

1 Introduced by Council Member Diamond:
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4 **ORDINANCE 2023-146**

5 AN ORDINANCE REGARDING THE ESTABLISHMENT OF
6 HOGPEN CREEK DEPENDENT SPECIAL DISTRICT IN
7 ACCORDANCE WITH SECTION 189.02, FLORIDA
8 STATUTES; INCORPORATING RECITALS; ADOPTING A
9 CHARTER FOR THE "HOGPEN CREEK DEPENDENT SPECIAL
10 DISTRICT" FOR THE LIMITED PURPOSE OF DREDGING
11 AND MAINTAINING NAVIGABLE WATERWAY ACCESS TO THE
12 INTRACOASTAL WATERWAY; ESTABLISHING THE
13 DEPENDENT NATURE OF THE DISTRICT; ESTABLISHING
14 THE PURPOSE, POWERS, FUNCTIONS AND DUTIES;
15 ESTABLISHING A GEOGRAPHIC BOUNDARY FOR THE
16 DISTRICT; ACKNOWLEDGING THE AUTHORITY TO CREATE
17 THE DEPENDENT SPECIAL DISTRICT; RECOGNIZING THE
18 BEST ALTERNATIVE; ESTABLISHING A SEVEN MEMBER
19 BOARD OF SUPERVISORS TO BE ORIGINALLY APPOINTED
20 BY THE CITY COUNCIL WITH ALL SEVEN INITIAL TERMS
21 EXPIRING ON MAY 18, 2027, AND ALL SEVEN
22 SUPERVISORS BEING ELECTED BY THE QUALIFIED
23 ELECTORS OF THE DISTRICT BEGINNING WITH THE 2027
24 GENERAL ELECTION; PROVIDING ADDITIONAL
25 REQUIREMENTS; IDENTIFYING THE METHOD OF
26 FINANCING; RECOGNIZING THE CONSISTENCY WITH THE
27 COMPREHENSIVE PLAN; AND PROVIDING AN EFFECTIVE
28 DATE.

29
30 **WHEREAS**, Section 189.02, Florida Statutes, provides that the
31 City Council may create dependent special districts for the purpose

1 of delivering essential services to specific areas within the city;
2 and

3 **WHEREAS**, Hogpen Creek's junction with the Intracoastal Waterway,
4 located in Council District 13, requires dredging and continuous
5 maintenance in order to remain navigable and sanitary; and

6 **WHEREAS**, the City of Jacksonville is unable to provide the human
7 or financial resources required to properly maintain the creek; and

8 **WHEREAS**, a dependent special district financed by the property
9 owners with direct or deeded navigable access to the creek is an
10 appropriate, efficient and effective vehicle to insure that the creek
11 is properly maintained; and,

12 **WHEREAS**, the City Council finds that it is necessary to create
13 the Hogpen Dependent Special District to insure that the canals are
14 properly maintained; and,

15 **WHEREAS**, the City Council finds that the creation of the Hogpen
16 Dependent Special District is the best alternative to insure that the
17 creek is properly maintained because the creation of such a district
18 provides a legally enforceable mechanism to collect monies from all
19 property owners that benefit from a properly maintained creek, and
20 it insures that the monies, when collected, are spent by a
21 governmental entity that is accountable to the people that it serves;
22 now therefore,

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

24 **Section 1. Incorporating Recitals.** The foregoing "WHEREAS"
25 clauses are hereby ratified and confirmed as being true and correct
26 and are hereby made a specific part of this Ordinance upon adoption
27 thereof.

28 **Section 2. Establishment of Charter for Hogpen Intracoastal**
29 **Dependent Special District.** In accordance with Section 189.02,
30 *Florida Statutes*, the Charter of the Hogpen Dependent Special District
31 is hereby established to read as follows:

1 CHARTER OF THE HOGPEN DEPENDENT SPECIAL DISTRICT

2 **Sec. 1. Dependent Special District** - There is hereby created
3 a Dependent Special District which will serve the community based on
4 the boundaries set forth herein and shall be named the Hogpen
5 Dependent Special District ("District"). The District shall be
6 dependent, as set forth in Section 189.403(2), *Florida Statutes*, on
7 the county for purposes of establishing its budget but is otherwise
8 amenable to separate special district government.

9 **Sec. 2. Purpose, Powers, Functions, and Duties.**

10 (a) *Purpose.* The purpose of the District shall be the dredging
11 and ongoing maintenance of the creek system where Hogpen Creek, east
12 of San Pablo Road, connects to the Intracoastal Waterway. The
13 District shall fulfill its purpose by dredging the creek to improve
14 the waterway health and provide access to the Intracoastal Waterway.

15 (b) *Powers.* The District is authorized and empowered:

16 (1) To sue and be sued;

17 (2) To contract;

18 (3) To purchase, hold, lease, sell, or otherwise acquire and
19 convey such real and personal property and interest therein
20 as may be necessary or proper to carry out the purpose of
21 this Charter;

22 (4) To employ engineers, attorneys, accountants, financial or
23 other consultants, and such other agents and employees as
24 the Board of Supervisors may require or deem necessary to
25 accomplish the purpose of this Charter, or to contract for
26 any such services;

27 (5) To acquire, construct, maintain, equip, improve, extend,
28 and enlarge capital projects for the purposes of enabling
29 the District to perform public functions or services as
30 herein provided related to dredging and maintenance of the
31 creek and its access to the Intracoastal Waterway;

- 1 (6) To borrow money for the purposes of enabling the District
2 to perform public functions or services as herein provided;
- 3 (7) To assess and collect for each year of its operation
4 against each parcel in the District, a special assessment.
5 (a) No special assessment shall exceed the maximum of
6 \$4,500.00 for the first year.
7 (b) The assessment can be increased annually by no more
8 than \$200.00 each year, and the annual assessment
9 cannot exceed \$7,500.00 annually without amendment of
10 this charter.
11 (c) The assessments approved under this charter are to be
12 billed and collected pursuant to Chapter 197, Florida
13 Statutes, or any other means authorized by law, and
14 to be a lien on the assessed property, coequal with
15 the lien of all state, county, district, and municipal
16 taxes, and superior in dignity to all other liens,
17 titles, and claims, until paid in full.
- 18 (8) To assess any new parcels (by sale, lot-split, or
19 subdivision), that come into existence within the
20 geographic boundaries or are granted legal access to the
21 creek, as set forth generally in **Exhibit 1**, labeled as
22 "Exhibit 1 - District Map", attached hereto and
23 incorporated herein by reference;
- 24 (9) To fix and collect rates, fees, and other charges for the
25 specialized public functions or services authorized by this
26 Charter;
- 27 (10) To restrain, enjoin, or otherwise prevent the violation of
28 this Charter or any resolution or rule adopted pursuant to
29 the powers granted by this Charter;
- 30 (11) To join with any other district, municipality, county or
31 political subdivision, public agency or authority in the

1 exercise of common powers;

2 (12) To enter into contracts with the government of the United
3 States or any agency or instrumentality thereof, or with
4 any state, county, municipality, district, authority, or
5 political subdivision, private corporation, partnership,
6 association, or individual to affect the purpose of this
7 Charter, and to receive and accept, from any federal
8 agency, grants or loans for or in aid of the specialized
9 public functions or services authorized herein.

10 (13) To hold, control, and acquire by donation, purchase, or
11 condemnation, or dispose of, any public easements,
12 dedications to public use, platted reservations for public
13 purposes, or any reservations for those purposes authorized
14 by this act and to make use of such easements, dedications,
15 or reservations for the purposes authorized by this act.

16 (c) *Functions.* Upon formation, the District will function as a
17 dependent special district. The District will undertake
18 all essential functions required of dependent special
19 districts, including:

20 (1) Create, submit and have approved by City Council, its
21 initial annual budget pursuant to section 189.016,
22 Florida Statutes,

23 (2) Within 30 days of its creation the District will
24 notify the State of Florida Special District
25 Accountability Program of its existence and will file
26 all required documentation and information with the
27 program including but not limited to:

28 (i) the District creation document,

29 (ii) a written status statement,

30 (iii) a map of the boundaries of the District, and

31 (iv) the name, address, phone, fax and e-mail address for

1 the District's registered agent.

2 (iii) The District shall be responsible for payment of any
3 fees and the completion of all financial reporting
4 required by law.

5 (iv) The District shall be required to keep and maintain
6 an official website that meets all legal obligations
7 for access and minimum content as set forth under
8 Florida law.

9 (d) *Duties.* The District shall have the responsibility of
10 dredging and maintaining Hogpen Creek, east of San Pablo
11 Road to its intersection with the Intracoastal Waterway.

12 **Sec. 3. Boundaries.** The District will have two
13 boundaries: the waterway boundary wherein the dredging and
14 maintenance work will take place and the assessed property boundary
15 which will identify the boundary for the 111 parcels of land that
16 will be subject to the assessments based on their access to the
17 waterway.

18 (a) *Waterway Boundary.* The waterway boundary begins at two
19 junctions within San Pablo Road South. The northern
20 junction begins at approximately 30.307194°, -81.445055°.
21 The southern junction begins at approximately 30.301597°,
22 -81.442263. Both junctions flow towards the Intracoastal
23 Waterway for approximately one and a half (1½) miles. A
24 graphic depiction of the Water Boundary is depicted in
25 **Exhibit 2**, labeled "Exhibit 2 - Water Boundary Map",
26 attached hereto and incorporated by reference.

27 (b) *Assessed Property Boundary.* The boundaries of the District
28 are areas that include those parcels of property identified
29 by address and graphically depicted in **Exhibit 3**, labeled
30 as "Exhibit 3 - Assessed Property Map", attached hereto
31 and incorporated herein by reference. The property

1 addresses of each parcel to be assessed within the District
2 are hereby listed with real estate parcel numbers for each
3 property in **Exhibit 4**, labeled as "Exhibit 4 - Parcel
4 Descriptions", attached hereto and incorporated herein by
5 reference.

6 **Sec. 4. Authority.** In accordance with section 189.02(4)(c),
7 the City of Jacksonville, a consolidated municipal corporation and
8 political subdivision existing under the laws of the State of Florida,
9 has the authority, pursuant to section 189.02, *Florida Statutes*, to
10 create special districts. Accordingly, the City uses this authority
11 to create the District and through this charter authorizes the
12 District to operate as a Dependent Special District.

13 **Sec. 5. Best Alternative.** In accordance with section
14 189.02(4)(b), *Florida Statutes*, the creation of the District provides
15 the best alternative for private/shared improvements; the District
16 will allow the locally impacted community receiving the benefit from
17 the improvements to directly fund the costs involved.

18 **Sec. 6 Governing Body and Elections.** Pursuant to section
19 189.02(4)(e), *Florida Statutes*, the organization, operation, and
20 duties of the District's governing body are set forth herein

21 (a) *Organization.* The governing body of the District shall
22 consist of seven Supervisors.

23 (1) *Qualifications.* All Supervisors shall be qualified
24 electors of the State of Florida and own property
25 identified in **Exhibit 3** - Assessed Property Map and listed
26 in **Exhibit 4** - Parcel Descriptions.

27 (2) *Qualifying.* Candidates shall qualify for the Board of
28 Supervisors pursuant to the requirements of section 99.061,
29 *Florida Statutes* or under any other law or rule for
30 qualifying as a candidate.

1 (3) *Initial Leadership.* The Initial Board of Supervisors
2 shall be appointed by the City Council of the City of
3 Jacksonville and all seven initial terms shall expire on
4 May 18, 2027.

5 (i) *Initial Appointees.* The following individuals are
6 hereby appointed by the City Council to the original
7 Board of Supervisors: Jason Hafer, 2320 Shipwreck
8 Circle West (Seat 1); William Schuetz, 2310 Shipwreck
9 Circle West (Seat 2); Ezekiel Stewart, 2328 Shipwreck
10 Circle West (Seat 3); James Koppenberger, 14209 Pine
11 Island Drive (Seat 4); Chris Lawrence, 2391 Pine
12 Island Court (Seat 5); Kevin Holbrooks, 14057 Pine
13 Island Drive (seat 6); and Christi Dangott, 14242
14 Pine Island Drive (seat 7).

15 (4) *Subsequent Elections.* At the 2027 general election,
16 the qualified electors of the District shall elect four
17 Supervisors who shall serve for terms of six years (seats
18 1, 3, 5, and 7) and three Supervisors who shall serve for
19 terms of four years (seats 2, 4, and 6). The term of office
20 for each Supervisor thereafter shall be four years.

21 (i) *Non-partisan.* Commencing with the 2027 general
22 consolidated election, all Supervisors shall be
23 elected on a nonpartisan basis by the qualified
24 electors of the District and shall hold office until
25 their successors are elected and the results of the
26 election are certified by the Supervisor of
27 Elections.

28 (5) *Vacancies.* If, during a term of office, a vacancy occurs,
29 the remaining members of the Board shall fill the vacancy
30 by an appointment of another person from the same area

1 where the vacancy occurred, if possible, for the remainder
2 of the unexpired term.

3 (6) *Removal.* Any Supervisor may be removed from office by the
4 City Council for misfeasance, malfeasance, or willful
5 neglect of duty.

6 (7) *No Compensation.* No Supervisor shall receive
7 compensation for his or her service.

8 (8) *Single Supervisor per Household.* No Supervisor may reside
9 in the same household as another Supervisor.

10 (c) *Elector Membership.*

11 (1) Electors shall be determined based on a "per assessed
12 parcel" basis.

13 (2) In the event that a parcel is owned by more than one
14 person/entity, only the first vote cast by a listed
15 property owner for the parcel will count.

16 (3) Parcel numbers and owners of record shall be
17 determined by the Duval County Property Appraiser's
18 records.

19 (4) To be eligible to vote, a parcel owner must be an
20 elector registered to vote in Duval County, Florida.

21 **Sec. 7. Additional Requirements**

22 (c) *Financial Disclosures, Fiscal Year and Budget.* The fiscal
23 year for the District shall be from July 1 to June 30. The District
24 shall annually submit a proposed district budget to the City Council
25 of the City of Jacksonville by April 1 for approval or rejection.
26 The failure of the City Council to take action on the budget within
27 70 days after submission shall constitute approval of the budget,
28 unless extended by agreement of the City Council and the District.
29 The District shall also submit any amendments to its budget to the
30 City Council for approval or rejection, which amendments shall also
31 be deemed approved if the City Council fails to take action on them

1 within 70 days after submission. All submissions to the City Council
2 shall be made to its Director/Council Secretary with a copy to the
3 Council Auditor.

4 (d) *Audit.* The District shall be audited pursuant to the
5 provisions of Section 218.39, *Florida Statutes*, at its expense by
6 such persons and in such manner as the City Council, and any relevant
7 federal or state law, shall direct.

8 (e) *Noticing and Reporting Requirements.* The District shall
9 comply with the requirements of Florida's Government-in-the-Sunshine
10 Law as set forth in Chapter 286, *Florida Statutes*, with regard to the
11 noticing of its meetings, the conduct of its officials, the reporting
12 of its activities through the keeping of minutes, and any other
13 requirements of public bodies, and shall comply with the requirements
14 of Florida's Public Records Act as set forth in Chapter 119 of the
15 *Florida Statutes*. The District shall notice its meetings consistent
16 with the requirements of Section 189.015, *Florida Statutes*. The
17 District shall forward a copy of its minutes to the Council President
18 and District Council Member on an annual basis.

19 **Sec. 8. Methods of Financing.** Pursuant to Florida
20 Statute section 189.02(4)(g), the District shall have the ability to
21 finance itself through annual non-ad valorem special assessments upon
22 each designated parcel as permitted by the powers vested in the
23 District Board of Supervisors and authorized through this ordinance.
24 The District may collect these non-ad valorem special assessments in
25 any manner permitted under Florida law including those set forth in
26 Chapters 170 and 197, *Florida Statutes*.

27 Pursuant to 197.3632, *Florida Statutes*, the District may enter
28 into interlocal agreements or memoranda of understanding with the
29 Property Appraiser and Tax Collector should the District choose to
30 collect assessments with property taxes. The agreements will set
31 forth any procedural and financial obligations that are required for

1 use of the services of either the Tax Collector or the Property
2 Appraiser.

3 **Sec. 9. Comprehensive Plan.** The formation of the District
4 and its purposes are consistent with the approved Comprehensive Plan
5 of the City of Jacksonville.

6 **Section 3. Effective Date.** This ordinance shall
7 become effective upon signature by the Mayor or upon becoming
8 effective without the Mayor's signature.

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11 Form Approved:

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13 /s/ Trisha Bowles

14 Office of General Counsel

15 Legislation Prepared By: Trisha D. Bowles

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