

1 Introduced by the Council President at the request of the Mayor and
2 substituted by the Finance Committee:

3
4
5 **ORDINANCE 2026-327-E**

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

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

29
30 **WHEREAS,** the City of Jacksonville is vested by law with the
31 power of eminent domain to acquire interests in real property; and

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

4 **WHEREAS,** the City of Jacksonville has determined that the
5 acquisition of certain parcels of real property in Council District
6 7 being located near or adjacent to a portion of Hogan's Creek,
7 (collectively, the "Properties"), including, as applicable, the
8 entire parcel or portions of such parcels, and related property
9 interests to include temporary construction easements and drainage
10 easements, is reasonably necessary for completion of the Project; and

11 **WHEREAS,** to allow for the acquisition of the Properties,
12 funding currently allocated to other construction costs for the
13 Project must be reallocated to land acquisition within the Project;
14 and

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

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

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

29 BE IT ORDAINED by the Council of the City of Jacksonville:

30 **Section 1. Appropriation.** For the 2025-2026 fiscal year,
31 within the City's budget, there is hereby appropriated the indicated

1 sum from the account listed in subsection (a) to the account listed
2 in subsection (b):

3 (The account information is attached hereto as **Revised Exhibit**
4 **1** and incorporated herein by this reference)

5 Appropriated from:

6 See **Revised Exhibit 1** \$12,599,258

7 Appropriated to:

8 See **Revised Exhibit 1** \$12,599,258

9 (c) Explanation of Appropriation:

10 The funding above represents an appropriation of
11 \$12,599,258 from the Emerald Trail-Hogan's Creek to
12 Riverwalk - Other Construction Costs account to the Land
13 Acquisition Cost account to be used to acquire interests
14 in real property necessary for completion of the Project.

15 **Section 2. Purpose.** The purpose of the appropriation in
16 Section 1 is to transfer funds within the Project to be used for the
17 acquisition of the real property interests needed for completion of
18 the Project.

19 **Section 3. Capital Improvement Plan Amendment.** Ordinance
20 2025-505-E, adopting the 2026-2030 Five-Year Capital Improvement Plan
21 (the "CIP") for the City and certain of its independent agencies, is
22 hereby amended to reflect the appropriation of funds from the Other
23 Construction Costs account to the Land Acquisition Cost account within
24 the Project, as more fully described in the Project Information Sheet
25 attached hereto as **Exhibit 2** and incorporated herein by this
26 reference. The City Council finds that the deferral of this amendment
27 of the CIP until the next annual budget and CIP review will be
28 detrimental to the best interests of the community because such
29 deferral could result in unnecessary delay in the acquisition of land
30 related to the Project which would negatively impact the completion
31 of the Project.

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

Section 4. Declaration of Necessity. The City hereby declares the public necessity for acquiring through condemnation by right of eminent domain, fee simple title, temporary construction easements, and permanent drainage easements, as applicable, to and over the Properties as generally depicted and identified in **Revised Exhibit 3**, attached hereto and incorporated herein by this reference, and located in Council District 7 as more fully described in the drawings, legal descriptions and surveys placed **Second Revised On File** with the Legislative Services Division, to complete the Project. In making this determination of necessity, the City has ordered and reviewed the Traffic Study, Phase I Cultural Resources Assessment Survey, the Section 106 Effects Case Study, the Environmental Site Evaluation Report, the Contamination Assessment Report and the Aquatic Resource Survey, each in the form placed **Second Revised On File** with the Legislative Services Division. In addition, the City has had the opportunity to ask questions of the respective engineers and other professionals conducting assessments and studies of the Property, including appropriate City staff, and has considered the following:

1. Availability of Alternate Alignments, or Parcels - Due to the nature of the Project, the City is not able to utilize alternate alignments. All of the acquisitions for the Project are directly related to the existing and planned alignment of the Emerald Trail. The City and its design consultant have reviewed the corridor and

1 chosen the path that would minimize the impacts to private property
2 and overall project costs to the City.

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

9 3. Environmental Factors - The City requested and reviewed
10 studies to determine the impact of the Project on the environment.
11 These studies determined that there is contamination within Hogan's
12 Creek itself and on some of the surrounding properties that will need
13 to be acquired for the Project. The Project is anticipated to impact
14 ±0.10 acres of freshwater marsh, ±0.45 acres of mixed hardwood
15 wetlands, ±1.15 acres of vegetated non-forested wetlands, eight
16 separate ponds that total ±5.20 acres and ±10.54 acres of Hogan's
17 Creek. In addition, the cultural resources assessment survey
18 determined that there are a number of historical resources within the
19 Project limits. These are mainly buildings, bridges or architectural
20 elements. The Section 106 Case Study Report provides detailed
21 recommendations for how to avoid, minimize or mitigate adverse impacts
22 to these resources.

23 4. Long-Range Area Planning - The Project is consistent with
24 the Long-Range Plan. The Project will address environmental
25 contamination and reduce flooding in the entire surrounding areas.
26 This will enhance the existing features of the region and promote
27 future growth and development.

28 5. Safety - The Project will improve the safety of the
29 surrounding areas by addressing environmental contamination and
30 alleviating flooding issues. The Project will also include a new
31 multi-use trail and will add or expand the existing sidewalks, which

1 will improve safety for non-vehicular roadway users within the Project
2 limits.

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

27 **Section 6. Authorizing Deposit of Good-Faith Estimate.** The
28 Chief of the Engineering and Construction Management Division of the
29 Department of Public Works, or his designee, is authorized to approve
30 the deposit of funds into the registry of the court in the amount
31 directed by an order of taking pursuant to Section 74.051, *Florida*

1 *Statutes*, from funds lawfully appropriated for the Project.

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

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

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

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

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

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

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

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

28 the City receives a timely claim for business damages pursuant to
29 Chapter 73.015, *Florida Statutes*, arising from the acquisition of
30 property rights provided for in this Ordinance, the Chief, or her
31 designee, may negotiate, settle, and authorize payment of such claim,

subject to the following conditions:

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

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

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

Section 10. Waiving the Settlement Limitations in Sections 112.307, 112.308, and 112.309, Ordinance Code. The settlement limitations delineated in subsection 112.307(a)(2)(iii) (Claims and suits brought against the City for monetary relief), Section 112.308 (Eminent domain), and Section 112.309 (Attorneys' fees), Part 3 (Settlement of Claims and Suits By and Against City), Chapter 112 (Claims By and Against City), *Ordinance Code*, that the total amount of certain settlements cannot exceed \$50,000 absent approval of City

Council is hereby waived recognizing that the value of the properties involved in the Project along with statutorily mandated attorneys' fees and costs may require settlements exceeding the limits imposed by Chapter 112, *Ordinance Code*, and that obtaining Council approval for settlements relating to numerous parcels will unnecessarily delay the Project or subject the City to increased liability.

Section 11. Requiring City Council Approval Prior to Institution of Legal Proceedings. Prior to filing a petition for condemnation in the Circuit Court for the final acquisition of the Properties via eminent domain, City Council approval and authorization for the institution of such lawsuit must first be made by subsequent Ordinance.

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

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

Form Approved:

/s/ Mary E. Staffopoulos

Office of General Counsel

Legislation Prepared By: Harry M. Wilson, IV

GC-#1758533-v1-2026-327-E.docx