

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

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4 **ORDINANCE 2020-628-E**

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

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

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

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

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

29 **WHEREAS**, the City has a surplus of stormwater facility water
30 quality compensatory credits in connection with the Stormwater
31 Facilities that may be used to meet water quality requirements of

1 future third-party developer drainage improvement projects within the
2 City; and

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

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

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

17 **CHAPTER 754 STORMWATER MANAGEMENT UTILITY CODE**

18 * * *

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

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

28 **Sec. 754.302. Definitions.**

29 For purposes of this Part, the terms defined below shall have the
30 following meanings:

31 (a) "CAO" shall mean the City's Chief Administrative

1 Officer.

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

5 (c) "*developer*" the owner of a development project seeking
6 Credits under this Part.

7 (d) "*development project*" shall mean a development project
8 located within the City.

9 (e) "*Director*" shall mean the Director of the Public Works
10 Department or designee.

11 (f) "Stormwater Facilities" or "Stormwater Facility" shall
12 mean a City owned facility or facilities that meet the definitions
13 in Sections 754.102 (cc), (dd), (ee) and (ff) of Chapter 754, Part
14 1 of the Ordinance Code.

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

20 (h) "*Water Quality Compensatory Credit Ledger*" or "*Ledger*"
21 shall mean the ledger to be maintained by the Director and updated
22 regularly as needed to document all Credit transfers made by the
23 City pursuant to this Section.

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

29 **Sec. 754.304. Credit Application Process.**

30 A developer seeking to obtain Water Quality Compensatory
31 Credits for a development project pursuant to this Part shall

1 submit a written request to the Director. Such request shall
2 contain at a minimum the following information and such other
3 information as required by the Director:

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

16 Upon receipt of a written request from a developer, the Director,
17 or designee, shall review the request and determine the Credit fee
18 pursuant to Section 754.305 below. At such time that the Director
19 has determined the Water Quality Compensatory Credit fees for the
20 development project, the Director shall notify the developer of the
21 fees. If based on the fees the developer agrees to consummate the
22 Credit sale, the Director shall proceed with obtaining the
23 necessary approval from the CAO. In no event shall the City
24 transfer Water Quality Compensatory Credits to a developer until
25 the developer has (i) executed an agreement under Section
26 754.307 below and paid the City for such Credits (i.e., Credit
27 sale); or (ii) complied with the terms of an executed
28 redevelopment agreement regarding such Credits (i.e., Credit
29 incentive).

30 **Sec. 754.305. Credit Fees.** A developer shall pay a fee for
31 each Credit sold pursuant to this Part. Such fee shall be

1 determined by the Director based on the design costs, construction
2 and inspection costs, and the ongoing operation and maintenance
3 costs necessary to construct and maintain a stormwater facility or
4 pond for the development project.

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

6 Proceeds from the sale of Water Quality Compensatory Credits
7 pursuant to this Part shall be deposited into a designated account
8 within the Stormwater Services Capital Projects Fund. The
9 appropriation of these funds from the Stormwater Services Capital
10 Projects Fund shall require further City Council approval.

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

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

24 The Mayor, or designee, and the Corporation Secretary are
25 authorized to execute the agreements required pursuant to this
26 section.

27 **Sec. 754.308. Coordination; Credit Ledger.** The Director shall
28 be responsible for keeping and maintaining the Water Quality
29 Compensatory Credit Ledger. The Ledger shall contain information
30 regarding the transaction history and relevant details for all
31 Credit transfers pursuant to this Part, including, but not limited

1 to, the number of Credits transferred, the project name, the
2 developer name, the Credit fee per transfer, and the balance of
3 Credits remaining under a City Stormwater Permit.

4 **Section 754.309. Credits to run with the land;**
5 **Transferability; Development Project Changes.** Water Quality
6 Compensatory Credits transferred pursuant to this Part shall run
7 with and be appurtenant to the development project land. A
8 developer may assign or transfer Credits obtained pursuant to this
9 Part in connection with the sale, assignment or transfer of the
10 development project land. If after the Credit transfer date, the
11 development project changes and the number of Credits necessary for
12 such development decreases, a developer shall not be entitled to
13 receive a Credit reduction or Credit refund payment from the City.
14 If after the Credit transfer date, the development project changes
15 and the number of Credits necessary for such development increases,
16 any appurtenant Credits to the development project land shall be
17 used to meet the Credit requirements necessary for such changed
18 development project.

19 **Section 2. Codification Instructions.** The Codifier and
20 the Office of General Counsel are authorized to make all chapter
21 and division "tables of contents" consistent with the changes set
22 forth herein. Such editorial changes and any others necessary to
23 make the *Ordinance Code* consistent with the intent of this
24 legislation are approved and directed herein, and changes to the
25 *Ordinance Code* shall be made forthwith and when inconsistencies are
26 discovered.

27 **Section 3. 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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31 Form Approved:

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/s/Lawsikia J. Hodges

Office of General Counsel

Legislation Prepared By: Lawsikia J. Hodges

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