

1 Introduced by the Council President at the request of the Mayor:
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4 **ORDINANCE 2022-138**

5 MAKING CERTAIN FINDINGS AND APPROVING AND
6 AUTHORIZING THE MAYOR, OR HIS DESIGNEE, AND
7 CORPORATION SECRETARY TO EXECUTE A SETTLEMENT
8 AGREEMENT, AMENDED AND RESTATED MORTGAGE,
9 AMENDED AND RESTATED LOAN AGREEMENT, AMENDED
10 AND RESTATED PROMISSORY NOTES, A LEASE
11 AGREEMENT FOR THE LEASE BY THE DIA OF THE
12 THREE DOWNTOWN PARKING GARAGES ("PARKING
13 GARAGES") OWNED BY METROPOLITAN PARKING
14 SOLUTIONSK, LLC ("DEVELOPER") FOR A LEASE TERM
15 THROUGH SEPTEMBER 30, 2051, SUBLEASE AND
16 VENDOR ASSIGNMENT AGREEMENTS, NONDISTURBANCE
17 AND ATTORNMENT AGREEMENTS AND RELATED CLOSING
18 DOCUMENTS AND OTHER AGREEMENTS AS SET FORTH IN
19 THE SETTLEMENT AGREEMENT, TO AUTHORIZE THE
20 SETTLEMENT OF CERTAIN LITIGATION BETWEEN THE
21 CITY AND DEVELOPER; SUBJECT TO AN
22 APPROPRIATION OF FUNDS THEREFORE VIA SEPARATE
23 LEGISLATION, THE SETTLEMENT AGREEMENT
24 AUTHORIZES THE CITY TO PROVIDE FUNDING IN THE
25 NOT-TO-EXCEED AMOUNT OF \$33,500,000 TO DEFEASE
26 THE EXISTING BOND DEBT OF DEVELOPER IN AN
27 AMOUNT NOT-TO-EXCEED \$29,500,000 AND TO PAY
28 FOR CERTAIN CLOSING COSTS AND OTHER COSTS AND
29 EXPENSES AS SET FORTH IN THE SETTLEMENT
30 AGREEMENT; REPEALING IN ITS ENTIRETY ORDINANCE
31 2021-179-E, WHICH AUTHORIZED BORROWING FROM

1 THE CITY'S COMMERCIAL PAPER FACILITY AND/OR
2 ISSUANCE OF FIXED-RATE DEBT IN THE CUMULATIVE,
3 NOT-TO-EXCEED AMOUNT OF \$32,905,000 TO PROVIDE
4 FUNDING FOR THE PURCHASE OF THE DEVELOPER'S
5 PARKING GARAGES; AMENDING THE 2022-2026
6 CAPITAL IMPROVEMENT PROGRAM APPROVED BY
7 ORDINANCE 2021-505-E TO REMOVE THE PROJECT
8 ENTITLED "MPS GARAGE PURCHASE"; WAIVING
9 PROVISIONS OF CHAPTER 126, (PROCUREMENT CODE),
10 *ORDINANCE CODE*, FOR A PERIOD OF SIX MONTHS
11 FROM THE CLOSING DATE UNDER THE SETTLEMENT
12 AGREEMENT WITH RESPECT TO THE MAINTENANCE,
13 REPAIR AND OPERATION OF THE PARKING GARAGES,
14 TO ALLOW THE DIA TO DIRECTLY PROCURE CONTRACTS
15 FOR A TERM OF NO LONGER THAN ONE YEAR FOR THE
16 PURPOSES OF ADDRESSING NEEDED REPAIRS,
17 MAINTENANCE AND LIFE-SAFETY ISSUES FOR THE
18 PARKING GARAGES; WAIVING CHAPTER 122 (PUBLIC
19 PROPERTY), PART 4 (REAL PROPERTY), SUBPART A
20 (ACQUISITION OF INTEREST IN REAL PROPERTY),
21 SECTION 122.411(A) (FEE PURCHASES), *ORDINANCE*
22 *CODE*, TO AUTHORIZE THE PURCHASE OF THE PARKING
23 GARAGES WITHOUT THE REQUIREMENT TO OBTAIN TWO
24 APPRAISALS IN CONNECTION WITH THE PURCHASE
25 OPTION OR RIGHT OF FIRST REFUSAL INCLUDED IN
26 THE LEASE AGREEMENT; WAIVING CHAPTER 55
27 (DOWNTOWN INVESTMENT AUTHORITY), PART 1
28 (DOWNTOWN INVESTMENT AUTHORITY), SECTION
29 55.115 (PROCEDURES FOR ACQUISITION AND
30 DISPOSITION OF DOWNTOWN PROPERTY), *ORDINANCE*
31 *CODE*, TO ALLOW FOR THE EXERCISE OF THE

1 PURCHASE OPTION OR RIGHT OF FIRST REFUSAL
2 INCLUDED IN THE LEASE AGREEMENT; AUTHORIZING
3 AND CREATING A NEW PART 4 (DIA-LEASED PARKING
4 GARAGES), CHAPTER 55 (DOWNTOWN INVESTMENT
5 AUTHORITY), *ORDINANCE CODE*, TO AUTHORIZE
6 MANAGEMENT AND MAINTENANCE OBLIGATIONS FOR THE
7 PARKING GARAGES TO THE DIA AND AUTHORIZE THE
8 DIA TO ENTER INTO RETAIL AND COMMERCIAL
9 SUBLEASES AND PARKING SUBLEASES FOR USE OF
10 RETAIL AND COMMERCIAL SPACES AND PARKING
11 SPACES WITHIN THE PARKING GARAGES AT RATES AS
12 ESTABLISHED BY THE DIA BOARD; AUTHORIZING THE
13 GENERAL COUNSEL, OR HIS DESIGNEE, TO TAKE
14 FURTHER ACTION TO CONCLUDE THE LITIGATION;
15 REQUESTING ONE-CYCLE EMERGENCY ACTION;
16 PROVIDING AN EFFECTIVE DATE.

17
18 **WHEREAS**, the City of Jacksonville ("City"), Jacksonville
19 Economic Development Commission ("JEDC") and Metropolitan Parking
20 Solutions, LLC ("Developer") entered into that certain
21 Redevelopment Agreement dated March 5, 2004, as subsequently
22 amended from time to time in writing by the parties (the
23 "Agreement"), pursuant to which Developer constructed and has owned
24 and operated certain parking garages identified in the Agreement
25 (the garages and the land on which they are located are hereinafter
26 referred to as the "Parking Garages"); and

27 **WHEREAS**, the Agreement requires the City to loan to Developer
28 in periodic tranches the net operating losses Developer incurs in
29 operation of the Parking Garages along with a return on investment
30 under defined terms and conditions (collectively, the "Development
31 Loans"); and

1 **WHEREAS**, the Downtown Investment Authority ("DIA") is the
2 successor contract manager of the Agreement to JEDC, and is the
3 Community Redevelopment Agency from which the Development Loans are
4 currently made; and

5 **WHEREAS**, the DIA has disputed and withheld, in accordance with
6 the Agreement, portions of the Development Loans requested by
7 Developer; and

8 **WHEREAS**, the City, and Developer have each declared the other
9 to be in default of the Agreement and are currently engaged in two
10 lawsuits regarding the Agreement (the "Litigation"); and

11 **WHEREAS**, as part of the Litigation, the DIA, City, and
12 Developer have engaged in court-ordered mediation and have reached
13 a settlement as to the Litigation, subject only to review and
14 approval by the City Council pursuant to the requirements of
15 Chapter 112, *Ordinance Code* (the "Settlement Agreement"); and

16 **WHEREAS**, the Council finds that it is in the best interests of
17 DIA, the City, and the public that the dispute be resolved without
18 resort to further litigation, costs and expenses, and such
19 resolution, among other benefits, provides a significant cost
20 savings to the City and provides DIA with control and flexibility
21 to maximize the use of the Parking Garages in the public interest;
22 and

23 **WHEREAS**, the DIA acting as the Combined Northbank Community
24 Redevelopment Agency has agreed to make annual payments to the City
25 through 2041 sufficient to cover the annual debt service on the
26 newly issued bonds or debt required to facilitate the Settlement,
27 and pay-off said debt in full; and

28 **WHEREAS**, the City has committed to obtain fixed rate debt
29 maturing in 2041 and pass through to DIA only the actual cost of
30 annual payments due thereunder; and

31 **WHEREAS**, the City and DIA have agreed that the DIA as the

1 Combined Northbank Redevelopment Agency shall be the tenant under
2 the lease, operate the garages, enter into subleases and take all
3 action necessary or appropriate to utilize the leased land and
4 facilities consistent with the BID Plan that governs the CRA,
5 receive revenue therefrom and pay expenses of operation, and have
6 the right to exercise the purchase options contemplated by the
7 lease; and

8 **WHEREAS**, the existing Redevelopment Loan debt has been carried
9 on the City's books as an uncollectible asset of the City despite
10 loan advances having been made from the CRA; and

11 **WHEREAS**, pursuant to the Settlement Agreement, the
12 Redevelopment Loan is to be forgiven in annual tranches, and upon a
13 purchase, which will be done by the City at no charge to DIA, or by
14 DIA with no liability to the City in the event the asset is
15 transferred to DIA; now therefore

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

17 **Section 1. Findings.** It is hereby ascertained,
18 determined, found and declared as follows:

19 (a) The recitals set forth herein are true and correct.

20 (b) The authorizations provided by this Ordinance are for
21 public uses and purposes for which the City may use its powers as a
22 county, municipality and as a political subdivision of the State of
23 Florida and may expend public funds, and the necessity in the
24 public interest for the provisions herein enacted is hereby
25 declared as a matter of legislative determination.

26 (c) This Ordinance is adopted pursuant to the provisions of
27 Chapters 163, 166 and 125, Florida Statutes, as amended, the City's
28 Charter, and other applicable provisions of law.

29 **Section 2. Settlement Approval and Authorization.** There
30 is hereby approved, and the Mayor, or his designee, and the
31 Corporation Secretary are authorized to enter into a Settlement

1 Agreement (the "Settlement Agreement"), and such additional
2 documents and agreements as set forth therein between or among the
3 City, DIA and Developer in substantially the form placed **On File**
4 with the Legislative Services Division, and all other contracts or
5 documents (provided no such documents shall increase the financial
6 obligations or the liability of the City) and otherwise take all
7 necessary action in connection therewith and herewith to effectuate
8 the purposes of this Ordinance. The Mayor, or his designee, is
9 authorized to extend any deadlines set forth in the Settlement
10 Agreement and the additional agreements set forth therein in the
11 manner set forth in such agreements up to thirty (30) days as set
12 forth in the Settlement Agreement. The Lease Agreement authorized
13 hereby provides for the lease from the Developer to the City of the
14 Parking Garages for a lease term through September 30, 2051.
15 Rental due from the City on an annual basis includes a cash payment
16 from the DIA in the amount of \$150,000, and an annual loan
17 forgiveness of the Development Loans in the initial amount of
18 \$2,500,000, subject to adjustment as set forth in the Lease. The
19 City has a right of first refusal to purchase the Parking Garages,
20 and commencing September 30, 2041, the City has a purchase option
21 to purchase the Parking Garages.

22 **Section 3. Ordinance 2021-179-E repealed.** Ordinance
23 2021-179-E authorizing funding for the purchase of the Developer
24 Parking Garages is hereby repealed in its entirety.

25 **Section 4. CIP Amendment.** Ordinance 2021-505-E, being the
26 2022-2026 Five-Year Capital Improvement Program for the City and
27 certain of its independent agencies, is hereby amended to remove
28 the project entitled "MPS Garage Purchase" consistent with the
29 Project Information Sheet attached hereto as **Exhibit 1** and
30 incorporated herein. The Council finds that the deferral of this
31 amendment of the CIP until the next annual budget and CIP review

1 will be detrimental to the best interests of the community because
2 the Parking Garages are the subject of the Settlement Agreement
3 authorized by this Ordinance and will be leased to the City
4 consistent with the terms and conditions of the Settlement
5 Agreement. Pursuant to Section 122.605(c), Ordinance Code,
6 enactment of this ordinance requires the affirmative vote of two-
7 thirds of the Council members present at the meeting because of the
8 CIP amendment set forth in this section. This ordinance shall
9 constitute an amendment to Ordinance 2021-505-E. In all other
10 respects, the Five-Year Capital Improvement Program approved by
11 Ordinance 2021-505-E shall continue in full force and effect.

12 **Section 5. Chapter 126 (Procurement Code), Ordinance**
13 **Code, Waived.** The provisions of Chapter 126, Ordinance Code, are
14 hereby waived for the repair, operation and maintenance of the
15 Parking Garages, except that this Section shall not waive any
16 portion of Chapter 126, Ordinance Code, pertaining to the
17 Jacksonville Small Emerging Business Program. Further, the DIA is
18 authorized to direct contract with vendors and suppliers for a
19 period of six months from the actual closing date under the
20 Settlement Agreement, provided the DIA has a lawful appropriation
21 of funds therefore, and limited to contracts related to the
22 operation, repair, maintenance, equipment and life-safety issues
23 related to the Parking Garages, and provided the term of such
24 contracts shall be no longer than one year. The DIA shall obtain a
25 minimum of three bids for all such contracts, with the winning bid
26 as selected by the DIA Board, and all contracts subject to the
27 review and approval of the City's Office of Risk Management and the
28 Office of General Counsel.

29 **Section 6. Waiving Chapter 122 (Public Property), Part 4**
30 **(Real Property), Subpart A (Acquisition of Interest in Real**
31 **Property), Section 122.411(a) (Fee Purchases), Ordinance Code.** The

1 provisions of Section 122.411(a) (Fee Purchases), Subpart A
2 (Acquisition of Interests in Real Property), Part 4 (Real
3 Property), Chapter 122 (Public Property) are hereby waived to
4 authorize the transaction without the requirement to obtain two
5 appraisals of the Parking Garages prior to exercise of the purchase
6 option or right of first refusal included in the Lease Agreement.

7 **Section 7. Waiving Chapter 55 (Downtown Investment**
8 **Authority), Part 1 (Downtown Investment Authority), Section 55.115**
9 **(Procedures for acquisition and disposition of Downtown Property).**

10 Section 55.115 (Procedures for acquisition and disposition of
11 Downtown Property), Part 1 (Downtown Investment Authority), Chapter
12 55 (Downtown Investment Authority), is hereby waived to allow for
13 the exercise of the purchase option or right of first refusal
14 included in the Lease Agreement.

15 **Section 8. Creating a new Part 4 (DIA-Leased Parking**
16 **Garages), Chapter 55 (Downtown Investment Authority), Ordinance**
17 **Code.** A new Part 4 (DIA-Leased Parking Garages), Chapter 55
18 (Downtown Investment Authority), *Ordinance Code*, is hereby created
19 to read as follows:

20 **CHAPTER 55. DOWNTOWN INVESTMENT AUTHORITY**

21 * * *

22 **Part 4. - DIA-Leased Parking Garages**

23 **Sec. 55.401. Definitions**

24 As used in this Part 4:

25 (a) Sports Complex Garage is the DIA-leased garage
26 located on a portion of Blocks 34 and 47 East Jacksonville as
27 recorded in Deed Book Q at page 664 together with a portion of the
28 former Church Street right of way, together with appurtenant
29 easements, together now identified as tax parcel 130876-0100,
30 having a street address of 500 A Philip Randolph Boulevard, and
31 bounded on the south by Duval Street East and on the east by A

1 Philip Randolph Boulevard, and on the west and north by City owned
2 property identified as tax parcel 130876-0000.

3 (b) Arena Garage is the DIA-leased garage located on a portion
4 of Block 63, East Jacksonville as recorded in Deed Book Q at page
5 664 now identified as tax parcel 130876-1200, having a street
6 address of 999 Adams Street E, and bounded on the south by Adams
7 Street East and on the east by A Philip Randolph Boulevard, and on
8 the west and north by City owned property identified as tax parcel
9 130876-1000.

10 (c) Courthouse Garage is the DIA-leased parking garage located
11 on Block 52 of Hart's Map of Jacksonville, identified as tax parcel
12 number 073812-0000 and bounded on the north by Adams Street West,
13 on the West by Clay Street, on the south by Forsyth Street West and
14 on the east by Pearl Street North, having a street address of 116
15 Pearl Street North.

16 (d) Leased Garages shall mean, collectively, the Sports
17 Complex Garage, Arena Garage, and the Courthouse Garage.

18 **Sec. 55.402. Parking rates at Leased Garages**

19 Parking Hourly and daily rates for the Leased Garages shall be
20 as established by the DIA Board. Special event rates and longer
21 term parking sublease rates may be approved by the DIA Board on a
22 case by case basis.

23 **Sec. 55.403 Subleases of Leased Garages**

24 The CEO of the DIA is authorized to negotiate sublease
25 agreement terms for retail and commercial space located in the
26 Leased Garages. Upon the mutual agreement of the CEO of the DIA and
27 the applicable lessee, the CEO of the DIA, subject to the review
28 and approval of the Office of General Counsel and the Risk
29 Management Division, is authorized to enter into on behalf of the
30 DIA sublease agreements for the use of retail, commercial, and
31 parking spaces within the Leased Garages.

1 **Sec. 55.404. Repair and Maintenance of Leased Garages.**

2 The DIA shall be responsible for the repair and maintenance of
3 the Leased Garages to a standard at least equal to City-owned
4 garages in the Downtown area. All such maintenance and repairs to
5 the Leased Garages undertaken by the DIA shall be ineligible to be
6 included within the City's Capital Improvement Plan.

7 **Section 9. Further Action Authorized.** The General
8 Counsel, or his designee, is authorized to take such further action
9 and to execute all other documents necessary to affect the approved
10 settlement. Following the closing and as set forth in the
11 Settlement Agreement, the General Counsel, or his designee, is
12 authorized to file a notice of dismissal with prejudice of the
13 City's counterclaim in the litigation.

14 **Section 10. Once-cycle emergency action requested pursuant**
15 **to Council Rule 4.901.** One-cycle emergency action is requested for
16 this legislation. The nature of the emergency is that there is
17 substantial economic benefit to the City in reducing the interest
18 rate of the existing financing relating to the construction of the
19 Parking Garages, as the refinancing thereof results in an overall
20 reduction of the City's financial obligations related thereto, and
21 the anticipated Federal Reserve rate increase slated for March,
22 2022 will adversely impact project savings if the closing set forth
23 in the Settlement Agreement is delayed.

24 **Section 11. Effective Date.** This Ordinance shall become
25 effective upon signature by the Mayor or upon becoming effective
26 without the Mayor's signature.

1 Form approved:

2

3 /s/ John Sawyer

4 Office of General Counsel

5 Legislation Prepared By: John Sawyer

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