cost-effective plan that accomplishes all of the
28 project's goals. The City has also adjusted the plans to require
29 as little private property acquisition as possible. Costs
30 considered include design, construction, and right-of-way
31 acquisition.

3. Environmental Factors - The City requested an environmental assessment, and it was determined that no assessment was needed since the affected property consisted of rights-of-way, ditches, and a stormwater pond.

4. Long-range area planning - This project directly ties into an upcoming Florida Department of Transportation (FDOT) project that will improve the interchange at Belfort Road and J. Turner Butler Blvd. The FDOT project is adding additional lanes to Belfort Road only in the immediate vicinity of the interchange. The City's project to widen Belfort Road will increase the capacity of Belfort Road and eliminate any bottlenecks due to the added lanes at the interchange.

5. Safety - This project will improve the safety of Belfort Road and the surrounding areas by reducing congestion and allowing for more efficient travel through this area. This project will also add or expand the existing bicycle and pedestrian features such as sidewalks, which will improve the safety for non-vehicular roadway users within the project limits.

Section 2. Appropriation. For the 2023-2024 fiscal year, within the City's budget, there are hereby appropriated the indicated sum(s) from the account(s) listed in subsection (a) to the account(s) listed in subsection (b):

(B.T. 24-029 attached hereto as **Exhibit 3** and incorporated herein by this reference)

(a) Appropriated from:

See B.T. 24-029 \$1,300,000

(b) Appropriated to:

See B.T. 24-029 \$1,300,000

(c) Explanation of Appropriation: the appropriation above is appropriating \$1,300,000 from the Belfort Road Widening Project/DM Other Construction Costs to

1 Belfort Road Widening Project/DM Right-of-way
2 Acquisition to fund the purchase of real property
3 necessary for the Project.

4 **Section 3. Purpose of Appropriation.** The purpose of the
5 appropriation above is to provide funding to purchase those lands
6 described in **Exhibit 1** and **Revised Exhibit 2** attached hereto by
7 negotiation or eminent domain as necessary for the Belfort Road
8 Widening project.

9 **Section 4. Capital Improvement Plan Amendment.** Ordinance
10 2023-505-E, adopting the 2024-2028 Five-Year Capital Improvement Plan
11 (the "CIP") for the City and certain of its independent agencies, is
12 hereby amended to provide funding for land acquisition and site
13 preparation for the Project as more fully described in the Project
14 Information Sheet attached hereto as **Exhibit 4** and incorporated herein
15 by this reference. The City Council finds that the deferral of this
16 amendment of the CIP until the next annual budget and CIP review will
17 be detrimental to the best interests of the community because such
18 deferral will unnecessarily delay the construction of the Project.

19 Pursuant to Section 122.605(c), *Ordinance Code*, enactment
20 of this Ordinance requires the affirmative vote of two-thirds of the
21 City Council members present at the meeting because of the CIP
22 amendment set forth in this section. This Ordinance shall constitute
23 an amendment to Ordinance 2023-505-E. In all other respects, the
24 Five-Year Capital Improvement Plan approved by Ordinance 2023-505-E
25 shall remain unchanged and continue in full force and effect.

26 **Section 5. Acquisition of Fee Simple Title and Easement**
27 **Rights.** The City of Jacksonville shall acquire fee simple title or
28 easement rights in those lands described in **Exhibit 1** and **Revised**
29 **Exhibit 2** by negotiation or eminent domain for the purpose aforesaid
30 from the present owners thereof and all persons claiming any interest
31 therein. Acquisition of fee simple title and easements rights, if

1 made by negotiation, shall be pursuant to the City of Jacksonville
2 Real Estate Purchase Agreement substantially in the form placed **On**
3 **File** with the Legislative Services Division. However, the terms may
4 be negotiated and modified by the Chief of Real Estate, or designee,
5 as necessary, so long as the cost to the City does not exceed those
6 costs authorized by this Ordinance or other provisions of the
7 Ordinance Code and the Office of General Counsel concurs that such
8 modification is in the best interests of the City. The Chief, or
9 designee, is further authorized to execute the Real Estate Purchase
10 Agreements and to take all actions necessary to close such agreed
11 purchases pursuant to the agreement terms.

12 **Section 6. Authorizing Issuance of a Declaration of Taking.**

13 The Chief of the Real Estate Division of the City of Jacksonville
14 Department of Public Works, or designee, is hereby authorized to
15 execute on behalf of the City a Declaration of Taking pursuant to
16 Section 74.031, *Florida Statutes*, for the Property. The Chief of
17 Engineering Construction Management Division for the Public Works
18 Department, or designee, is authorized to approve the deposit of
19 funds into the registry of the court in the amount directed by an
20 order of taking pursuant to Section 74.051, *Florida Statutes*, from
21 funds lawfully appropriated for the Project.

22 **Section 7. Negotiation of Purchase of Property.** Full

23 compensation for the taking of the Properties was appraised at a
24 total value of \$1,115,950 as indicated in the appraisals **On File** with
25 the Legislative Services Division. Recognizing that real property
26 values can fluctuate significantly, the Chief, or designee, is hereby
27 authorized to make or accept binding offers for purchase of the
28 necessary interests in real property either informally or pursuant
29 to Section 73.015, *Florida Statutes*, under the following conditions:

- 30 a. The purchase price offered or accepted shall not exceed the
31 greater of the Appraised Value or the value determined by a

1 valid, updated appraisal of the Property prior to entry of an
2 order of taking; and,

3 b. Lawfully appropriated funds are available for the Project to
4 pay the purchase price offered, as indicated by the
5 Engineering Construction Management Division of the Public
6 Works Department; and,

7 c. The City will receive the necessary interest in real property
8 from the transaction without any encumbrances negatively
9 affecting the Project, as indicated by the Office of General
10 Counsel and Engineering Construction Management Division of
11 the Public Works Department.

12 Nothing in this Ordinance is intended to limit the use of the
13 additional settlement authority provided in Sections 112.308 and
14 112.309, *Ordinance Code*, in conjunction with, and supplemental to,
15 these provisions. In addition to the purchase price for the Property,
16 the Chief of Engineering Construction Management Division of Public
17 Works Department, is authorized to pay any costs and attorneys' fees
18 as provided by Chapters 73 and 74, *Florida Statutes*.

19 **Section 8. Institution of Legal Proceedings.** The Office of
20 General Counsel of the City of Jacksonville is hereby authorized and
21 directed to institute the appropriate legal proceedings to acquire
22 by condemnation fee simple title in those lands described in **Exhibit**
23 **1** and **Revised Exhibit 2** for the purpose described in this Ordinance.
24 The Office of General Counsel is further authorized to invoke the
25 procedures of Chapter 74, *Florida Statutes* (commonly known as a
26 "quick-take").

27 **Section 9. Effective Date.** This Ordinance shall become
28 effective upon signature by the Mayor or upon becoming effective
29 without the Mayor's signature.
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1 Form Approved:

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3 /s/ Mary E. Staffopoulos

4 Office of General Counsel

5 Legislation Prepared By: Laura Boeckman

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