

1 Introduced by the Council President at the request of the Mayor:
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3

4 **ORDINANCE 2023-**

5 AN ORDINANCE CLOSING AND ABANDONING AND/OR
6 DISCLAIMING AN UNOPENED AND UNIMPROVED PORTION
7 OF THE EDEN STREET RIGHT-OF-WAY, ESTABLISHED IN
8 THE PLAT OF BILTMORE NO. 05 REPLAT, AS RECORDED
9 IN PLAT BOOK 14, PAGE 28 OF THE CURRENT PUBLIC
10 RECORDS OF DUVAL COUNTY, FLORIDA, IN COUNCIL
11 DISTRICT 10, AT THE REQUEST OF TOBER
12 CORPORATION; PROVIDING FOR APPROVAL SUBJECT TO
13 CONDITIONS; PROVIDING AN EFFECTIVE DATE.

'23 NOV 20 PM 1:57

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

16 **Section 1. Closure and Abandonment.** An unopened and
17 unimproved portion of the Eden Street right-of-way established in the
18 Plat of Biltmore No. 05 Replat, as recorded in Plat Book 14, Page 28
19 of the current public records of Duval County, Florida, located in
20 Council District 10, a description and depiction of which is attached
21 hereto as **Exhibit 1** and incorporated herein by this reference, is
22 hereby closed and abandoned and/or disclaimed as a right-of-way at
23 the request of Tober Corporation (the "Applicant"). The Applicant
24 paid the right-of-way closure application fee of \$2,091.00, which has
25 been deposited into the General Fund. This closure request was
26 reviewed and approved by the various city, state, and utility agencies
27 that might have an interest in the right-of-way and there were no
28 objections to the Applicant's request.

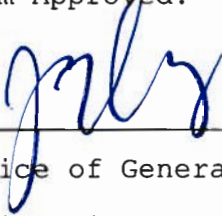
29 **Section 2. Purpose.** The Applicant owns property adjacent
30 to the closure area at 2848 N. Edgewood Avenue (R.E. No. 083939-0000)
31 and is requesting the closure for the potential development of storage

1 units, apartments or single family homes in the closure area.

2 **Section 3. Hold Harmless Covenant.** The closure and
3 abandonment by the City of its interests in the right-of-way is
4 subject to Applicant's execution and delivery to the City of a Hold
5 Harmless Covenant, in substantially the same form attached hereto as
6 **Exhibit 2** and incorporated herein by this reference. Accordingly,
7 the closure and abandonment of the right-of-way shall not be recorded
8 in the public records until execution and delivery to the City by the
9 Applicant of the required Hold Harmless Covenant.

10 **Section 4. Effective Date.** This Ordinance shall become
11 effective upon signature by the Mayor or upon becoming effective
12 without the Mayor's signature.

13
14 Form Approved:

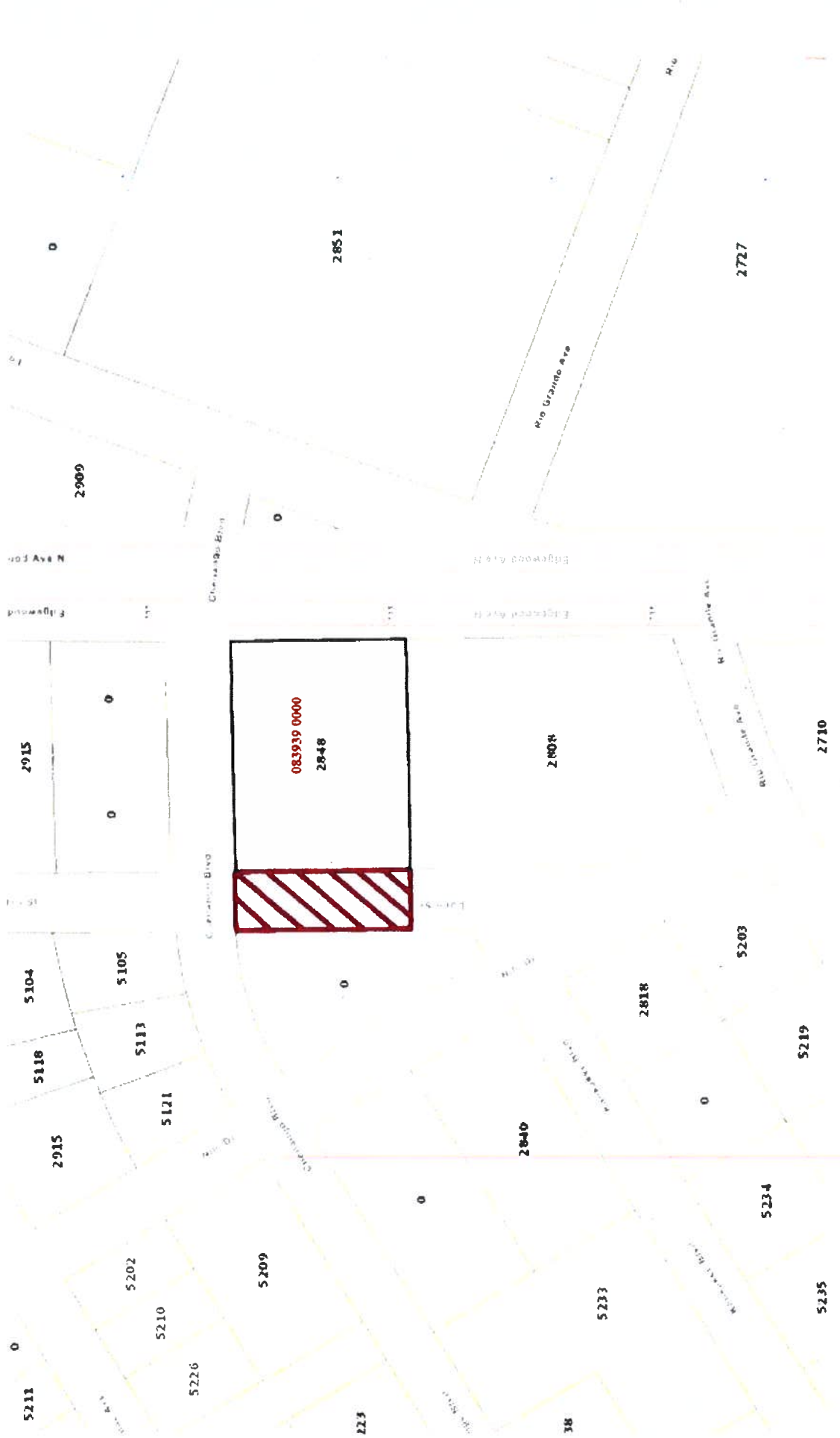
15 
16 _____

17 Office of General Counsel

18 Legislation prepared by: Joelle J. Dillard

19 GC-#1599434-v1-Leg_2023_-_Eden_Street_ROW_Closure.docx

RE 083939-0000
Eden St
Location Map

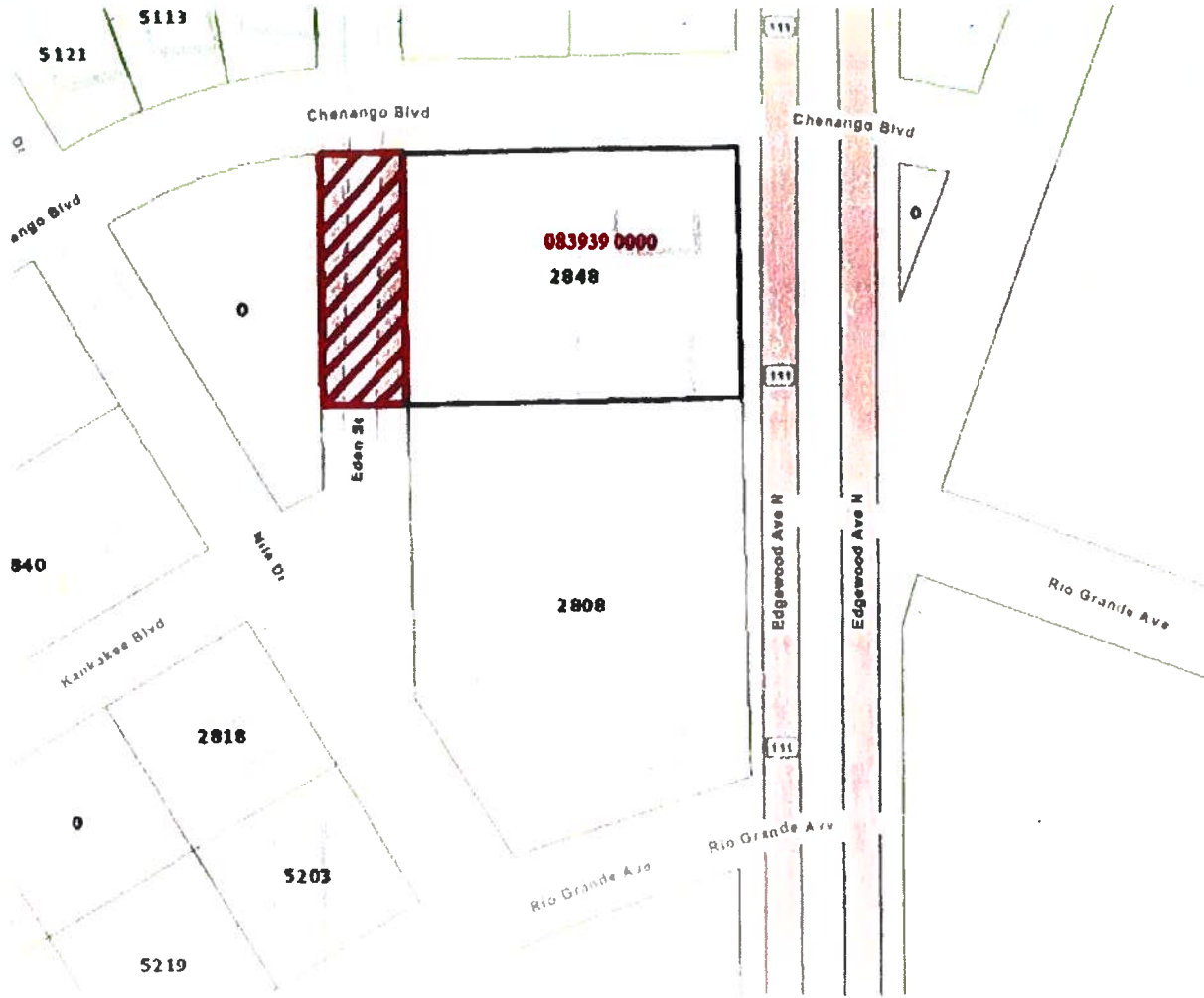


RE 083939-0000

Eden St

Aerial Map





* The City of Jacksonville provides no warranties, expressed or implied, concerning the accuracy, completeness, or reliability of suitability of this location map for any particular use.

That portion of Eden Street lying between Lots 1 and the Northly 50 feet of Lot 3 Block 19 and Lots 1, 2 & 3 Block 20 Replat of Biltmore No. 5, according to the plat thereof, as recorded in Plat Book 14 Page 28 of the Current Public Records of Duval County, Florida,

APPROVED
 DESCRIPTION AGREES
 WITH MAP
 CITY ENGINEERS OFFICE
 TOPO/SURVEY BRANCH
 BY SCC DATE 3/17/23

HOLD HARMLESS COVENANT

This **Hold Harmless Covenant** is hereby granted this _____ day of _____, 2023, by Tober Corporation, whose address is **2594 SW 102nd Drive**, Davie, Florida 33324 ("Grantor") in favor of the **CITY OF JACKSONVILLE**, a consolidated political subdivision and municipal corporation existing under the laws of the State of Florida, whose mailing address is 117 West Duval Street, Jacksonville, Florida 32202 ("City").

IN CONSIDERATION for the closure and/or abandonment of City right-of way or easement areas pursuant to **CITY ORDINANCE** _____, a copy of which is attached hereto and incorporated by reference (the "Ordinance"), located near **RE# 083939-0000** in Council District 10 and as recorded in **Plat Book 14, Page 28, Plat of Biltmore No. 05 Replat**, of the Current Public records of Duval County, Florida.

Grantor, its successors and assigns, holds harmless, indemnifies, and will defend **CITY OF JACKSONVILLE**, its members, officials, officers, employees, and agents against any claim, action, loss, damage, injury, liability, cost and expense of whatever kind or nature (including, but not by way of limitation, attorney fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to the use of the abandoned right-of-way or easement areas, more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by reference (the "Property"); including, but not limited to such injuries or damages resulting from flooding or erosion. This **Hold Harmless Covenant** shall run with the real property described in **Exhibit "A"**. The adjacent property owner(s) who acquire the Property as a result of the abandonment shall be responsible for maintaining the Property

Furthermore, the Property shall remain totally unobstructed by any permanent improvements that may impede the use by the City or JEA of their reserved easement rights, if any, under the provisions of the reserved easement and/or the Ordinance. In the event that such easement rights are reserved by City or JEA: (a) the construction of driveways and the installation of fences, hedges, and landscaping is permissible but subject to removal or damage by the City or JEA at the expense of the Grantor, its successors and assigns, for any repairs to or replacement of the improvements; and (b) Grantor, its successors and assigns, shall indemnify, defend, and hold City and JEA harmless from, any and all loss, damage, action, claim, suit, judgment, cost, or expense for injury to persons (including death) or damage to property and improvements (including destruction), in any manner resulting from or arising out of the installation, replacement, maintenance or failure to maintain, or removal of any improvements placed within the easement area by Grantor, its successors or assigns, and the City's or JEA's exercise of their rights in the reserved easement

**Signed and Sealed
in Our Presence:**

GRANTOR:

(Sign) _____

By: _____

(Print) _____

Name:

Title:

(Sign) _____

(Print) _____

**STATE OF FLORIDA
COUNTY OF DUVAL**

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____ 2023, by _____.

(NOTARY SEAL)

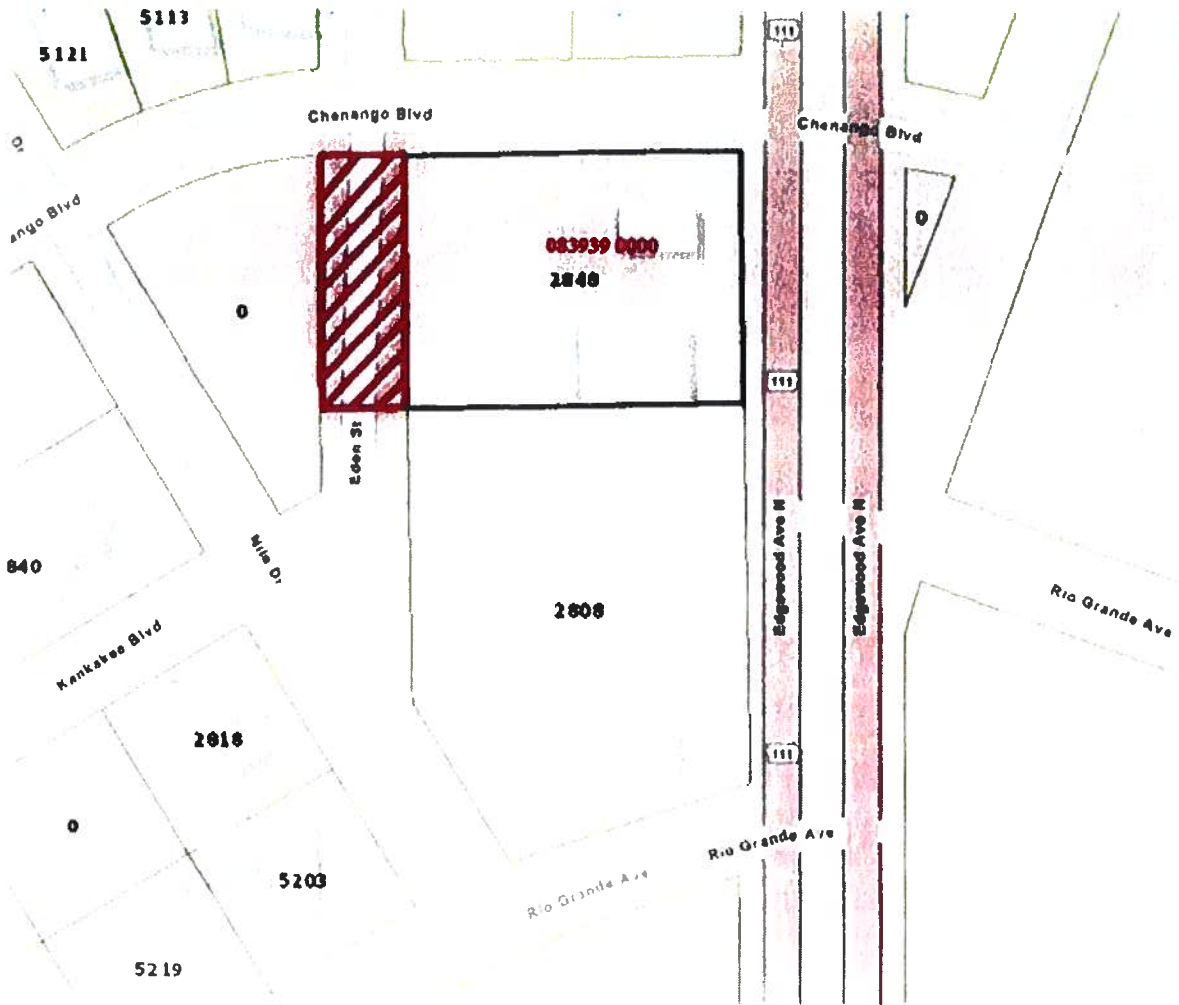
[Signature of Notary Public-State of Florida]

[Name of Notary Typed, Printed, or Stamped]

Personally Known _____ OR Produced Identification

Type of Identification Produced _____

EXHIBIT "A"



* The City of Jacksonville provides no warranties, expressed or implied, concerning the accuracy, completeness, or reliability of suitability of this location map for any particular use.

That portion of Eden Street lying between Lots 1 and the Northly 50 feet of Lot 3 Block 19 and Lots 1,2 & 3 Block 20 Replat of Biltmore No. 5, according to the plat thereof, as recorded in Plat Book 14 Page 28 of the Current Public Records of Duval County, Florida.

APPROVED
DESCRIPTION AGREES
WITH MAP
CITY ENGINEERS OFFICE
TOPO/SURVEY BRANCH
By SCC at: 3/17/23

LEGISLATIVE FACT SHEET

DATE: 10/04/23

BT or RC No: _____

SPONSOR: Public Works/Real Estate in Council member Ju'Coby Pittman's District 10
(Department/Division/Agency/Council Member)

Contact for all inquiries and presentations: Renee Hunter

Provide Name: Renee Hunter, Chief, Real Estate Division

Contact Number: 904-255-8234

Email Address: ReneeH@coj.net

PURPOSE: White Paper (Explain Why this legislation is necessary? Provide; Who, What, When, Where, How and the Impact.) Council Research will complete this form for Council introduced legislation and the Administration is responsible for all other legislation.

(Minimum of 350 words - Maximum of 1 page.)

Please provide authorization for the Public Works Real Estate Division to request the legislation necessary for the City Council to approve the closure and abandonment of an unopened and unimproved portion of Eden Street, as recorded in Plat Book 14, Page 28, Plat of Biltmore No. 05 Replat, of the Current Public Records of Duval County, Florida. See maps attached and RE# 083939-0000 for location purposes.

The Applicant, Tober Corporation, has requested the closure for potential development of storage units, apartments, or single-family homes. The applicant has paid the \$2,091.00 closure application fee. No City, State, or other agency has objected to this closure request.

If additional information or assistance is required, please contact Renee Hunter at 255-8234 or ReneeH@coj.net.

APPROPRIATION: Total Amount Appropriated _____ as follows:
 List the source **name** and provide Object and Subobject Numbers for each category listed below:

(Name of Fund as it will appear in title of legislation)

Name of Federal Funding Source(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name of State Funding Source(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name of City of Jacksonville Funding Source(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name of In-Kind Contribution(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name & Number of Bond Account(s)	From: _____	Amount: _____
	To: _____	Amount: _____

PLAIN LANGUAGE OF APPROPRIATION / FINANCIAL IMPACT / OTHER:

Explain: Where are the funds coming from, going to, how will the funds be used? Does the funding require a match? Is the funding for a specific time frame? Will there be an ongoing maintenance? ... and staffing obligation? Per Chapters 122 & 106 regarding funding of anticipated post-construction operation costs.

(Minimum of 350 words - Maximum of 1 page.)

The applicant has paid the \$2,091.00 closure application fee which has been deposited in the General Fund 00111.152001.349070.000000.00000000.000000.

ACTION ITEMS: Purpose / Check List. If "Yes" please provide detail by attaching justification, and code provisions for each.

ACTION ITEMS:

	Yes	No
Emergency?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Justification of Emergency: If yes, explanation must include detailed nature of emergency.

Federal or State Mandate?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Explanation: If yes, explanation must include detailed nature of mandate including Statute or Provision.

Fiscal Year Carryover?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Note: If yes, note must include explanation of all-year subfund carryover language.

CIP Amendment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Attachment: If yes, attach appropriate CIP form(s). Include justification for mid-year amendment.

Contract / Agreement Approval?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Attachment & Explanation: If yes, attach the Contract / Agreement and name of Department (and contact name) that will provide oversight. Indicate if negotiations are on-going and with whom. Has OGC reviewed / drafted?

OGC has approved the hold harmless covenant template.

Related RC/BT?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Attachment: If yes, attach appropriate RC/BT form(s).

Waiver of Code?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Code Reference: If yes, identify code section(s) in box below and provide detailed explanation (including impacts) within white paper.

Code Exception?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Code Reference: If yes, identify code in box below and provide detailed explanation (including impacts) within white paper.

Related Enacted Ordinances?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Code Reference: If yes, identify related code section(s) and ordinance reference number in the box below and provide detailed explanation and any changes necessary within white paper

ACTION ITEMS CONTINUED: Purpose / Check List. If "Yes" please provide detail by attaching justification, and code provisions for each.

ACTION ITEMS:

	Yes	No
Continuation of Grant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation: How will the funds be used? Does the funding require a match? Is the funding for a specific time frame and/or multi-year? If multi-year, note year of grant? Are there long-term implications for the General Fund?

Surplus Property Certification?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Reporting Requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Attachment: If yes, attach appropriate form(s).

Explanation: List agencies (including City Council / Auditor) to receive reports and frequency of reports, including when reports are due. Provide Department (include contact name and telephone number) responsible for generating

Division Chief: *Rebecca*
(signature)

Date: 10/4/23

Prepared By: *Sandy Bond*
(signature)

Date: 10/4/23

ADMINISTRATIVE TRANSMITTAL

To: MBRC, c/o the Budget Office, St. James Suite 325

Thru: Brittany Norris, Director of Intergovernmental Affairs, Office of the Mayor
Phone: 255-5000 E-mail: bnorris@coj.net

From: Nina Sickler, P.E., Director Public Works
Initiating Department Representative (Name, Job Title, Department)
Phone: 255-8748 E-mail: nsickler@coj.net

Primary Contact: Renee Hunter, Chief, Real Estate
Initiating Department Representative (Name, Job Title, Department)
Phone: 255-8234 E-mail: reneh@coj.net

CC: Brittany Norris, Director of Intergovernmental Affairs, Office of the Mayor
Phone: 255-5000 E-mail: bnorris@coj.net

COUNCIL MEMBER / INDEPENDENT AGENCY / CONSTITUTIONAL OFFICER TRANSMITTAL

To: Mary Staffopoulos, Office of General Counsel, St. James Suite 480
Phone: 904-255-5062 E-mail: mstaff@coj.net

From: _____
Initiating Council Member / Independent Agency / Constitutional Officer
Phone: _____ E-mail: _____

Primary Contact: _____
(Name, Job Title, Department)
Phone: _____ E-mail: _____

CC: Brittany Norris, Director of Intergovernmental Affairs, Office of the Mayor
Phone: 255-5000 E-mail: bnorris@coj.net

Legislation from Independent Agencies requires a resolution from the Independent Agency Board approving the legislation.

Independent Agency Action Item: Yes No

Boards Action / Resolution? Attachment: If yes, attach appropriate documentation. If no, when is board action scheduled?

FACT SHEET IS REQUIRED BEFORE LEGISLATION IS INTRODUCED

BUSINESS IMPACT ESTIMATE

Pursuant to Section 166.041(4), F.S., the City is required to prepare a Business Impact Estimate for ordinances that are **NOT** exempt from this requirement. A list of ordinance exemptions are provided below. Please check all exemption boxes that apply to this ordinance. If an exemption is applicable, a Business Impact Estimate **IS NOT** required.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

If none of the boxes above are checked, then a Business Impact Estimate **IS REQUIRED** to be prepared by the using agency/office/department and submitted in the MBRC filing packet along with the memorandum request, legislative fact sheet, etc. A Business Impact Estimate form can be found at: <https://www.coj.net/departments/finance/budget/mayor-s-budget-review-committee>

Business Impact Estimate

This form must be posted on the City of Jacksonville's website by the time notice of the proposed ordinance is published.

ORDINANCE NUMBER TO BE ASSIGNED (2023-____) title of ordinance AN ORDINANCE CLOSING AND ABANDONING AND/OR DISCLAIMING AN UNOPENED AND UNIMPROVED PORTION OF THE EDEN STREET RIGHT-OF-WAY, ESTABLISHED IN THE PLAT OF BILTMORE NO. 05 REPLAT, AS RECORDED IN PLAT BOOK 14, PAGE 28 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, IN COUNCIL DISTRICT 10, AT THE REQUEST OF TOBER CORPORATION; PROVIDING FOR APPROVAL SUBJECT TO CONDITIONS; PROVIDING AN EFFECTIVE DATE.

Summary of the proposed ordinance: AN ORDINANCE AS REQUIRED UNDER FLORIDA STATUTE 336.09 CLOSING AND ABANDONING AND/OR DISCLAIMING AN UNOPENED AND UNIMPROVED PORTION OF THE EDEN STREET RIGHT-OF-WAY, ESTABLISHED IN THE PLAT OF BILTMORE NO. 05 REPLAT, AS RECORDED IN PLAT BOOK 14, PAGE 28 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, IN COUNCIL DISTRICT 10, AT THE REQUEST OF TOBER CORPORATION; PROVIDING FOR APPROVAL SUBJECT TO CONDITIONS; PROVIDING AN EFFECTIVE DATE.

An estimate of the direct economic impact of the proposed ordinance: \$2,091 CLOSURE APPLICATION FEE HAS BEEN DEPOSITED INTO THE GENERAL FUND. THIS LEGISLATION WILL NOT REQUIRE BUSINESSES TO INCUR ANY DIRECT COMPLIANCE COSTS NOR WILL ANY NEW CHARGES OR FEES BE ASSESSED BY THIS LEGISLATION FOR WHICH BUSINESSES WILL BE FINANCIALLY RESPONSIBLE.

Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: NONE OTHER THAN APPLICANT.

Additional information the governing body deems useful (if any): N/A