

1 Introduced by the Council President at the request of the Mayor:
2
3

4 **ORDINANCE 2020-628**

5 AN ORDINANCE CREATING A NEW CHAPTER 754
6 (STORMWATER MANAGEMENT UTILITY CODE), PART 3
7 (WATER QUALITY COMPENSATORY CREDITS), *ORDINANCE*
8 *CODE*, TO PERMIT THE CITY TO SELL WATER QUALITY
9 COMPENSATORY CREDITS THROUGHOUT THE CITY;
10 PROVIDING FOR THE DEPOSIT OF THE PROCEEDS
11 DERIVED FROM THE SALE OF WATER QUALITY
12 COMPENSATORY CREDITS INTO A DESIGNATED PROJECT
13 ACCOUNT WITHIN THE STORMWATER SERVICES CAPITAL
14 PROJECTS FUND; PROVIDING FOR CODIFICATION
15 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.
16

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

18 **WHEREAS**, the City of Jacksonville ("City") is the owner of multiple
19 stormwater facilities located in City (collectively, the "Stormwater
20 Facilities" or "Stormwater Facility"); and

21 **WHEREAS**, the City has obtained a St. Johns River Water Management
22 District ("SJRWMD") permit for each Stormwater Facility as required by
23 law; and

24 **WHEREAS**, the City's Department of Public Works worked with SJRWMD
25 to identify the aggregate stormwater facility water quality compensatory
26 credits available under each Stormwater Facility permit; and

27 **WHEREAS**, the City has a surplus of stormwater facility water
28 quality compensatory credits in connection with the Stormwater
29 Facilities that may be used to meet water quality requirements of future
30 third-party developer drainage improvement projects within the City; and

31 **WHEREAS**, the City desires to sell the stormwater facility water

1 quality credits permitted by SJRWMD to developers, or provide such
2 credits to developers as redevelopment agreement incentives, as an
3 alternative solution to meeting the stormwater facility water quality
4 requirements for development projects and deposit the proceeds
5 derived from the sale of such credits into a designated account within
6 the Stormwater Services Capital Projects Fund to be used for future
7 City drainage improvement projects; now therefore

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

9 **Section 1. Creating a new Chapter 754 (Stormwater**
10 **Management Utility Code), Part 3 (Water Quality Compensatory Credits)**
11 **Ordinance Code.** A new Chapter 754 (Stormwater Management Utility
12 Code), Part 3 (Water Quality Compensatory Credits), *Ordinance Code*,
13 is hereby created to read as follows:

14 **CHAPTER 754 STORMWATER MANAGEMENT UTILITY CODE**

15 * * *

16 **PART 3 (WATER QUALITY COMPENSATORY CREDITS)**

17 **Sec. 754.301. Intent.** It is the intent of the City to effectively
18 manage the quantity of stormwater facilities and ponds constructed
19 by developers within the City. The City desires to offer stormwater
20 facility water quality compensatory credits for sale to developers,
21 or provide such credits to developers as redevelopment agreement
22 incentives, as an alternative solution to meeting the stormwater
23 facility water quality requirements for drainage improvement projects
24 within the City.

25 **Sec. 754.302. Definitions.**

26 For purposes of this Part, the terms defined below shall have the
27 following meanings:

28 (a) "CAO" shall mean the City's Chief Administrative Officer.

29 (b) "City Stormwater Permit" shall mean the St. Johns River
30 Water Management District permit for each applicable Stormwater
31 Management Facility, as such permit may be amended.

1 (c) "developer" the owner of a development project seeking
2 Credits under this Part.

3 (d) "development project" shall mean a development project
4 located within the City.

5 (e) "Director" shall mean the Director of the Public Works
6 Department or designee.

7 (f) "Stormwater Facilities" or "Stormwater Facility" shall
8 mean a City owned facility or facilities that meet the definitions
9 in Sections 754.102 (cc), (dd), (ee) and (ff) of Chapter 754, Part
10 1 of the Ordinance Code.

11 (g) "Water Quality Compensatory Credit(s)" or "Credit(s)"
12 shall mean intangible property interest being sold by the City
13 pursuant to this Section that represents a certain portion of the
14 City's surplus stormwater facility water quality compensatory
15 credits under a City Stormwater Permit.

16 (h) "Water Quality Compensatory Credit Ledger" or "Ledger"
17 shall mean the ledger to be maintained by the Director and updated
18 regularly as needed to document all Credit transfers made by the
19 City pursuant to this Section.

20 **Sec. 754.303. Authority.** The Director is authorized to sell
21 Water Quality Compensatory Credits to a developer for a fee for use
22 in a development project or provide Credits to a developer as an
23 incentive pursuant to a redevelopment agreement in accordance with
24 the requirements of this Part, subject to the CAO's prior approval.

25 **Sec. 754.304. Credit Application Process.**

26 A developer seeking to obtain Water Quality Compensatory Credits
27 for a development project pursuant to this Part shall submit a written
28 request to the Director. Such request shall contain at a minimum the
29 following information and such other information as required by the
30 Director:

- 31 i. Name and contact information, including address, phone

- 1 number, fax number and email, for the developer;
- 2 ii. Location and brief description of the development project;
- 3 iii. Certified copy of the engineering plans for the development
4 project;
- 5 iv. Name and contact information, including address, phone
6 number, fax number and email, for the engineer of record;
7 and
- 8 v. Number of Water Quality Compensatory Credits requested by
9 the developer to meet the stormwater facility water quality
10 requirements for the development project.

11 Upon receipt of a written request from a developer, the Director, or
12 designee, shall review the request and determine the Credit fee
13 pursuant to Section 754.305 below. At such time that the Director has
14 determined the Water Quality Compensatory Credit fees for the
15 development project, the Director shall notify the developer of the
16 fees. If based on the fees the developer agrees to consummate the
17 Credit sale, the Director shall proceed with obtaining the necessary
18 approval from the CAO. In no event shall the City transfer Water
19 Quality Compensatory Credits to a developer until the developer has
20 (i) executed an agreement under Section 754.307 below and paid the
21 City for such Credits (i.e., Credit sale); or (ii) complied with the
22 terms of an executed redevelopment agreement regarding such Credits
23 (i.e., Credit incentive).

24 **Sec. 754.305. Credit Fees.** A developer shall pay a fee for each
25 Credit sold pursuant to this Part. Such fee shall be determined by
26 the Director based on the design costs, construction and inspection
27 costs, and the ongoing operation and maintenance costs necessary to
28 construct and maintain a stormwater facility or pond for the
29 development project.

30 **Sec. 754.306 Proceeds from Credit Sale.**

31 Proceeds from the sale of Water Quality Compensatory Credits

1 pursuant to this Part shall be deposited into a designated account
2 within the Stormwater Services Capital Projects Fund. The
3 appropriation of these funds from the Stormwater Services Capital
4 Projects Fund shall require further City Council approval.

5 **Sec. 754.307. Agreement Terms.** Prior to or contemporaneously
6 with the transfer of Water Quality Compensatory Credits pursuant to
7 this Part, a developer shall agree via a agreement in a City approved
8 form to:

- 9 (i) Adhere to the terms and conditions of the City
10 Stormwater Permit;
- 11 (ii) Provide for an option for the City to buy back the
12 credits sold if they are not used within five years
13 at the original price they were sold to the
14 developer; and
- 15 (iii) Adhere to any other terms as determined by the
16 Public Works Director to protect the City's
17 interests under the City Stormwater Permit.

18 The Mayor, or designee, and the Corporation Secretary are authorized
19 to execute the agreements required pursuant to this section.

20 **Sec. 754.308. Coordination; Credit Ledger.** The Director shall
21 be responsible for keeping and maintaining the Water Quality
22 Compensatory Credit Ledger. The Ledger shall contain information
23 regarding the transaction history and relevant details for all Credit
24 transfers pursuant to this Part, including, but not limited to, the
25 number of Credits transferred, the project name, the developer name,
26 the Credit fee per transfer, and the balance of Credits remaining
27 under a City Stormwater Permit.

28 **Section 754.309. Credits to run with the land; Transferability;**
29 **Development Project Changes.** Water Quality Compensatory Credits
30 transferred pursuant to this Part shall run with and be appurtenant
31 to the development project land. A developer may assign or transfer

1 Credits obtained pursuant to this Part in connection with the sale,
2 assignment or transfer of the development project land. If after the
3 Credit transfer date, the development project changes and the number
4 of Credits necessary for such development decreases, a developer
5 shall not be entitled to receive a Credit reduction or Credit refund
6 payment from the City. If after the Credit transfer date, the
7 development project changes and the number of Credits necessary for
8 such development increases, any appurtenant Credits to the
9 development project land shall be used to meet the Credit requirements
10 necessary for such changed development project.

11 **Section 2. Codification Instructions.** The Codifier and the
12 Office of General Counsel are authorized to make all chapter and
13 division "tables of contents" consistent with the changes set forth
14 herein. Such editorial changes and any others necessary to make the
15 *Ordinance Code* consistent with the intent of this legislation are
16 approved and directed herein, and changes to the *Ordinance Code* shall
17 be made forthwith and when inconsistencies are discovered.

18 **Section 3. Effective Date.** This ordinance shall become
19 effective upon signature by the Mayor or upon becoming effective
20 without the Mayor's signature.

21
22 Form Approved:

23
24 /s/Lawsikia J. Hodges

25 Office of General Counsel

26 Legislation Prepared By: Lawsikia J. Hodges

27 GC-#1390475-v4-Stormwater_Quality_Compensatory_Credits.docx
28