

1 Introduced by Council Member Johnson and amended by the Rules
2 Committee:

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5 **ORDINANCE 2025-614-E**

6 AN ORDINANCE APPROPRIATING \$29,588,373 FROM THE
7 OLD MIDDLEBURG 103RD - BRANAN FIELD - 01 - OTHER
8 CONSTRUCTION COSTS ACCOUNT TO THE RIGHT-OF-WAY
9 ACQUISITION ACCOUNT; AMENDING THE 2025-2029
10 FIVE-YEAR CAPITAL IMPROVEMENT PLAN APPROVED BY
11 ORDINANCE 2024-505-E TO REFLECT THIS
12 APPROPRIATION OF FUNDS FROM THE OTHER
13 CONSTRUCTION COSTS ACCOUNT TO THE RIGHT-OF-WAY
14 ACQUISITION ACCOUNT FOR THE PROJECT ENTITLED
15 "OLD MIDDLEBURG 103RD - BRANAN FIELD - 01";
16 DECLARING THE PUBLIC NECESSITY FOR ACQUIRING FEE
17 SIMPLE TITLE, TEMPORARY CONSTRUCTION EASEMENTS,
18 AND PERMANENT DRAINAGE EASEMENTS, THROUGH
19 CONDEMNATION BY RIGHT OF EMINENT DOMAIN TO AND
20 OVER CERTAIN REAL PROPERTY IN COUNCIL DISTRICTS
21 12 AND 14, SUCH REAL PROPERTY BEING LOCATED NEAR
22 OR ADJACENT TO A PORTION OF OLD MIDDLEBURG ROAD
23 SOUTH, INCLUDING THE ENTIRE PROPERTY, OR
24 PORTIONS THEREOF, AS MORE SPECIFICALLY DESCRIBED
25 HEREIN (COLLECTIVELY, THE "PROPERTIES"), AS
26 REQUIRED FOR THE PROJECT; AUTHORIZING
27 ACQUISITION OF THE PROPERTIES BY NEGOTIATION OR
28 EMINENT DOMAIN; AUTHORIZING THE CHIEF OF THE
29 ENGINEERING AND CONSTRUCTION MANAGEMENT
30 DIVISION OF THE DEPARTMENT OF PUBLIC WORKS TO
31 MAKE A GOOD FAITH DEPOSIT INTO THE COURT

1 REGISTRY; AUTHORIZING THE CHIEF OF THE REAL
2 ESTATE DIVISION OF THE DEPARTMENT OF PUBLIC
3 WORKS, OR HER DESIGNEE, TO MAKE OFFERS AND
4 NEGOTIATE FOR THE PURCHASE OF THE PROPERTIES,
5 SUBJECT TO CERTAIN CONDITIONS; AUTHORIZING THE
6 CHIEF OF THE REAL ESTATE DIVISION OF THE
7 DEPARTMENT OF PUBLIC WORKS, OR HER DESIGNEE, AT
8 THE DIRECTION OF THE ENGINEERING AND
9 CONSTRUCTION MANAGEMENT DIVISION OF THE
10 DEPARTMENT OF PUBLIC WORKS, TO MAKE OFFERS AND
11 NEGOTIATE CLAIMS FOR BUSINESS DAMAGES,
12 ATTORNEYS' FEES, AND COSTS RELATED TO THE
13 PURCHASE OF THE PROPERTIES, SUBJECT TO CERTAIN
14 CONDITIONS; WAIVING THE SETTLEMENT LIMITATION IN
15 SECTIONS 112.307 (CLAIMS AND SUITS BROUGHT
16 AGAINST THE CITY FOR MONETARY RELIEF), 112.308
17 (EMINENT DOMAIN), AND 112.309 (ATTORNEYS' FEES),
18 PART 3 (SETTLEMENT OF CLAIMS AND SUITS BY AND
19 AGAINST CITY), CHAPTER 112 (CLAIMS BY AND
20 AGAINST CITY), *ORDINANCE CODE*, REGARDING
21 LIMITATIONS ON THE TOTAL AMOUNT OF A SETTLEMENT;
22 AUTHORIZING AND DIRECTING THE OFFICE OF GENERAL
23 COUNSEL TO INITIATE APPROPRIATE CONDEMNATION
24 PROCEEDINGS AND DECLARATIONS OF TAKING;
25 PROVIDING FOR OVERSIGHT BY THE ENGINEERING AND
26 CONSTRUCTION MANAGEMENT DIVISION OF THE
27 DEPARTMENT OF PUBLIC WORKS; PROVIDING AN
28 EFFECTIVE DATE.

29
30 **WHEREAS**, the City of Jacksonville is authorized to construct
31 and maintain streets and highways, and to improve those streets and

1 highways as needed, for the general public, and is vested by law with
2 the power of eminent domain to acquire interests in real property;
3 and

4 **WHEREAS,** the City of Jacksonville has determined that the
5 project entitled "Old Middleburg 103rd - Branan Field - 01" (the
6 "Project") serves a public purpose; and

7 **WHEREAS,** the City of Jacksonville has determined that the
8 acquisition of the certain real property in Council Districts 12 and
9 14, such real property being located near or adjacent to a portion
10 of Old Middleburg Road South, including the entire property or
11 portions thereof, as more specifically described herein
12 (collectively, the "Properties") is reasonably necessary for
13 completion of the Project; and

14 **WHEREAS,** to allow for the acquisition of the Properties,
15 funding currently allocated to other construction costs for the
16 Project must be reallocated to right-of-way acquisition within the
17 Project; and

18 **WHEREAS,** to meet the requirements of Section 73.015, *Florida*
19 *Statutes*, it is necessary to make a written offer to the impacted
20 property owners prior to the commencement of any eminent domain
21 action; and

22 **WHEREAS,** the City Council desires to authorize the Chief of
23 the Real Estate Division of the Public Works Department, or her
24 designee, to make binding offers and to enter into contracts with
25 said property owners for the acquisition of necessary property
26 interests for the Project as set forth herein; and

27 **WHEREAS,** the City of Jacksonville has determined that the
28 Project is time sensitive and may require the taking of possession
29 and title to real property in advance of the final judgment in an
30 eminent domain action, as authorized by Section 74.021, *Florida*
31 *Statutes*; and

WHEREAS, the City Council desires to authorize the Office of General Counsel to institute appropriate legal proceedings to acquire the necessary property interests by eminent domain, and further to issue and execute a declaration of taking pursuant to Section 74.031, *Florida Statutes*; now therefore

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

Section 1. Appropriation. For the 2024-2025 fiscal year, within the City's budget, there is hereby appropriated the indicated sum from the account listed in subsection (a) to the account listed in subsection (b):

(The account information is attached hereto as **Exhibit 1** and incorporated herein by this reference)

(a) Appropriated from:

See Exhibit 1	\$29,588,373
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(b) Appropriated to:

See Exhibit 1	\$29,588,373
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(c) Explanation of Appropriation:

The funding above represents an appropriation of \$29,588,373 from the Old Middleburg 103rd - Branan Field - 01 - Other Construction Costs account to the Right-of-way Acquisition account to be used to acquire interests in real property necessary for completion of the Project.

Section 2. Purpose. The purpose of the appropriation in Section 1 is to transfer funds within the Project to be used for the acquisition of the real property interests needed for completion of the Project.

Section 3. Capital Improvement Plan Amendment. Ordinance 2024-505-E, adopting the 2025-2029 Five-Year Capital Improvement Plan (the "CIP") for the City and certain of its independent agencies, is hereby amended to reflect the appropriation of funds from the Other Construction Costs account to the Right-of-way Acquisition account

1 within the Project, as more fully described in the Project Information
2 Sheet attached hereto as **Revised Exhibit 2**, labeled as "Revised
3 Exhibit 2, Rev CIP Sheet, September 2, 2025 - Rules" and incorporated
4 herein by this reference. The City Council finds that the deferral
5 of this amendment of the CIP until the next annual budget and CIP
6 review will be detrimental to the best interests of the community
7 because such deferral could result in the unnecessary delay in the
8 acquisition of land related to the Project which would negatively
9 impact the completion of the Project.

10 Pursuant to Section 122.605(c), *Ordinance Code*, enactment of
11 this Ordinance requires the affirmative vote of two-thirds of the
12 City Council members present at the meeting because of the CIP
13 amendment set forth in this Section. This Ordinance shall constitute
14 an amendment to Ordinance 2024-505-E. In all other respects, the
15 Five-Year Capital Improvement Plan approved by Ordinance 2024-505-E
16 shall remain unchanged and continue in full force and effect.

17 **Section 4. Declaration of Necessity.** The City hereby
18 declares the public necessity for acquiring through condemnation by
19 right of eminent domain, fee simple title, temporary construction
20 easements, and permanent drainage easements to and over the Properties
21 as identified in **Revised Exhibit 3**, labeled as "Revised Exhibit 3,
22 Rev Parcel List, September 2, 2025 - Rules", attached hereto and
23 incorporated herein by this reference, and located in Council
24 Districts 12 and 14 and as more fully described in the drawings,
25 legal descriptions and right-of-way control survey placed **On File**
26 with the Legislative Services Division, to complete the Project. In
27 making this determination of necessity, the City has ordered and
28 reviewed the Traffic Study, the Contamination Screening Evaluation,
29 Phase I Cultural Resources Assessment Survey, and Wetland Impact
30 Study, each in the form placed **On File** with the Legislative Services
31 Division. In addition, the City has had the opportunity to ask

1 questions of the respective engineers and other professionals
2 conducting assessments and studies of the Property, including
3 appropriate City staff, and has considered the following:

4 1. Availability of Alternate Alignments, or Parcels - Due to
5 the nature of the widening project, the City is not able to utilize
6 alternate alignments. All of the acquisitions for the Project are
7 directly related to the existing and planned alignment of Old
8 Middleburg Road. The City and its design consultant have reviewed the
9 corridor and chosen the path that would minimize the impacts to
10 private property and overall project costs to the City.

11 2. Costs - The City has considered many different designs and
12 has chosen the most cost-effective plan that accomplishes all of the
13 Project's goals. The City has also adjusted the plans to require as
14 little private property acquisition as possible. Costs considered
15 include design, construction, and right-of-way acquisition.

16 3. Environmental Factors - The City requested and reviewed
17 studies to determine the impact of the Project on the environment.
18 These studies determined that there is no evidence of recognized
19 environmental conditions associated with the Project. Approximately
20 1.69 acres of wetland impacts are anticipated as part of the Project.
21 In addition, the cultural resources assessment survey determined that
22 the Project will have no effect on cultural resources.

23 4. Long-Range Area Planning - The Project is consistent with
24 and contained in the Long-Range Plan. The Project will help provide
25 necessary infrastructure and roadway capacity for an area that is
26 rapidly growing. In addition, the Project will help alleviate existing
27 traffic issues on Old Middleburg Road, as well as provide additional
28 capacity for future growth. There are also a number of other roadway
29 improvement projects in the area to help with this growth. The
30 northern end of the Project will directly tie-in to a Florida
31 Department of Transportation project on 103rd Street. There are also

1 ongoing or upcoming roadway projects in this general area on Chaffee
2 Road, Shindler Drive, and Collins Road.

3 5. Safety - The Project will improve the safety of Old
4 Middleburg Road and the surrounding areas by reducing congestion and
5 allowing for more efficient travel through this area. The Project
6 will also add or expand the existing bicycle and pedestrian features
7 such as sidewalks, which will improve the safety for non-vehicular
8 roadway users within the Project limits.

9 **Section 5. Acquisition of Fee Simple Title and Easement**
10 **Rights.** The City of Jacksonville shall acquire the necessary property
11 rights in the Properties by negotiation or eminent domain for the
12 purpose aforesaid from the present owners thereof and all persons
13 claiming any interest therein. Acquisition of fee simple title and
14 easements rights, if made by negotiation prior to the filing of a
15 petition for condemnation, shall be pursuant to the City of
16 Jacksonville Real Estate Purchase Agreement, substantially in the
17 form of **Exhibit 4**, attached hereto and incorporated herein by this
18 reference. However, the terms of any agreement may be negotiated and
19 modified by the Chief of the Real Estate Division of the Department
20 of Public Works (the "Chief"), or her designee, as necessary, so long
21 as the cost to the City does not exceed those costs authorized by
22 this Ordinance or other provisions of the Ordinance Code and the
23 Office of General Counsel concurs that such modification is in the
24 best interests of the City. Where a petition for condemnation has
25 been filed, the acquisition may be made by Real Estate Purchase
26 Agreement, or by stipulated final judgment and order of taking. The
27 Chief, or her designee, is further authorized to execute, for and on
28 behalf of the City, the Real Estate Purchase Agreements and to take
29 all actions necessary to close such agreed purchases pursuant to
30 their terms, including those provided by court order or judgment.

31 **Section 6. Authorizing Deposit of Good-Faith Estimate.** The

Chief of the Engineering and Construction Management Division of the Department of Public Works, or his designee, is authorized to approve the deposit of funds into the registry of the court in the amount directed by an order of taking pursuant to Section 74.051, *Florida Statutes*, from funds lawfully appropriated for the Project.

Section 7. Negotiation of Purchase of Property.

Recognizing that real property values can fluctuate significantly, the Chief, or her designee, is hereby authorized to negotiate and agree to the purchase of the necessary interests in real property subject to the following conditions:

- a. Lawfully appropriated funds are available for the Project to pay the agreed purchase price; and,
- b. The City will receive the necessary interest in real property from the transaction without any encumbrances negatively affecting the Project; and,
- c. The purchase price is not more than 25% above the value determined in a written appraisal performed by a licensed appraiser on the property not more than one (1) year prior to the date of the agreement or settlement; and,
- d. The Chief of the Engineering and Construction Management Division, with the written concurrence of the Director of Public Works and the General Counsel (or their designees), finds that the purchase of the property interest under the agreed terms is in the best interest of the City.

For purposes of this Ordinance, the "purchase price" means the compensation paid to the property owner (and/or tenant) for the property interests acquired, inclusive of the value of any improvements to the property, severance damages to any remaining property, or temporary or permanent costs to cure. The "purchase price" does not include attorneys' fees or expert costs.

Section 8. Negotiation of Claims for Business Damages. If

1 the City receives a timely claim for business damages pursuant to
2 Chapter 73.015, *Florida Statutes*, arising from the acquisition of
3 property rights provided for in this Ordinance, the Chief, or her
4 designee, may negotiate, settle, and authorize payment of such claim,
5 subject to the following conditions:

6 a. Lawfully appropriated funds are available for the Project to
7 pay the amount offered; and,

8 b. The amount does not exceed \$100,000; and,

9 c. The Chief of the Engineering and Construction Management
10 Division of the Department of Public Works, with the written
11 concurrence of the Director of Public Works and the General
12 Counsel (or their designees), finds that settlement under the
13 agreed terms is in the best interest of the City.

14 **Section 9. Negotiation of Attorneys' Fees and Costs.** In
15 addition to the purchase price, the Chief, or her designee, is
16 authorized to negotiate, settle, and authorize payment of any
17 attorneys' fees and costs legally due to the owner or tenant, as
18 provided under Chapters 73 and 74, *Florida Statutes*, with respect to
19 a purchase or settlement made pursuant to Sections 7 or 8 above,
20 subject to the following conditions:

21 a. Lawfully appropriated funds are available for the Project to
22 pay the amount offered; and,

23 b. The Chief of the Engineering and Construction Management
24 Division of the Department of Public Works, with the written
25 concurrence of the Director of Public Works and the General
26 Counsel (or their designees), finds that settlement under the
27 agreed terms is in the best interest of the City.

28 **Section 10. Waiving the Settlement Limitations in Sections**
29 **112.307, 112.308, and 112.309, Ordinance Code.** The settlement
30 limitations delineated in subsection 112.307(a)(2)(iii) (Claims and
31 suits brought against the City for monetary relief), Section 112.308

(Eminent domain), and Section 112.309 (Attorneys' fees), Part 3 (Settlement of Claims and Suits By and Against City), Chapter 112 (Claims By and Against City), *Ordinance Code*, that the total amount of certain settlements cannot exceed \$50,000 absent approval of City Council is hereby waived recognizing that the value of the properties involved in the Project along with statutorily mandated attorneys' fees and costs may require settlements exceeding the limits imposed by Chapter 112, *Ordinance Code*, and that obtaining Council approval for settlements relating to numerous parcels will unnecessarily delay the Project or subject the City to increased liability.

Section 11. Institution of Legal Proceedings. The Office of General Counsel of the City of Jacksonville is hereby authorized to institute the appropriate legal proceedings to acquire by condemnation property interests in the Properties for the purpose described in this Ordinance. The Office of General Counsel is further authorized to invoke the procedures of Chapter 74, *Florida Statutes* (commonly known as a "quick-take") and to issue appropriate declarations of taking on behalf of the City.

Section 12. Oversight. The Engineering and Construction Management Division of the Department of Public Works shall oversee the Project described herein.

Section 13. Effective Date. This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Form Approved:

/s/Mary E. Staffopoulos

Office of General Counsel

Legislation Prepared By: Christopher M. Garrett