

Introduced by Council Member Johnson:

ORDINANCE 2025-614

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

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

28
29 **WHEREAS,** the City of Jacksonville is authorized to construct
30 and maintain streets and highways, and to improve those streets and
31 highways as needed, for the general public, and is vested by law with

1 the power of eminent domain to acquire interests in real property;
2 and

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

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

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

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

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

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

31 **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

(b) Appropriated to:

See **Exhibit 1** \$29,588,373

(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 within the Project, as more fully described in the Project Information

1 Sheet attached hereto as **Exhibit 2** and incorporated herein by this
2 reference. The City Council finds that the deferral of this amendment
3 of the CIP until the next annual budget and CIP review will be
4 detrimental to the best interests of the community because such
5 deferral could result in the unnecessary delay in the acquisition of
6 land related to the Project which would negatively impact the
7 completion of the Project.

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

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

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

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

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

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

31 5. Safety - The Project will improve the safety of Old

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

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

28 **Section 6. Authorizing Deposit of Good-Faith Estimate.** The
29 Chief of the Engineering and Construction Management Division of the
30 Department of Public Works, or his designee, is authorized to approve
31 the deposit of funds into the registry of the court in the amount

1 directed by an order of taking pursuant to Section 74.051, *Florida*
2 *Statutes*, from funds lawfully appropriated for the Project.

3 **Section 7. Negotiation of Purchase of Property.**

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

8 a. Lawfully appropriated funds are available for the Project to
9 pay the agreed purchase price; and,

10 b. The City will receive the necessary interest in real property
11 from the transaction without any encumbrances negatively
12 affecting the Project; and,

13 c. The purchase price is not more than 25% above the value
14 determined in a written appraisal performed by a licensed
15 appraiser on the property not more than one (1) year prior to
16 the date of the agreement or settlement; and,

17 d. The Chief of the Engineering and Construction Management
18 Division, with the written concurrence of the Director of
19 Public Works and the General Counsel (or their designees),
20 finds that the purchase of the property interest under the
21 agreed terms is in the best interest of the City.

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

28 **Section 8. Negotiation of Claims for Business Damages.** If

29 the City receives a timely claim for business damages pursuant to
30 Chapter 73.015, *Florida Statutes*, arising from the acquisition of
31 property rights provided for in this Ordinance, the Chief, or her

1 designee, may negotiate, settle, and authorize payment of such claim,
2 subject to the following conditions:

- 3 a. Lawfully appropriated funds are available for the Project to
4 pay the amount offered; and,
- 5 b. The amount does not exceed \$100,000; and,
- 6 c. The Chief of the Engineering and Construction Management
7 Division of the Department of Public Works, with the written
8 concurrence of the Director of Public Works and the General
9 Counsel (or their designees), finds that settlement under the
10 agreed terms is in the best interest of the City.

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

- 18 a. Lawfully appropriated funds are available for the Project to
19 pay the amount offered; and,
- 20 b. The Chief of the Engineering and Construction Management
21 Division of the Department of Public Works, with the written
22 concurrence of the Director of Public Works and the General
23 Counsel (or their designees), finds that settlement under the
24 agreed terms is in the best interest of the City.

25 **Section 10. Waiving the Settlement Limitations in Sections**
26 **112.307, 112.308, and 112.309, Ordinance Code.** The settlement
27 limitations delineated in subsection 112.307(a)(2)(iii) (Claims and
28 suits brought against the City for monetary relief), Section 112.308
29 (Eminent domain), and Section 112.309 (Attorneys' fees), Part 3
30 (Settlement of Claims and Suits By and Against City), Chapter 112
31 (Claims By and Against City), *Ordinance Code*, that the total amount

1 of certain settlements cannot exceed \$50,000 absent approval of City
2 Council is hereby waived recognizing that the value of the properties
3 involved in the Project along with statutorily mandated attorneys'
4 fees and costs may require settlements exceeding the limits imposed
5 by Chapter 112, *Ordinance Code*, and that obtaining Council approval
6 for settlements relating to numerous parcels will unnecessarily delay
7 the Project or subject the City to increased liability.

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

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

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

22
23 Form Approved:

24
25 _____
26 Office of General Counsel

27 Legislation Prepared By: Christopher M. Garrett

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