

1 Introduced by the Council President at the request of the Mayor and  
2 amended by the Transportation, Energy & Utilities Committee:  
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5 **ORDINANCE 2022-138-E**

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

1           ORDINANCE       2021-179-E,       WHICH       AUTHORIZED  
2           BORROWING FROM THE CITY'S COMMERCIAL PAPER  
3           FACILITY AND/OR ISSUANCE OF FIXED-RATE DEBT IN  
4           THE CUMULATIVE, NOT-TO-EXCEED AMOUNT OF  
5           \$32,905,000 TO PROVIDE FUNDING FOR THE PURCHASE  
6           OF THE DEVELOPER'S PARKING GARAGES; AMENDING THE  
7           2022-2026 CAPITAL IMPROVEMENT PROGRAM APPROVED  
8           BY ORDINANCE 2021-505-E TO REMOVE THE PROJECT  
9           ENTITLED "MPS GARAGE PURCHASE"; WAIVING  
10          PROVISIONS OF CHAPTER 126, (PROCUREMENT CODE),  
11          ORDINANCE CODE, FOR A PERIOD OF SIX MONTHS FROM  
12          THE CLOSING DATE UNDER THE SETTLEMENT AGREEMENT  
13          WITH RESPECT TO THE MAINTENANCE, REPAIR AND  
14          OPERATION OF THE PARKING GARAGES, TO ALLOW THE  
15          DIA TO DIRECTLY PROCURE CONTRACTS FOR A TERM OF  
16          NO LONGER THAN ONE YEAR FOR THE PURPOSES OF  
17          ADDRESSING NEEDED REPAIRS, MAINTENANCE AND LIFE-  
18          SAFETY ISSUES FOR THE PARKING GARAGES; WAIVING  
19          CHAPTER 122 (PUBLIC PROPERTY), PART 4 (REAL  
20          PROPERTY), SUBPART A (ACQUISITION OF INTEREST IN  
21          REAL PROPERTY), SECTION 122.411(A) (FEE  
22          PURCHASES), ORDINANCE CODE, TO AUTHORIZE THE  
23          PURCHASE OF THE PARKING GARAGES WITHOUT THE  
24          REQUIREMENT TO OBTAIN TWO APPRAISALS IN  
25          CONNECTION WITH THE PURCHASE OPTION OR RIGHT OF  
26          FIRST REFUSAL INCLUDED IN THE LEASE AGREEMENT;  
27          WAIVING CHAPTER 55 (DOWNTOWN INVESTMENT  
28          AUTHORITY), PART 1 (DOWNTOWN INVESTMENT  
29          AUTHORITY), SECTION 55.115 (PROCEDURES FOR  
30          ACQUISITION AND DISPOSITION OF DOWNTOWN  
31          PROPERTY), ORDINANCE CODE, TO ALLOW FOR THE

1 EXERCISE OF THE PURCHASE OPTION OR RIGHT OF  
2 FIRST REFUSAL INCLUDED IN THE LEASE AGREEMENT;  
3 AUTHORIZING AND CREATING A NEW PART 4 (DIA-  
4 LEASED PARKING GARAGES), CHAPTER 55 (DOWNTOWN  
5 INVESTMENT AUTHORITY), *ORDINANCE CODE*, TO  
6 AUTHORIZE MANAGEMENT AND MAINTENANCE  
7 OBLIGATIONS FOR THE PARKING GARAGES TO THE DIA  
8 AND AUTHORIZE THE DIA TO ENTER INTO RETAIL AND  
9 COMMERCIAL SUBLEASES AND PARKING SUBLEASES FOR  
10 USE OF 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 Redevelopment  
21 Agreement dated March 5, 2004, as subsequently amended from time to  
22 time in writing by the parties (the "Agreement"), pursuant to which  
23 Developer constructed and has owned and operated certain parking  
24 garages identified in the Agreement (the garages and the land on  
25 which they are located are hereinafter referred to as the "Parking  
26 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 Developer  
12 have engaged in court-ordered mediation and have reached a settlement  
13 as to the Litigation, subject only to review and approval by the City  
14 Council pursuant to the requirements of Chapter 112, *Ordinance Code*  
15 (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 resolution,  
19 among other benefits, provides a significant cost savings to the City  
20 and provides DIA with control and flexibility to maximize the use of  
21 the Parking Garages in the public interest; and

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

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

30           **WHEREAS**, the City and DIA have agreed that the DIA as the  
31 Combined Northbank Redevelopment Agency shall be the tenant under the

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

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

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

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

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

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

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

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

27 **Section 2. Settlement Approval and Authorization.** There is  
28 hereby approved, and the Mayor, or his designee, and the Corporation  
29 Secretary are authorized to enter into a Settlement Agreement (the  
30 "Settlement Agreement"), and such additional documents and agreements  
31 as set forth therein between or among the City, DIA and Developer in

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

19 **Section 3. Ordinance 2021-179-E repealed.** Ordinance 2021-  
20 179-E authorizing funding for the purchase of the Developer Parking  
21 Garages is hereby repealed in its entirety.

22 **Section 4. CIP Amendment.** Ordinance 2021-505-E, being the  
23 2022-2026 Five-Year Capital Improvement Program for the City and  
24 certain of its independent agencies, is hereby amended to remove the  
25 project entitled "MPS Garage Purchase" consistent with the Project  
26 Information Sheet attached hereto as **Exhibit 1** and incorporated  
27 herein. The Council finds that the deferral of this amendment of the  
28 CIP until the next annual budget and CIP review will be detrimental  
29 to the best interests of the community because the Parking Garages  
30 are the subject of the Settlement Agreement authorized by this  
31 Ordinance and will be leased to the City consistent with the terms

1 and conditions of the Settlement Agreement. Pursuant to Section  
2 122.605(c), Ordinance Code, enactment of this ordinance requires the  
3 affirmative vote of two-thirds of the Council members present at the  
4 meeting because of the CIP amendment set forth in this section. This  
5 ordinance shall constitute an amendment to Ordinance 2021-505-E. In  
6 all other respects, the Five-Year Capital Improvement Program  
7 approved by Ordinance 2021-505-E shall continue in full force and  
8 effect.

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

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

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

15 **Section 8. Creating a new Part 4 (DIA-Leased Parking**  
16 **Garages), Chapter 55 (Downtown Investment Authority), Ordinance Code.**

17 A new Part 4 (DIA-Leased Parking Garages), Chapter 55 (Downtown  
18 Investment Authority), *Ordinance Code*, is hereby created to read as  
19 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 located  
26 on a portion of Blocks 34 and 47 East Jacksonville as recorded in  
27 Deed Book Q at page 664 together with a portion of the former Church  
28 Street right of way, together with appurtenant easements, together  
29 now identified as tax parcel 130876-0100, having a street address of  
30 500 A Philip Randolph Boulevard, and bounded on the south by Duval  
31 Street East and on the east by A Philip Randolph Boulevard, and on



1 the west and north by City owned property identified as tax parcel  
2 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 664  
5 now identified as tax parcel 130876-1200, having a street address of  
6 999 Adams Street E, and bounded on the south by Adams Street East and  
7 on the east by A Philip Randolph Boulevard, and on the west and north  
8 by City owned property identified as tax parcel 130876-1000.

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

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

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

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

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

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

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

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

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

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

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

26  
27 Form approved:

28  
29           /s/ Margaret M. Sidman          

30 Office of General Counsel

31 Legislation Prepared By: John Sawyer

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