

**TERMS AND CONDITIONS FOR A FUNDING AGREEMENT BETWEEN
THE CITY OF JACKSONVILLE AND EDWARD WATERS
UNIVERSITY, INC. FOR THE CONSTRUCTION OF TRACK
IMPROVEMENTS ON THE EDWARD WATERS UNIVERSITY CAMPUS
IN THE CITY OF JACKSONVILLE**

Any substantial change to these Terms and Conditions will require City Council approval.

- The parties desire to enter into a funding agreement pursuant to which the City of Jacksonville (the “City”) agrees to provide funding to Edward Waters University, Inc. (“EWU”) for eligible costs associated with the construction of a track/walking trail on the EWU campus (the “Track Improvements”), subject to the terms and conditions set forth herein and applicable law (the “Agreement”).
- The City’s maximum indebtedness under the Agreement shall be an up-to amount not-to-exceed \$2,000,000 (the “City Funds”).
- The parties acknowledge that the Track Improvements are being delivered as part of a broader capital project fully financed by EWU. The City’s contribution represents a limited, capped reimbursement of eligible construction costs associated with the Track Improvements only and shall not be construed as direct funding of ownership participation or a basis for operational control. No City Funds shall be applied to the residence hall component or any other component of EWU’s broader capital project.
- The parties further acknowledge that the Track Improvements will serve a dual institutional and public purpose, including the advancement of community health, wellness, and access to recreational infrastructure, with particular emphasis on serving the residents of Northwest Jacksonville and the New Town community.
- All City Funds shall be used solely for eligible expenses incurred in connection with the construction of the Track Improvements, including planning, design, permitting, site preparation, construction, and related Track Improvement costs. Such expenses shall be supported by documentation reasonably sufficient to verify eligibility for reimbursement. Any plans, specifications, scope of work, or budget information provided to the City shall be for review solely to confirm eligibility of reimbursable Track Improvement expenses and shall not constitute approval of, or control over, project design, procurement, or execution. EWU has secured or will secure full project financing independent of the City’s contribution, and the City may require reasonable documentation confirming such financing as a condition to disbursement of City Funds; provided, however, that such review shall be limited to verification of financing and shall not constitute approval of financing terms or confer any control over the project. The City’s contribution constitutes a capped reimbursement of Track Improvement costs and does not confer any approval rights or operational control over the project.
- EWU shall be responsible for ensuring all federal, state or local permits, as may be necessary or required, are obtained prior to conducting any work that requires such permitting.
- The Track Improvements shall be constructed solely on property owned and maintained by EWU and shall remain at all times the sole property of EWU. Nothing in this Agreement shall be construed to grant the City any ownership interest, leasehold interest, easement, servitude, or

other property interest in or to the Track Improvements or the property on which they are located.

- EWU shall be responsible for competitively and publicly soliciting design professionals and contractors to conduct all work. Competitive solicitation of all professional and construction services shall follow commercially reasonable procurement practices consistent with applicable state law.
- All design, planning, permitting, and construction services shall be performed by properly licensed or certified professionals authorized to conduct business in the State of Florida. To the extent required by applicable law, such professionals shall also be authorized to conduct business within the City of Jacksonville.
- The City may review submitted materials for informational purposes and to confirm alignment with reimbursable Track Improvement expenses.
- The City's funding is limited to the City Funds and EWU shall be responsible for all costs related to the project in excess of the City Funds, including all cost overruns.
- The City shall disburse City Funds on a reimbursement basis for eligible Track Improvement expenses incurred by EWU, as supported by documentation reasonably sufficient to verify such expenses. The City's review shall be limited to confirming eligibility of reimbursable expenses and shall not constitute approval of project design, construction, or vendor selection. Disbursements shall be made within a reasonable period following submission of complete documentation and shall not be unreasonably withheld or delayed. The City's total contribution shall not exceed \$2,000,000 and represents a capped reimbursement of Track Improvement costs otherwise financed by EWU. EWU may submit requests for reimbursement periodically, but no more frequently than monthly or quarterly, as determined by EWU. The City shall withhold a 10% retainage on all reimbursable expenses pending substantial completion of the Track Improvements. Additionally, all City Funds disbursed under the Agreement shall be subject to repayment to the City if the Track Improvements are not substantially completed by December 31, 2028, as further described below.
- The City shall be granted reasonable access to the project site to observe the Track Improvements solely for the purpose of verifying reimbursable work or the final work product.
- All City Funds disbursed under the Agreement shall be subject to a ten (10) year prorated claw back, which shall be reduced on a straight-line basis by one-tenth (1/10) of the total amount of City Funds for each year following substantial completion of the Track Improvements. Repayment shall be required only in the event that EWU sells the Track Improvements or permanently abandons their use as a track and related athletic facility within ten (10) years following substantial completion of the Track Improvements, which shall be no later than December 31, 2028, subject to reasonable extensions. Any repayment obligation shall be limited to the unamortized portion of City Funds actually disbursed. Delays caused by force majeure, permitting, or other circumstances beyond EWU's reasonable control shall not constitute a default for purposes of this provision. The claw back rights set forth in this paragraph shall survive any termination of the Use Agreement (defined below).
- EWU shall be responsible for maintenance and operation of the Track Improvements.

- The City and EWU shall enter into a separate Grant-Related Programmatic Use Agreement (the “**Use Agreement**”), contemporaneously with this Agreement, which shall remain in effect for a period of ten (10) years following substantial completion of the Track Improvements, subject to automatic 1-year renewals unless or until terminated by the City in its sole discretion subject to City Council approval, to outline mutually agreed-upon opportunities for community engagement, standard community access windows, and coordinated public programming associated with the Track Improvements. Such Use Agreement shall reflect the parties’ shared interest in supporting community access and programming, including with particular emphasis on residents of Northwest Jacksonville and the New Town community, while recognizing EWU’s ownership and operational control of the Track Improvements. Any use by the City shall be subject to institutional priorities, scheduling, academic calendar considerations, security protocols, and operational capacity, as determined by EWU. The Use Agreement shall be consistent with the terms of this Agreement and applicable law; provided, however, that it shall not create any ownership interest, operational control, mandatory access rights beyond those expressly set forth in the Use Agreement, or property interest in favor of the City.
- The City’s administrative staff and the City Council Auditor’s Office shall have the right, upon reasonable notice, to audit records and supporting documentation solely to verify the use of City Funds for eligible expenses under this Agreement. Such audit rights shall be limited to expenditures funded, in whole or in part, by City Funds and shall not extend to EWU’s non-City-funded project costs, financing arrangements, or other institutional expenditures.
- In the event EWU fails to substantially complete the Track Improvements by December 31, 2028, and such failure continues beyond a reasonable ninety-day cure period following written notice from the City, the City shall be entitled to repayment of all City Funds disbursed for Track Improvement costs in accordance with this Agreement. Repayment of City Funds shall not exceed the amount of City Funds actually disbursed to EWU. Delays caused by force majeure, permitting, or other circumstances beyond EWU’s reasonable control shall not constitute a default for purposes of this provision.
- The City’s total contribution under this Agreement shall not exceed \$2,000,000 and shall be applied solely to eligible costs associated with the Track Improvements, as defined herein. The City’s contribution shall be limited to eligible Track Improvement costs, irrespective of total project cost.
- EWU shall use good faith efforts to engage City-certified Jacksonville Small and Emerging Businesses (JSEBs) in connection with the Track Improvements where commercially reasonable and consistent with applicable law. Nothing herein shall be construed to require compliance with City procurement procedures or to impose mandatory participation thresholds.
- The City’s Public Works Department may provide administrative coordination and review solely for purposes of verifying compliance with this Agreement and the use of City Funds. Such coordination shall not constitute or be construed as design approval, construction oversight, or operational control of the Track Improvements.