

LEGISLATIVE FACT SHEET

DATE: 12/08/21

BT or RC No: _____
(Administration & City Council Bills)

SPONSOR: Mayor (Public Works)
(Department/Division/Agency/Council Member)

Provide Name: Kyle Gavin and Rita Mairs, Office of General Counsel

Contact Number: (904) 255-5047; (904) 614-4187

Email Address: ic@coj.net; kgavin@coj.net; mairsr@duvalschool

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.)

Pursuant to Jacksonville Ordinance Code, sections 112.302 and 112.110(e), this legislation is being proposed to settle a dispute of claims involving the City that exceed \$100,000. The claims stem from 2016 and 2017, which was when the City of Jacksonville's ("City") Public Works Department, replaced the air conditioning/HVAC system at the Animal Care and Protective Services ("ACPS") shelter located at 2020 Forest Street, in Jacksonville, Florida ("HVAC Project"). VRL ARCHITECTS, INC. ("VRL"), a local architectural firm, entered into a contract with the City to provide architectural and engineering services to the City in connection with the HVAC Project; M.V. CUMMINGS ENGINEERS, INC. ("MVCE"), a local engineering firm, entered into a subcontract with VRL to provide the engineering services required of VRL in connection with the HVAC Project; TRANE U.S. INC. ("Trane"), a national HVAC equipment manufacturer, entered into a contract with the City to provide the equipment used in the HVAC Project to replace the original HVAC equipment. Shortly after the HVAC system was installed at ACPS, the City began experiencing multiple issues associated with excessive air pressure, humidity, and ammonia levels. Over time, many solutions were proposed, and modifications made to the HVAC system, but no proposed solution or modification ever resulted in fully correcting the issues. Eventually, efforts by the contracted parties to resolve the outstanding issues ceased. As a result, the City filed suit against VRL, MVCE, and Trane to recover its damages. Because the City had not completed payment to Trane for the manufactured equipment, Trane filed a counterclaim against the City, seeking to recover that outstanding amount. Following mediation, VRL, MVCE, and Trane (in varying amounts) have agreed to pay the City a total amount of \$750,000, which will offset the cost of future replacement HVAC units and any necessary remediation efforts caused by the excessive humidity. The City, VRL, MVCE, and Trane wish to resolve all matters relating to this matter, thereby avoiding the risk of increased costs, expenses, and attorney's fees associated with continued litigation. As a result, the parties have developed a proposed Mutual Settlement Agreement and Release, attached as an exhibit to the Legislation, and are asking for City Council's approval of said resolution.

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.)

There will be no appropriation for this matter. Instead, the City will be receiving \$750,000 per the settlement agreement as the City is the Plaintiff in the lawsuit at issue. Pursuant to the settlement agreement, this amount will be due to the City from Defenants VRL (\$50,000), MVCE (\$425,000), and Trane (\$275,000), 30 days after Defendants receive a fully executed copy of the Mutual Settlement and Release Agreement and a W9 from Plaintiff (following approval of the settlement by the Jacksonville City Council). This lawsuit concerns the City's Public Works Department and the settlement payment is intended to go toward replacement of the HVAC units at ACPS and any necessary remediation at ACPS due to the excessive humidity. Some remediation has already occurred.

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

ACTION ITEMS:

Emergency? **Yes** **No**

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

Federal or State Mandate? **Yes** **No**

Explanation: If yes, explanation must include detailed nature of mandate including Statute or Provision.

Fiscal Year Carryover?

Note: If yes, note must include explanation of all-year subfund carryover language.

CIP Amendment?

Attachment: If yes, attach appropriate CIP form(s). Include justification for mid-year amendment.

Contract / Agreement Approval?

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?

Related RC/BT?

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

Waiver of Code?

Code Reference: If yes, identify code section(s) in box below and provide detailed explanation (including impacts) within white paper.

Code Exception?

Code Reference: If yes, identify code in box below and provide detailed explanation (including impacts) within white paper.

Related Enacted Ordinances?

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?

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?

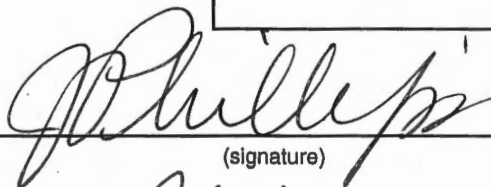
Surplus Property
Certification?

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

Reporting
Requirements?

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

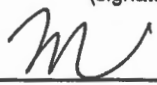
Division Chief:



(signature)

Date: 12-8-21

Prepared By:



(signature)

Date: 12/8/21

ADMINISTRATIVE TRANSMITTAL

To: MBRC, Budget Office, St. James Suite 325

Thru: Stephanie Burch, Deputy Chief Administrative Officer, Mayor's Office
(Name, Job Title, Department)
Phone: 255-5034 E-mail: stephanieb@coj.net

From: John Pappas, Director of Public Works
Initiating Department Representative (Name, Job Title, Department)
Phone: 255-8748 E-mail: pappas@coj.net

Primary Contact: Roy Birbal
(Name, Job Title, Department)
Phone: 255-4330 E-mail: rbirbal@coj.net

CC: Rachel Zimmer, Director of Intergovernmental Affairs, Office of the Mayor
Ph: 255-5006 E-mail: rachelz@coj.net

COUNCIL MEMBER / INDEPENDENT AGENCY / CONSTITUTIONAL OFFICER TRANSMITTAL

To: Peggy Sidman, Office of General Counsel, St. James Suite 480
Phone: (904) 255-5055 E-mail: psidman@coj.net

From: Office of General Counsel
Initiating Council Member / Independent Agency / Constitutional Officer
Phone: 255-5100 E-mail: mairsr@duvalschools.org

Primary Contact: Rita M. Mairs, Office of General Counsel
(Name, Job Title, Department)
Phone: (904) 614-4187 E-mail: MairsR@duvalschools.org

CC: Rachel Zimmer, Director of Intergovernmental Affairs, Office of the Mayor
Ph: 255-5006 E-mail: rachelz@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