

1 The Neighborhoods, Community Services, Public Health and Safety
2 Committee offers the following Substitute to File No. 2026-327:

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4 Introduced by the Council President at the Request of the Mayor:
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7 **ORDINANCE 2026-327**

8 AN ORDINANCE APPROPRIATING \$12,599,258 FROM THE
9 EMERALD TRAIL - HOGAN'S CREEK TO RIVERWALK OTHER
10 CONSTRUCTION COSTS ACCOUNT TO THE CITY OWNED
11 LAND ACQUISITION ACCOUNT, AS INITIATED BY
12 REVISED B.T. 26-057; AMENDING THE 2026-2030
13 FIVE-YEAR CAPITAL IMPROVEMENT PLAN APPROVED BY
14 ORDINANCE 2025-505-E TO REFLECT THIS
15 APPROPRIATION OF FUNDS FROM THE OTHER
16 CONSTRUCTION COSTS ACCOUNT TO THE LAND
17 ACQUISITION COST ACCOUNT FOR THE PROJECT
18 ENTITLED "EMERALD TRAIL - HOGAN'S CREEK TO
19 RIVERWALK"; DECLARING THE PUBLIC NECESSITY FOR
20 ACQUIRING FEE SIMPLE TITLE, TEMPORARY
21 CONSTRUCTION EASEMENTS, AND PERMANENT DRAINAGE
22 EASEMENTS, THROUGH CONDEMNATION BY RIGHT OF
23 EMINENT DOMAIN TO AND OVER CERTAIN PARCELS OF
24 REAL PROPERTY IN COUNCIL DISTRICT 7, SUCH
25 PARCELS BEING LOCATED NEAR OR ADJACENT TO
26 PORTIONS OF HOGAN'S CREEK, INCLUDING THE ENTIRE
27 PARCELS OF REAL PROPERTY, OR PORTIONS THEREOF,
28 AS MORE SPECIFICALLY DESCRIBED
29 HEREIN (COLLECTIVELY, THE "PROPERTIES"), AS
30 REQUIRED FOR THE PROJECT; AUTHORIZING
31 ACQUISITION OF THE PROPERTIES BY NEGOTIATION OR

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

1 EFFECTIVE DATE.
2

3 **WHEREAS**, the City of Jacksonville is vested by law with the
4 power of eminent domain to acquire interests in real property; and

5 **WHEREAS**, the City of Jacksonville has determined that the
6 project entitled "Emerald Trail-Hogan's Creek to Riverwalk" (the
7 "Project") serves a public purpose; and

8 **WHEREAS**, the City of Jacksonville has determined that the
9 acquisition of certain parcels of real property in Council District
10 7 being located near or adjacent to a portion of Hogan's Creek,
11 (collectively, the "Properties"), including, as applicable, the
12 entire parcel or portions of such parcels, and related property
13 interests to include temporary construction easements and drainage
14 easements, is reasonably necessary for completion of the Project; and

15 **WHEREAS**, to allow for the acquisition of the Properties,
16 funding currently allocated to other construction costs for the
17 Project must be reallocated to land acquisition within the Project;
18 and

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

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

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

1 2025-505-E, adopting the 2026-2030 Five-Year Capital Improvement Plan
2 (the "CIP") for the City and certain of its independent agencies, is
3 hereby amended to reflect the appropriation of funds from the Other
4 Construction Costs account to the City Owned Land Acquisition account
5 within the Project, as more fully described in the Project Information
6 Sheet attached hereto as **Exhibit 2** and incorporated herein by this
7 reference. The City Council finds that the deferral of this amendment
8 of the CIP until the next annual budget and CIP review will be
9 detrimental to the best interests of the community because such
10 deferral could result in unnecessary delay in the acquisition of land
11 related to the Project which would negatively impact the completion
12 of the Project.

13 Pursuant to Section 122.605(c), Ordinance Code, enactment of
14 this Ordinance requires the affirmative vote of two-thirds of the
15 City Council members present at the meeting because of the CIP
16 amendment set forth in this Section. This Ordinance shall constitute
17 an amendment to Ordinance 2025-505-E. In all other respects, the
18 Five-Year Capital Improvement Plan approved by Ordinance 2025-505-E
19 shall remain unchanged and continue in full force and effect.

20 **Section 4. Declaration of Necessity.** The City hereby
21 declares the public necessity for acquiring through condemnation by
22 right of eminent domain, fee simple title, temporary construction
23 easements, and permanent drainage easements, as applicable, to and
24 over the Properties as generally depicted and identified in **Exhibit**
25 **3**, attached hereto and incorporated herein by this reference, and
26 located in Council District 7 as more fully described in the drawings,
27 legal descriptions and surveys placed **Revised On File** with the
28 Legislative Services Division, to complete the Project. In making
29 this determination of necessity, the City has ordered and reviewed
30 the Traffic Study, Phase I Cultural Resources Assessment Survey, the
31 Section 106 Effects Case Study, the Environmental Site Evaluation

1 Report, the Contamination Assessment Report and the Aquatic Resource
2 Survey, each in the form placed **Revised On File** with the Legislative
3 Services Division. In addition, the City has had the opportunity to
4 ask questions of the respective engineers and other professionals
5 conducting assessments and studies of the Property, including
6 appropriate City staff, and has considered the following:

7 1. Availability of Alternate Alignments, or Parcels - Due to
8 the nature of the Project, the City is not able to utilize alternate
9 alignments. All of the acquisitions for the Project are directly
10 related to the existing and planned alignment of the Emerald Trail.
11 The City and its design consultant have reviewed the corridor and
12 chosen the path that would minimize the impacts to private property
13 and overall project costs to the City.

14 2. Costs - The City has considered many different designs and
15 has chosen the most cost-effective plan that accomplishes all of the
16 Project's goals. The City has also adjusted the plans to require as
17 little private property acquisition as possible. Costs considered
18 include design, construction, environmental/contamination cleanup
19 costs, and right-of-way acquisition.

20 3. Environmental Factors - The City requested and reviewed
21 studies to determine the impact of the Project on the environment.
22 These studies determined that there is contamination within Hogan's
23 Creek itself and on some of the surrounding properties that will need
24 to be acquired for the Project. The Project is anticipated to impact
25 ±0.10 acres of freshwater marsh, ±0.45 acres of mixed hardwood
26 wetlands, ±1.15 acres of vegetated non-forested wetlands, eight
27 separate ponds that total ±5.20 acres and ±10.54 acres of Hogan's
28 Creek. In addition, the cultural resources assessment survey
29 determined that there are a number of historical resources within the
30 Project limits. These are mainly buildings, bridges or architectural
31 elements. The Section 106 Case Study Report provides detailed

1 recommendations for how to avoid, minimize or mitigate adverse impacts
2 to these resources.

3 4. Long-Range Area Planning - The Project is consistent with
4 the Long-Range Plan. The Project will address environmental
5 contamination and reduce flooding in the entire surrounding areas.
6 This will enhance the existing features of the region and promote
7 future growth and development.

8 5. Safety - The Project will improve the safety of the
9 surrounding areas by addressing environmental contamination and
10 alleviating flooding issues. The Project will also include a new
11 multi-use trail and will add or expand the existing sidewalks, which
12 will improve safety for non-vehicular roadway users within the Project
13 limits.

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

1 Estate Purchase Agreement, or by stipulated final judgment and order
2 of taking. The Chief, or her designee, is further authorized to
3 execute, for and on behalf of the City, the Real Estate Purchase
4 Agreements and to take all actions necessary to close such agreed
5 purchases pursuant to their terms, including those provided by court
6 order or judgment.

7 **Section 6. Authorizing Deposit of Good-Faith Estimate.** The
8 Chief of the Engineering and Construction Management Division of the
9 Department of Public Works, or his designee, is authorized to approve
10 the deposit of funds into the registry of the court in the amount
11 directed by an order of taking pursuant to Section 74.051, *Florida*
12 *Statutes*, from funds lawfully appropriated for the Project.

13 **Section 7. Negotiation of Purchase of Property.**
14 Recognizing that real property values can fluctuate significantly,
15 the Chief, or her designee, is hereby authorized to negotiate and
16 agree to the purchase of the necessary interests in real property
17 subject to the following conditions:

- 18 a. Lawfully appropriated funds are available for the Project to
19 pay the agreed purchase price; and,
- 20 b. The City will receive the necessary interest in real property
21 from the transaction without any encumbrances negatively
22 affecting the Project; and,
- 23 c. The purchase price is not more than 25% above the value
24 determined in a written appraisal performed by a licensed
25 appraiser on the property not more than one (1) year prior to
26 the date of the agreement or settlement; and,
- 27 d. The Chief of the Engineering and Construction Management
28 Division, with the written concurrence of the Director of
29 Public Works and the General Counsel (or their designees),
30 finds that the purchase of the property interest under the
31 agreed terms is in the best interest of the City.

1 For purposes of this Ordinance, the "purchase price" means the
2 compensation paid to the property owner (and/or tenant) for the
3 property interests acquired, inclusive of the value of any
4 improvements to the property, severance damages to any remaining
5 property, or temporary or permanent costs to cure. The "purchase
6 price" does not include attorneys' fees or expert costs.

7 **Section 8. Negotiation of Claims for Business Damages.** If
8 the City receives a timely claim for business damages pursuant to
9 Chapter 73.015, *Florida Statutes*, arising from the acquisition of
10 property rights provided for in this Ordinance, the Chief, or her
11 designee, may negotiate, settle, and authorize payment of such claim,
12 subject to the following conditions:

- 13 a. Lawfully appropriated funds are available for the Project to
14 pay the amount offered; and,
15 b. The amount does not exceed \$100,000; and,
16 c. The Chief of the Engineering and Construction Management
17 Division of the Department of Public Works, with the written
18 concurrence of the Director of Public Works and the General
19 Counsel (or their designees), finds that settlement under the
20 agreed terms is in the best interest of the City.

21 **Section 9. Negotiation of Attorneys' Fees and Costs.** In
22 addition to the purchase price, the Chief, or her designee, is
23 authorized to negotiate, settle, and authorize payment of any
24 attorneys' fees and costs legally due to the owner or tenant, as
25 provided under Chapters 73 and 74, *Florida Statutes*, with respect to
26 a purchase or settlement made pursuant to Section 7 above, subject
27 to the following conditions:

- 28 a. Lawfully appropriated funds are available for the Project to
29 pay the amount offered; and,
30 b. The Chief of the Engineering and Construction Management
31 Division of the Department of Public Works, with the written

1 concurrence of the Director of Public Works and the General
2 Counsel (or their designees), finds that settlement under the
3 agreed terms is in the best interest of the City.

4 **Section 10. Waiving the Settlement Limitations in Sections**
5 **112.307, 112.308, and 112.309, Ordinance Code.** The settlement
6 limitations delineated in subsection 112.307(a)(2)(iii) (Claims and
7 suits brought against the City for monetary relief), Section 112.308
8 (Eminent domain), and Section 112.309 (Attorneys' fees), Part 3
9 (Settlement of Claims and Suits By and Against City), Chapter 112
10 (Claims By and Against City), *Ordinance Code*, that the total amount
11 of certain settlements cannot exceed \$50,000 absent approval of City
12 Council is hereby waived recognizing that the value of the properties
13 involved in the Project along with statutorily mandated attorneys'
14 fees and costs may require settlements exceeding the limits imposed
15 by Chapter 112, *Ordinance Code*, and that obtaining Council approval
16 for settlements relating to numerous parcels will unnecessarily delay
17 the Project or subject the City to increased liability.

18 **Section 11. Institution of Legal Proceedings.** The Office of
19 General Counsel of the City of Jacksonville is hereby authorized to
20 institute the appropriate legal proceedings to acquire by
21 condemnation property interests in the Properties for the purpose
22 described in this Ordinance. The Office of General Counsel is further
23 authorized to invoke the procedures of Chapter 74, *Florida Statutes*
24 (commonly known as a "quick-take") and to issue appropriate
25 declarations of taking on behalf of the City.

26 **Section 12. Oversight.** The Engineering and Construction
27 Management Division of the Department of Public Works shall oversee
28 the Project described herein.

29 **Section 13. Effective Date.** This Ordinance shall become
30 effective upon signature by the Mayor or upon becoming effective
31 without the Mayor's signature.

1 Form Approved:

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3 /s/ Mary E. Staffopoulos

4 Office of General Counsel

5 Legislation Prepared By: Harry M. Wilson, IV

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