

1 The Finance Committee offers the following Substitute to File No.
2 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 LAND
11 ACQUISITION COST 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 REQUIRING CITY COUNCIL APPROVAL PRIOR TO
27 INSTITUTION OF LEGAL PROCEEDINGS; PROVIDING FOR
28 OVERSIGHT BY THE ENGINEERING AND CONSTRUCTION
29 MANAGEMENT DIVISION OF THE DEPARTMENT OF PUBLIC
30 WORKS; PROVIDING AN EFFECTIVE DATE.

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

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

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

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

Section 1. Appropriation. For the 2025-2026 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 **Revised Exhibit 1** and incorporated herein by this reference)

Appropriated from:

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

Appropriated to:

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

(c) Explanation of Appropriation:

The funding above represents an appropriation of \$12,599,258 from the Emerald Trail-Hogan's Creek to Riverwalk - Other Construction Costs account to the Land Acquisition Cost 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 2025-505-E, adopting the 2026-2030 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 Land Acquisition Cost account within the Project, as more fully described in the Project Information Sheet attached hereto as **Exhibit 2** and incorporated herein by this reference. The City Council finds that the deferral of this amendment of the CIP until the next annual budget and CIP review will be detrimental to the best interests of the community because such deferral could result in unnecessary delay in the acquisition of land

1 related to the Project which would negatively impact the completion
2 of the Project.

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

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

29 1. Availability of Alternate Alignments, or Parcels - Due to
30 the nature of the Project, the City is not able to utilize alternate
31 alignments. All of the acquisitions for the Project are directly

1 related to the existing and planned alignment of the Emerald Trail.
2 The City and its design consultant have reviewed the corridor and
3 chosen the path that would minimize the impacts to private property
4 and overall project costs to the City.

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

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

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

30 5. Safety - The Project will improve the safety of the
31 surrounding areas by addressing environmental contamination and

1 alleviating flooding issues. The Project will also include a new
2 multi-use trail and will add or expand the existing sidewalks, which
3 will improve safety for non-vehicular roadway users within the Project
4 limits.

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

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

1 the deposit of funds into the registry of the court in the amount
2 directed by an order of taking pursuant to Section 74.051, *Florida*
3 *Statutes*, from funds lawfully appropriated for the Project.

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

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

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

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

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

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

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

29 **Section 8. Negotiation of Claims for Business Damages.** If
30 the City receives a timely claim for business damages pursuant to
31 Chapter 73.015, *Florida Statutes*, arising from the acquisition of

1 property rights provided for in this Ordinance, the Chief, or her
2 designee, may negotiate, settle, and authorize payment of such claim,
3 subject to the following conditions:

4 a. Lawfully appropriated funds are available for the Project to
5 pay the amount offered; and,

6 b. The amount does not exceed \$100,000; and,

7 c. The Chief of the Engineering and Construction Management
8 Division of the Department of Public Works, with the written
9 concurrence of the Director of Public Works and the General
10 Counsel (or their designees), finds that settlement under the
11 agreed terms is in the best interest of the City.

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

19 a. Lawfully appropriated funds are available for the Project to
20 pay the amount offered; and,

21 b. The Chief of the Engineering and Construction Management
22 Division of the Department of Public Works, with the written
23 concurrence of the Director of Public Works and the General
24 Counsel (or their designees), finds that settlement under the
25 agreed terms is in the best interest of the City.

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

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

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

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

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

21
22 Form Approved:

23
24 /s/ Mary E. Staffopoulos

25 Office of General Counsel

26 Legislation Prepared By: Harry M. Wilson, IV

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