

1 Introduced by Council Member DeFoor:
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4 **RESOLUTION 2021-727**

5 A RESOLUTION PROVIDING NOTICE TO THE FLORIDA
6 FISH AND WILDLIFE CONSERVATION COMMISSION THAT
7 THE JACKSONVILLE CITY COUNCIL INTENDS TO FILE
8 AND TAKE ACTION ON LEGISLATION CREATING
9 ANCHORING LIMITATION AREAS ON CERTAIN AREAS OF
10 THE WATERS OF DUVAL COUNTY; DIRECTING THE
11 LEGISLATIVE SERVICES DIVISION TO FORWARD A COPY
12 OF THIS RESOLUTION TO THE FLORIDA FISH AND
13 WILDLIFE COMMISSION; PROVIDING AN EFFECTIVE
14 DATE.
15

16 **WHEREAS**, in 2021, the Florida Legislature provided counties the
17 authority to create anchoring limitation areas that meet certain
18 requirements pursuant to SB 1946, now codified in Sec. 327.4108,
19 F.S.; and

20 **WHEREAS**, the Jacksonville City Council is the elected
21 legislative body of Duval County, Florida; and

22 **WHEREAS**, pursuant to subsection 327.4108(2)(c), Florida Statutes
23 (2021), the City of Jacksonville, Florida (the "City"), is providing
24 notice to the Florida Fish and Wildlife Conservation Commission
25 ("FWC") that it intends to establish certain Anchoring Limitation
26 Areas within the City (the "Areas"); and

27 **WHEREAS**, the aggregate total size of the Areas will be less than
28 ten percent (10%) of the county's delineated navigable-in-fact
29 waterways; and

30 **WHEREAS**, the Areas are located is within Duval County; now
31 therefore

NCSPHS

1 **BE IT RESOLVED** by the Council:

2 **Section 1. Authority.** This Resolution is adopted pursuant
3 to the Constitution of the State of Florida, the Jacksonville
4 Ordinance Code, and other applicable provisions of law.

5 **Section 2. Findings.** The Council hereby finds, determines,
6 and declares that:

7 A. A proposed ordinance creating Anchoring Limitation Areas
8 (the "Areas"), attached hereto as **Exhibit 1**, will be filed for action
9 by the City as soon as practicable after the Effective Date of this
10 Resolution;

11 B. The Areas as drawn and described in **Exhibit 1** will have a
12 substantial public benefit.

13 **Section 3. Directing Legislative Services Division to**
14 **forward a copy of this Resolution and Exhibit 1 to the Florida Fish**
15 **and Wildlife Commission.** Upon adoption of this Resolution, the
16 Legislative Services Division is hereby directed to forward a
17 complete, official copy this Resolution and **Exhibit 1** to the Florida
18 Fish and Wildlife Commission in accordance with Section 327.4108,
19 Florida Statutes to provide notice of intent to file the Ordinance
20 creating the Anchoring Limitation Areas.

21 **Section 4. Effective Date.** This Resolution shall become
22 effective upon signature by the Mayor or upon becoming effective
23 without the Mayor's signature.

24
25 Form Approved:

26
27 /s/ Paige H. Johnston

28 Office of General Counsel

29 Legislation Prepared By: Susan C. Grandin

30 GC-#1454727-v1-Reso_for_DeFoor_Anchoring_Limitation_Area_.docx

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1 Introduced by Council Member DeFoor:
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4 **ORDINANCE 2021-**

5 AN ORDINANCE AMENDING CHAPTER 388 (BOATS AND
6 WATERWAYS), *ORDINANCE CODE*, TO CREATE A NEW
7 PART 4 (ANCHORING LIMITATION AREAS); PROVIDING
8 THAT COUNCIL IS EXERCISING COUNTY POWERS;
9 PROVIDING FOR COMPLIANCE WITH NOTICE
10 PROVISIONS OF SECTION 327.4108, *FLORIDA*
11 *STATUTES*; PROVIDING FOR CODIFICATION
12 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.
13

14 **WHEREAS**, the Florida Legislature has recently amended Section
15 327.4108, *Florida Statutes*, to provide for counties meeting certain
16 criteria to establish anchoring limitation areas adjacent to urban
17 areas that have residential docking facilities and significant
18 recreational boating traffic; and

19 **WHEREAS**, the City of Jacksonville, as a consolidated
20 city/county government, is authorized to enact an ordinance
21 establishing anchoring limitation areas within the county and
22 desires to do so subject to the requirements of Section 327.4108,
23 *Florida Statutes*, now therefore

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

25 **Section 1. Amending TITLE X (Environmental Affairs),**
26 **Ordinance Code, to create a new Part 4 (Anchoring Limitation Areas)**
27 **in Chapter 388 (Boats and Waterways).** Title X (Environmental
28 Affairs), *Ordinance Code*, is hereby amended to create a new Part 4
29 (Anchoring Limitation Areas), in Chapter 388 (Boats and Waterways),
30 to read as follows:

31 **TITLE X ENVIRONMENTAL AFFAIRS**

1 * * *

2 Chapter 388 - BOATS and WATERWAYS

3 * * *

4 PART 4. - ANCHORING LIMITATION AREAS

5 Sec. 388.401. - Findings and legislative intent.

6 (a) Pursuant to Sec. 327.4108, *F.S.* (2021), the Florida
7 Legislature has expressly authorized counties meeting certain
8 criteria to enact regulations that establish anchoring
9 limitation areas adjacent to urban areas that have residential
10 docking facilities and significant recreational boating
11 traffic.

12 (b) The Council finds that City of Jacksonville, acting under its
13 authority as a chartered county government pursuant to Section
14 1.101 of the City Charter and Section 4.102, *Ordinance Code*,
15 meets the criteria established in Sec. 347.4108, *F.S.* (2021),
16 to create anchoring limitation areas within its jurisdiction.

17 (c) The purpose of this Part 4 is to implement the provisions of
18 Sec. 327.4108, *F.S.* (2021), by creating an anchoring
19 limitation area, as more fully described below, which will
20 promote the public access to the waters of the state; enhance
21 navigational safety; protect maritime infrastructure; protect
22 the marine environment and deter improperly stored, abandoned,
23 or derelict vessels.

24 Sec. 388.402. - Definitions.

25 For the purpose of this Chapter, where applicable, the terms,
26 phrases, words, abbreviations and their derivations shall have the
27 meaning given in Section 327.02, *F.S.*, unless specifically defined
28 herein. When not inconsistent with the context, words used in the
29 present tense include the future tense, words in the plural number
30 include the singular number and words in the singular number
31 include the plural number. The word "shall" is always mandatory

1 and not merely directory. Words not defined shall be given their
2 meaning as provided Section 1.102 (definitions and rules of
3 constructions), Ordinance Code.

4 **Sec. 388.403. -Criteria for Anchoring Limitation Areas.**

5 The aggregate total of anchoring limitation areas within Duval
6 County may not exceed 10 percent of the county's delineated
7 navigable-in-fact waterways. As used in this Part, "navigable-in-
8 fact waterways" means waterways that are navigable in their natural
9 or unimproved condition over which useful commerce or public
10 recreation of a substantial and permanent character is or may be
11 conducted in the customary mode of trade and travel on water. The
12 term does not include lakes or streams that are theoretically
13 navigable; have a potential for navigability; or are temporary,
14 precarious, and unprofitable, but the term does include lakes or
15 streams that have practical usefulness to the public as highways
16 for transportation. Each anchoring limitation area established
17 herein must meet all the following requirements:

18 (a) Be less than 100 acres in size. For purposes of this
19 subsection, the calculated size of the anchoring limitation
20 area does not include any portion of the marked channel of
21 the Florida Intracoastal Waterway contiguous to the
22 anchoring limitation area;

23 (b) Not include any mooring field or marina; and

24 (c) Be clearly marked with all of the following:

25 (1) Signs that provide reasonable notice to boaters
26 identifying the duration of time beyond which
27 anchoring is limited and identifying the county
28 ordinance which the anchoring limitation was created.

29 (2) Buoys marking the boundary of the anchoring limitation
30 area shall be installed and maintained by the City

31 Signs and buoys must be permitted and installed in accordance with

1 Secs. 327.40 and 327.41, *F.S.*, and Florida Wildlife Commission
2 rules.

3 **Sec. 388.404. - Anchoring Limitation Areas Defined.**

4 The following areas are designated as Anchoring Limitation Areas:

- 5 (a) Ortega River Zone 1;
6 (b) Ortega River Zone 2;
7 (c) Ortega River Zone 3; and
8 (d) Ortega River Zone 4.

9 Renderings of the boundaries of these zones can be found at
10 www.coj.net.

11 **Sec. 388.405. - Anchoring Restricted in Anchoring Limitation**
12 **Areas.**

13 A person may not anchor a vessel for more than 45 consecutive days
14 in any 6-month period in an anchoring limitation area established
15 in this Part, except as provided in Sec. 388.406 or Sec. 388.407
16 below.

17 **Sec. 388.406. - Exception for mechanical failure, weather**
18 **conditions and special events.**

19 A person may anchor a vessel in an anchoring limitation area:

- 20 (1) If a vessel suffers a mechanical failure that poses an
21 unreasonable risk of harm to the vessel or persons onboard
22 unless the vessel anchors. The vessel may anchor for 3
23 business days or until the vessel is repaired, whichever
24 occurs first; or
25 (2) If imminent or existing weather conditions in the vicinity
26 of the vessel pose an unreasonable risk of harm to the
27 vessel or the persons onboard unless the vessel anchors.
28 The vessel may anchor until weather conditions no longer
29 pose such risk. During a hurricane or tropical storm,
30 weather conditions are deemed to no longer pose an
31 unreasonable risk of harm when the hurricane or tropical

1 storm warning affecting the area has expired; or
2 (3) During events described in Sec. 327.48, *F.S.*, or other
3 special events, including, but not limited to, public music
4 performances, local government waterfront activities, or
5 fireworks displays. A vessel may anchor the lesser of the
6 duration of the special event or 3 days.

7 **Sec. 388.407. - Vessels not restricted in Anchoring Limitation**
8 **Areas.**

9 The anchoring restrictions of this Part do not apply to:

- 10 (a) Vessels owned or operated by a governmental entity for
11 law enforcement, firefighting, military or rescue
12 purposes.
13 (b) Construction or dredging vessels on an active job site.
14 (c) Vessels actively engaged in commercial fishing.
15 (d) Vessels engaged in recreational fishing if the persons
16 onboard are actively tending hook and line fishing gear
17 or nets.

18 **Sec. 388.408. - Enforcement.**

- 19 (a) For purposes of this section, the term "law enforcement
20 officer or agency" means the Division of Law Enforcement of
21 the Fish and Wildlife Commission and its officers, the
22 Sheriff of Duval County and officers of the Jacksonville
23 Sheriff's Office, and any other law enforcement officer as
24 defined in Sec. 943.10, *F.S.*
25 (b) For a vessel in an anchoring limitation area established
26 pursuant to this Part 4, upon an inquiry by a law
27 enforcement officer or agency, a vessel owner or operator
28 must be given an opportunity to provide proof that the
29 vessel has not exceeded the limitations described in Sec.
30 388.405 herein. Such proof may include any of the
31 following:

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(1) Documentation showing that the vessel was in another location at least 1 mile away within a period of less than 45 days before the inquiry.

(2) Electronic evidence, including, but not limited to, navigational devices or tracking devices that show the vessel was in another location at least 1 mile away within a period of less than 45 days before the inquiry.

(c) If a vessel owner or operator fails or refuses to provide proof that the vessel has not exceeded the limitations described in Sec. 388.405, herein, the law enforcement officer or agency may issue a citation for a violation of this section.

(d) A law enforcement officer or agency may remove a vessel from an anchoring limitation area and impound the vessel for up to 48 hours, or cause such removal and impoundment, if the vessel operator, after being issued a citation for a violation of this section:

(1) Anchors the vessel in violation of this section within 12 hours after being issued the citation; or

(2) Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.

(e) For purposes of this Chapter, "impound" means to seize and retain in the custody of law enforcement. After 48 hours have elapsed since impoundment, if the vessel operator has not appeared to claim the vessel at the designated impoundment location, then the law enforcement officer or agency acting under this Section is authorized to place the vessel into a designated storage location, at the vessel operator's expense, until the vessel operator has claimed

1 the vessel and paid all impoundment, penalty and storage
2 fees which have accrued since impoundment and as a result
3 of any penalties.

4 (f) A vessel that is the subject of more than three violations
5 within 12 months which result in dispositions other than
6 acquittal or dismissal shall be declared to be a public
7 nuisance and subject to Sec. 705.103, *F.S.* or for a
8 derelict vessel, subject to Sec. 823.11, *F.S.*

9 (g) A law enforcement officer or agency acting under this
10 Section to remove or impound a vessel, or to cause such
11 removal or impoundment, shall be held harmless for any
12 damage to the vessel resulting from such removal or
13 impoundment unless the damage results from gross negligence
14 or will misconduct.

15 (h) A contractor performing removal, impoundment and/or storage
16 services at the direction of a law enforcement officer or
17 agency pursuant to this Section must:

18 (1) Be licensed in accordance with United States Coast
19 Guard regulations, as applicable.

20 (2) Obtain and carry a current policy issued by a licensed
21 insurance carrier in this state to insure against any
22 accident, loss, injury, property damage, or other
23 casualty caused by or resulting from the contractor's
24 actions.

25 (3) Be properly equipped to perform such services.

26 **Sec. 388.409. - Violations.**

27 (a) A violation of this Part 4 is punishable as a noncriminal
28 infraction for which the penalty is:

29 (1) For a first offense, up to a maximum of \$50.

30 (2) For a second offense, up to a maximum of \$100.

31 (3) For a third or subsequent offense, up to a maximum

1 of \$250.

2 (b) In addition to the civil penalty imposed above, the
3 operator of a vessel that is removed and impounded
4 pursuant to Section 388.408(d) must pay all removal and
5 storage fees before the vessel is released. A vessel
6 removed pursuant to Section 388.408(d) may not be
7 impounded for longer than 48 hours. Following
8 impoundment, the vessel will be stored as described in
9 Section 388.408(e).

10 **Section 2. Renderings/Directive to Legislative Services**

11 **Division for posting maps.** Renderings of the boundaries of the
12 Anchoring Limitation Areas described in Section 1 above are
13 attached hereto as **Exhibit 1**. Upon adoption of this Ordinance, the
14 Legislative Services Division is directed to forward the maps
15 attached as **Exhibit 1** to the ITD to be placed on the City website.
16 The Legislative Services Division is also directed to forward the
17 maps to the Waterways Coordinator/Dock Master and Jacksonville
18 Sheriff's Office for posting at various locations and for
19 distribution to the public.

20 **Section 3. Council exercising county powers.** Pursuant to
21 Section 4.102, *Ordinance Code*, the enactment of this Ordinance
22 shall be deemed to be the exercise of county powers.

23 **Section 4. Compliance with Sec. 327.4108, F.S.** As
24 required in Sec. 327.408(2)(c), *F.S.*, a notice was provided to the
25 Fish and Wildlife Commission at least 30 days before the
26 introduction of this ordinance, to notify it of the City's
27 intention to establish anchoring limitation areas.

28 **Section. 5. Codification Instructions.** The Codifier and
29 the Office of General Counsel are authorized to make all chapter
30 and division "tables of contents" consistent with the changes set
31 forth herein, including renumbering of sections. Such editorial

1 changes and any others necessary to make the Ordinance Code shall
2 be made forthwith and when inconsistencies are discovered.

3 **Section 6. Effective Date.** This ordinance shall become
4 effective upon signature by the Mayor or upon becoming effective
5 without the Mayor's signature.

6
7 Form Approved:

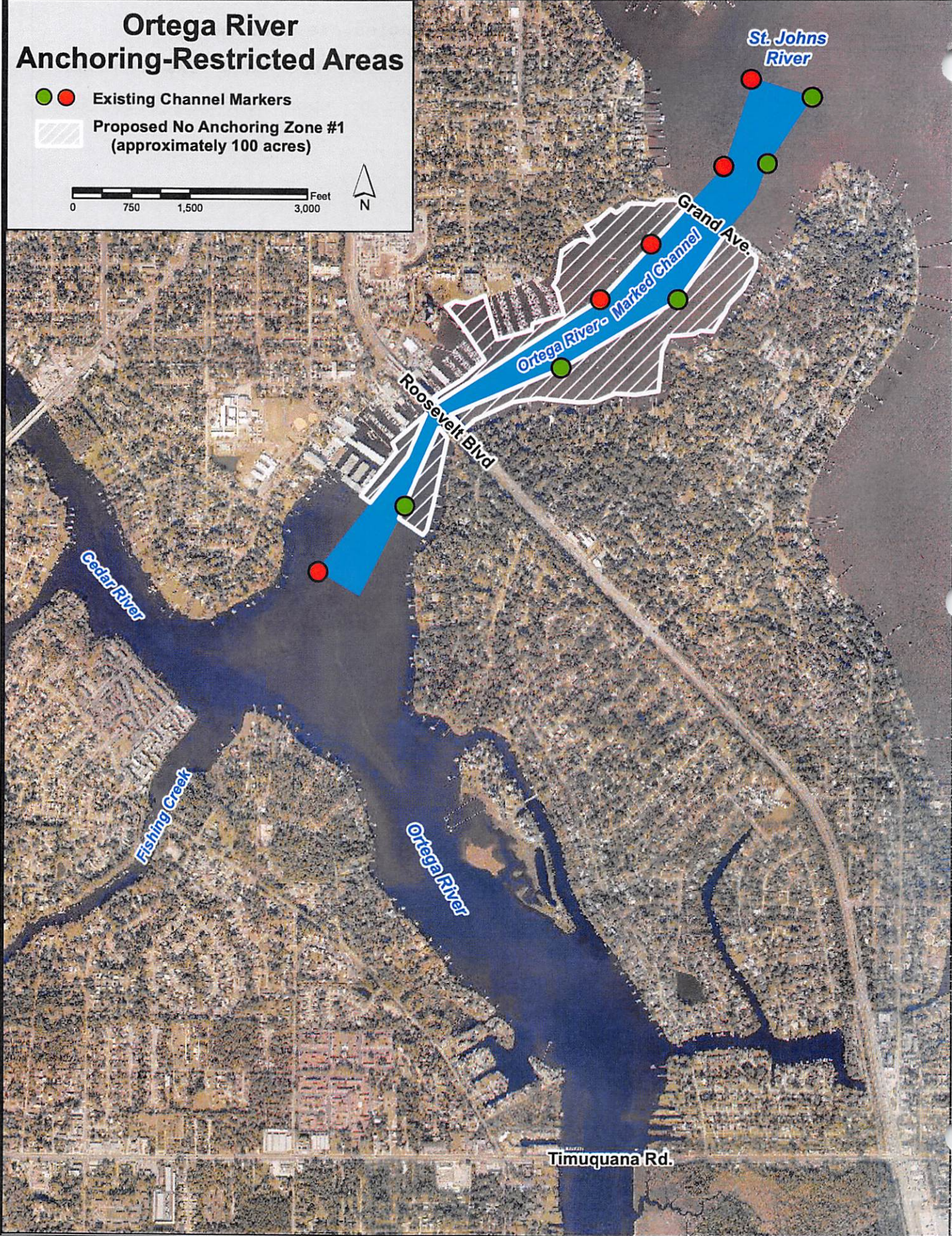
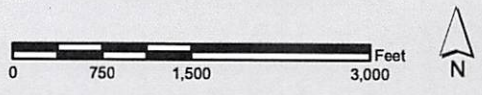
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9 _____
10 Office of General Counsel

11 Legislation Prepared by: Paige H. Johnston

12 GC-#1442104-v5-DeFoor_Anchoring_Limitation_Area.doc

Ortega River Anchoring-Restricted Areas

- Existing Channel Markers
- ▨ Proposed No Anchoring Zone #1 (approximately 100 acres)

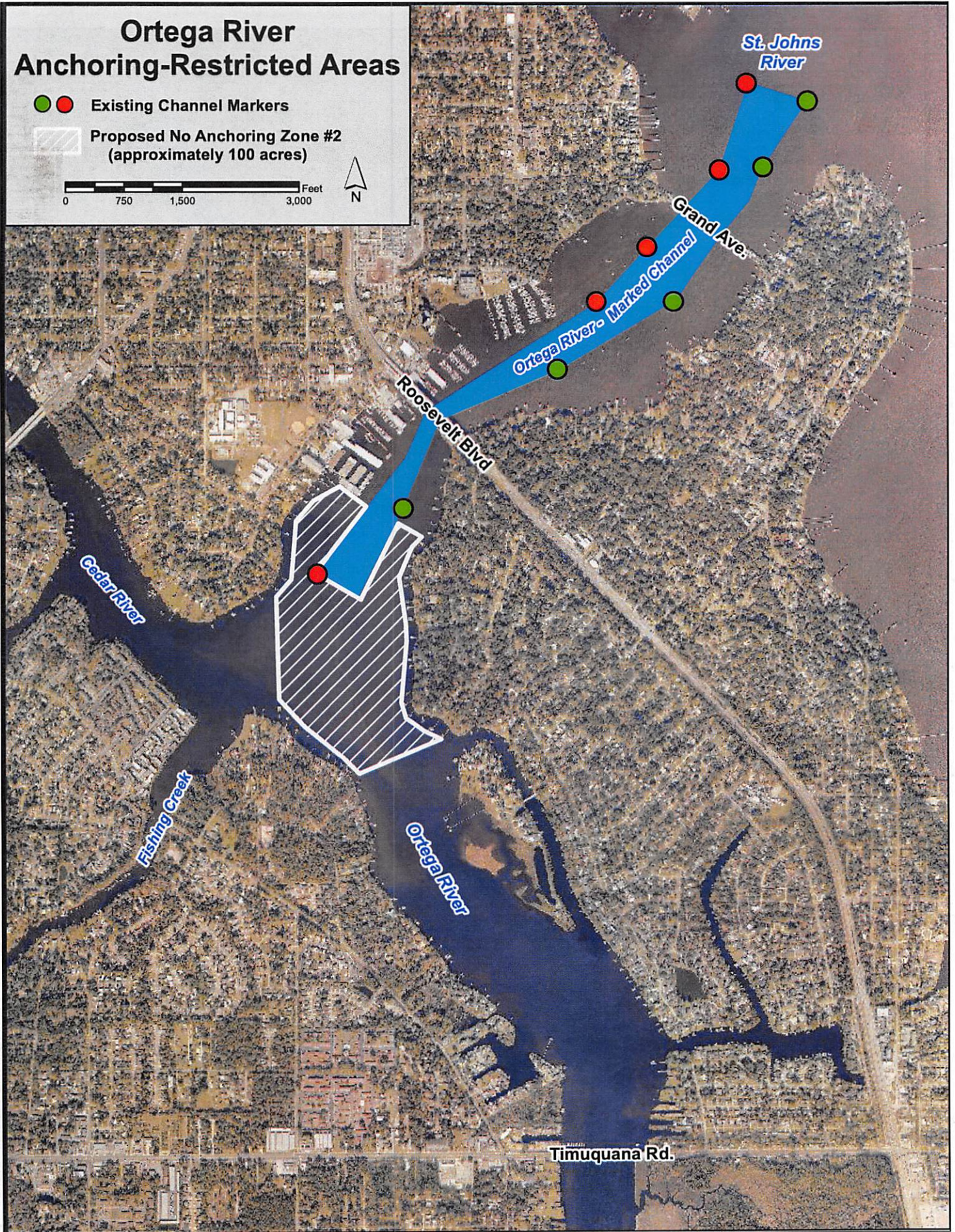


Ortega River Anchoring-Restricted Areas

● Existing Channel Markers

▨ Proposed No Anchoring Zone #2
(approximately 100 acres)

0 750 1,500 3,000 Feet

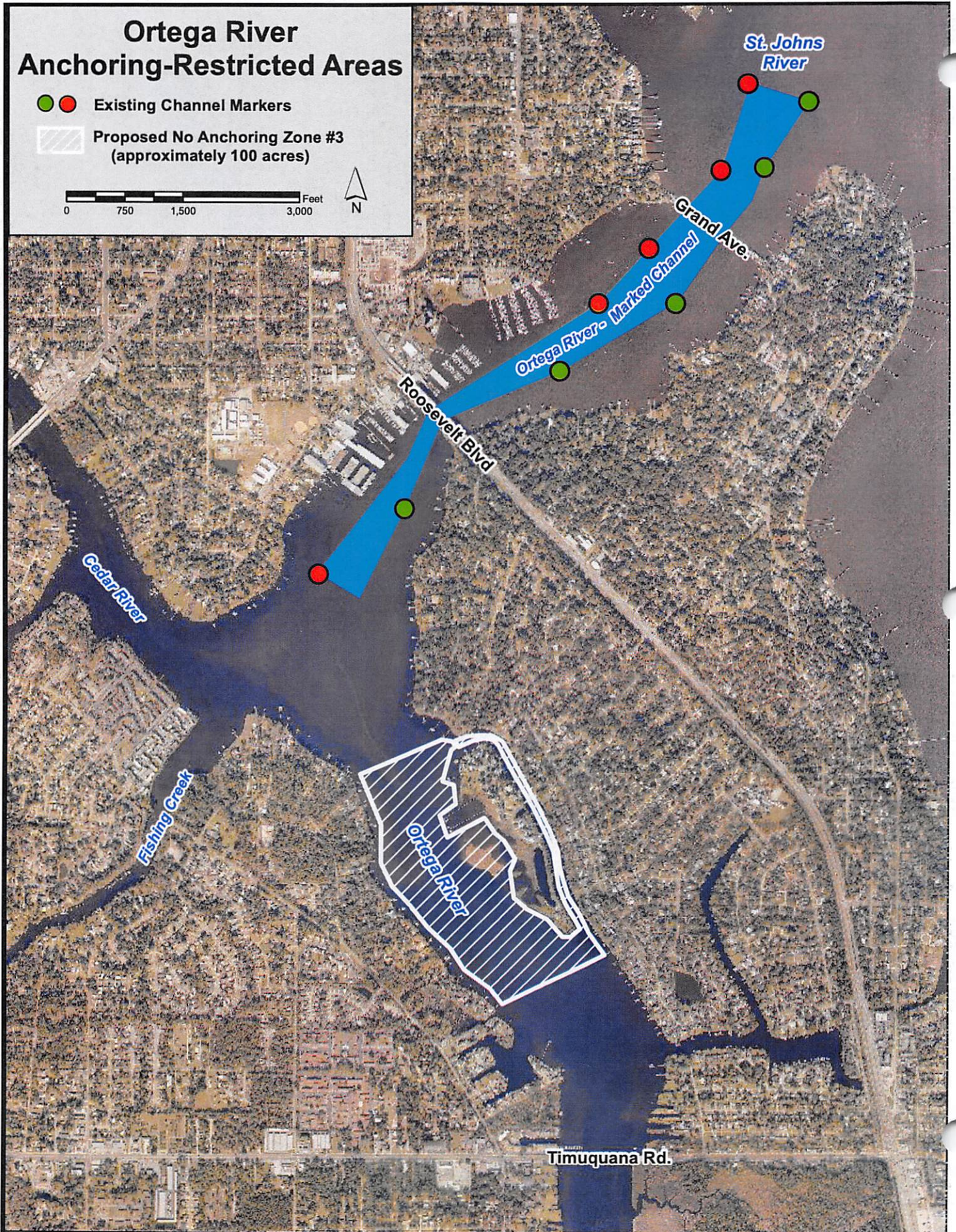


Ortega River Anchoring-Restricted Areas

● ● Existing Channel Markers

▨ Proposed No Anchoring Zone #3
(approximately 100 acres)

0 750 1,500 3,000 Feet



Ortega River Anchoring-Restricted Areas

● Existing Channel Markers

▨ Proposed No Anchoring Zone #4
(approximately 65 acres)

0 750 1,500 3,000 Feet

