

1 Introduced by the Council President at the request of the Mayor:
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4 **ORDINANCE 2023-875**

5 AN ORDINANCE DECLARING THE PUBLIC NECESSITY FOR
6 ACQUIRING FEE SIMPLE TITLE AND TEMPORARY
7 CONSTRUCTION EASEMENTS THROUGH CONDEMNATION BY
8 RIGHT OF EMINENT DOMAIN TO CERTAIN REAL PROPERTY
9 IN COUNCIL DISTRICT 4, SUCH REAL PROPERTY BEING
10 A PORTION OF: R.E. NO. 152854-0505; R.E. NO.
11 152866-1300; R.E. NO. 152854-0550; AND R.E. NO.
12 152576-0250 (THE "PROPERTIES"), WITH A TOTAL
13 APPRAISED VALUE OF \$1,115,950, AS REQUIRED FOR
14 THE BELFORT ROAD WIDENING PROJECT (THE
15 "PROJECT"); APPROPRIATING \$1,300,000 FROM
16 BELFORT ROAD WIDENING/DM OTHER CONSTRUCTION
17 COSTS TO DM RIGHT-OF-WAY ACQUISITION TO FUND THE
18 PURCHASE OF CERTAIN REAL PROPERTY DESCRIBED
19 HEREIN FOR THE BELFORT ROAD WIDENING PROJECT, AS
20 INITIATED BY B.T. 24-029; AMENDING THE 2024-2028
21 FIVE-YEAR CAPITAL IMPROVEMENT PLAN APPROVED BY
22 ORDINANCE 2023-505-E TO INCLUDE A FUNDING SOURCE
23 FOR LAND ACQUISITION AND SITE PREPARATION TO THE
24 PROJECT; AUTHORIZING THE REAL ESTATE DIVISION OF
25 THE DEPARTMENT OF PUBLIC WORKS TO MAKE OFFERS
26 AND NEGOTIATE FOR THE PURCHASE OF THE
27 PROPERTIES; AUTHORIZING ISSUANCE OF A
28 DECLARATION OF TAKING; AUTHORIZING AND DIRECTING
29 THE OFFICE OF GENERAL COUNSEL TO INSTITUTE
30 APPROPRIATE CONDEMNATION PROCEEDINGS; PROVIDING
31 AN EFFECTIVE DATE.

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2 **WHEREAS**, the City of Jacksonville is authorized to construct and
3 maintain streets and highways, and improve those streets and highways
4 as needed, for the general public, and is vested by law with the
5 power of eminent domain to acquire interests in real property; and

6 **WHEREAS**, the City of Jacksonville has determined that the
7 Belfort Road Widening Project (the "Project") referenced in this
8 Ordinance serves a public purpose; and

9 **WHEREAS**, the City of Jacksonville has determined that the
10 acquisition of the Properties and the easements described herein are
11 reasonably necessary for the completion of the Project; and

12 **WHEREAS**, to meet the requirements of Section 73.015, *Florida*
13 *Statutes*, it will be necessary to make a written offer to the impacted
14 property owners prior to the commencement of any eminent domain
15 action; and

16 **WHEREAS**, the City of Jacksonville therefore desires to pre-
17 approve those contracts and agreements reached with property owners
18 based on written offers and to authorize the Chief of the Real Estate
19 Division, or designee, to negotiate for the acquisitions as set forth
20 herein; and

21 **WHEREAS**, the City of Jacksonville has determined that the
22 Project is time sensitive and may require the taking of possession
23 and title to real property in advance of the final judgment in an
24 eminent domain action, as authorized by Section 74.021, *Florida*
25 *Statutes*; and

26 **WHEREAS**, in order to timely and cost-effectively complete the
27 Project, the City of Jacksonville desires to authorize the Chief of
28 the Real Estate Division, or designee, to invoke the procedures under
29 Chapter 74, *Florida Statutes*, and further to issue and execute a
30 declaration of taking pursuant to Section 74.031, *Florida Statutes*;
31 now therefore,

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

2 **Section 1. Declaration of Necessity.** The City hereby
3 declares the public necessity for acquiring through condemnation by
4 right of eminent domain, fee simple title and temporary construction
5 easements located in Council District 4 as more fully described by
6 the sketches and legal descriptions in **Exhibit 1** attached hereto and
7 by the maps and aerials in **Exhibit 2**, attached hereto (the "Property")
8 to complete the Project. In making this determination of necessity,
9 the City has ordered and reviewed the Traffic Study, the Environmental
10 Letter of Finding, and reviewed a Right-of-Way Map, each in the form
11 placed **On File** with the Legislative Services Division. In addition,
12 the City has had the opportunity to ask questions of the respective
13 engineers and other professionals conducting assessments and studies
14 of the Property, including appropriate City staff, and has considered
15 the following:

- 16 1. Availability of alternate alignments, or parcels - Due to the
17 nature of the widening project, the City is not able to utilize
18 alternate alignments. All of the acquisitions for this project
19 are directly related to the upcoming FDOT project improving the
20 interchange at Belfort Road and J. Turner Butler Boulevard and
21 increasing capacity at Belfort Road. The only impact to the
22 hospital parcel is the existing sidewalk and drainage swale,
23 which will both be replaced in kind as part of the project.
- 24 2. Costs - The City has considered many different designs and has
25 chosen the most cost-effective plan that accomplishes all of the
26 project's goals. The City has also adjusted the plans to require
27 as little private property acquisition as possible. Costs
28 considered include design, construction, and right-of-way
29 acquisition.
- 30 3. Environmental Factors - The City requested an environmental
31 assessment, and it was determined that no assessment was needed

1 since the affected property consisted of rights-of-way, ditches,
2 and a stormwater pond.

3 4. Long-range area planning - This project directly ties into an
4 upcoming Florida Department of Transportation (FDOT) project
5 that will improve the interchange at Belfort Road and J. Turner
6 Butler Blvd. The FDOT project is adding additional lanes to
7 Belfort Road only in the immediate vicinity of the interchange.
8 The City's project to widen Belfort Road will increase the
9 capacity of Belfort Road and eliminate any bottlenecks due to
10 the added lanes at the interchange.

11 5. Safety - This project will improve the safety of Belfort Road
12 and the surrounding areas by reducing congestion and allowing
13 for more efficient travel through this area. This project will
14 also add or expand the existing bicycle and pedestrian features
15 such as sidewalks, which will improve the safety for non-
16 vehicular roadway users within the project limits.

17 **Section 2. Appropriation.** For the 2023-2024 fiscal year,
18 within the City's budget, there are hereby appropriated the indicated
19 sum(s) from the account(s) listed in subsection (a) to the account(s)
20 listed in subsection (b):

21 (B.T. 24-029 attached hereto as **Exhibit 3** and incorporated herein by
22 this reference)

23 (a) Appropriated from:

24 See B.T. 24-029 \$1,300,000

25 (b) Appropriated to:

26 See B.T. 24-029 \$1,300,000

27 (c) Explanation of Appropriation: the appropriation above
28 is appropriating \$1,300,000 from the Belfort Road
29 Widening Project/DM Other Construction Costs to
30 Belfort Road Widening Project/DM Right-of-way
31 Acquisition to fund the purchase of real property

1 necessary for the Project.

2 **Section 3. Purpose of Appropriation.** The purpose of the
3 appropriation above is to provide funding to purchase those lands
4 described in **Exhibit 1** and **Exhibit 2** attached hereto by negotiation
5 or eminent domain as necessary for the Belfort Road Widening project.

6 **Section 4. Capital Improvement Plan Amendment.** Ordinance
7 2023-505-E, adopting the 2024-2028 Five-Year Capital Improvement Plan
8 (the "CIP") for the City and certain of its independent agencies, is
9 hereby amended to provide funding for land acquisition and site
10 preparation for the Project as more fully described in the Project
11 Information Sheet attached hereto as **Exhibit 4** and incorporated herein
12 by this reference. The City Council finds that the deferral of this
13 amendment of the CIP until the next annual budget and CIP review will
14 be detrimental to the best interests of the community because such
15 deferral will unnecessarily delay the construction of the Project.

16 Pursuant to Section 122.605(c), *Ordinance Code*, enactment
17 of this Ordinance requires the affirmative vote of two-thirds of the
18 City Council members present at the meeting because of the CIP
19 amendment set forth in this section. This Ordinance shall constitute
20 an amendment to Ordinance 2023-505-E. In all other respects, the
21 Five-Year Capital Improvement Plan approved by Ordinance 2023-505-E
22 shall remain unchanged and continue in full force and effect.

23 **Section 5. Acquisition of Fee Simple Title and Easement**
24 **Rights.** The City of Jacksonville shall acquire fee simple title or
25 easement rights in those lands described in **Exhibit 1** and **Exhibit 2**
26 by negotiation or eminent domain for the purpose aforesaid from the
27 present owners thereof and all persons claiming any interest therein.
28 Acquisition of fee simple title and easements rights, if made by
29 negotiation, shall be pursuant to the City of Jacksonville Real Estate
30 Purchase Agreement substantially in the form placed **On File** with the
31 Legislative Services Division. However, the terms may be negotiated

1 and modified by the Chief of Real Estate, or designee, as necessary,
2 so long as the cost to the City does not exceed those costs authorized
3 by this Ordinance or other provisions of the Ordinance Code and the
4 Office of General Counsel concurs that such modification is in the
5 best interests of the City. The Chief, or designee, is further
6 authorized to execute the Real Estate Purchase Agreements and to take
7 all actions necessary to close such agreed purchases pursuant to the
8 agreement terms.

9 **Section 6. Authorizing Issuance of a Declaration of Taking.**

10 The Chief of the Real Estate Division of the City of Jacksonville
11 Department of Public Works, or designee, is hereby authorized to
12 execute on behalf of the City a Declaration of Taking pursuant to
13 Section 74.031, *Florida Statutes*, for the Property. The Chief of
14 Engineering Construction Management Division for the Public Works
15 Department, or designee, is authorized to approve the deposit of
16 funds into the registry of the court in the amount directed by an
17 order of taking pursuant to Section 74.051, *Florida Statutes*, from
18 funds lawfully appropriated for the Project.

19 **Section 7. Negotiation of Purchase of Property.** Full

20 compensation for the taking of the Properties was appraised at a
21 total value of \$1,115,950 as indicated in the appraisals **On File** with
22 the Legislative Services Division. Recognizing that real property
23 values can fluctuate significantly, the Chief, or designee, is hereby
24 authorized to make or accept binding offers for purchase of the
25 necessary interests in real property either informally or pursuant
26 to Section 73.015, *Florida Statutes*, under the following conditions:

- 27 a. The purchase price offered or accepted shall not exceed the
28 greater of the Appraised Value or the value determined by a
29 valid, updated appraisal of the Property prior to entry of an
30 order of taking; and,
31 b. Lawfully appropriated funds are available for the Project to

1 pay the purchase price offered, as indicated by the
2 Engineering Construction Management Division of the Public
3 Works Department; and,

4 c. The City will receive the necessary interest in real property
5 from the transaction without any encumbrances negatively
6 affecting the Project, as indicated by the Office of General
7 Counsel and Engineering Construction Management Division of
8 the Public Works Department.

9 Nothing in this Ordinance is intended to limit the use of the
10 additional settlement authority provided in Ord. Code s. 112.308 &
11 112.309 in conjunction with, and supplemental to, these provisions.
12 In addition to the purchase price for the Property, the Chief of
13 Engineering Construction Management Division of Public Works
14 Department, is authorized to pay any costs and attorneys' fees as
15 provided by Chapters 73 and 74, *Florida Statutes*.

16 **Section 8. Institution of Legal Proceedings.** The Office of
17 General Counsel of the City of Jacksonville is hereby authorized and
18 directed to institute the appropriate legal proceedings to acquire
19 by condemnation fee simple title in those lands described in **Exhibit**
20 **1** and **Exhibit 2** for the purpose described in this Ordinance. The
21 Office of General Counsel is further authorized to invoke the
22 procedures of Chapter 74, *Florida Statutes* (commonly known as a
23 "quick-take").

24 **Section 9. 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:

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4 Office of General Counsel

5 Legislation Prepared By: Laura Boeckman

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