

1 Introduced by the Council President at the request of the Office of
2 General Counsel:

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5 **ORDINANCE 2020-629**

6 AN ORDINANCE APPROVING THE SETTLEMENT OF PENDING
7 LITIGATION, JOHN KEANE, PLAINTIFF, V.
8 JACKSONVILLE POLICE AND FIRE PENSION FUND BOARD
9 OF TRUSTEES AND THE CITY OF JACKSONVILLE,
10 DEFENDANTS, CASE NUMBER 16-2018-CA-5925
11 REGARDING ALLEGED CLAIMS PERTAINING TO THE
12 LEGALITY OF THE JACKSONVILLE POLICE AND FIRE
13 PENSION FUND SENIOR STAFF VOLUNTARY RETIREMENT
14 PLAN; AUTHORIZING THE GENERAL COUNSEL OR HIS
15 DESIGNEE TO TAKE FURTHER ACTION TO CONCLUDE THE
16 LITIGATION; PROVIDING AN EFFECTIVE DATE.

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18 **WHEREAS**, in 2000 the Jacksonville Police and Fire Pension Fund
19 Board of Trustees ("PFPF Board") created a defined benefit plan for
20 certain PFPF Board employees, known as the Jacksonville Police and
21 Fire Pension Fund Senior Staff Voluntary Retirement Plan ("Senior
22 Staff Plan"); and

23 **WHEREAS**, the City of Jacksonville's ("City") auditors discovered
24 the Senior Staff Plan during a 2012 audit of the Pension Fund, and
25 on August 10, 2012, then General Counsel for the City issued a legal
26 opinion that the PFPF Board did not have the authority to create the
27 Senior Staff Plan. On April 20, 2016, the current General Counsel
28 issued an opinion, also concluding that the Senior Staff Plan was
29 unauthorized. Pursuant to section 7.02, Jacksonville Charter, a
30 legal opinion rendered by the General Counsel is the final authority
31 on a legal issue until "overruled or modified by a court of competent

1 jurisdiction"; and

2 **WHEREAS**, following the 2016 General Counsel opinion, the City
3 recalculated Keane's pension benefits as though Keane had
4 participated in the City's General Employees Pension Plan. As a
5 result of the recalculation, Keane filed the pending lawsuit claiming,
6 among other things, that the PFPF Board breached Keane's employment
7 contract and that the City tortiously interfered with that contractual
8 relationship. The City and PFPF Board defended this lawsuit, raising
9 affirmative defenses and a counterclaim was brought against Keane for
10 the return of certain monies; and

11 **WHEREAS**, a hearing was held on May 28, 2020, on Plaintiff's and
12 Defendants' motions for summary judgment, at which time the Court
13 ruled that the PFPF Board had the authority to create the Senior
14 Staff Plan and that the employment agreement between John Keane and
15 the PFPF Board was valid; and

16 **WHEREAS**, on June 4, 2020, the PFPF Board voted to neither pursue
17 an appeal of the nonfinal order nor move for a rehearing concerning
18 the ruling; and

19 **WHEREAS**, the parties through their respective representatives
20 participated in formal mediation and have reached an agreement to
21 resolve the lawsuit, which entails essentially the following: the
22 PFPF Board and the City will each pay John Keane \$125,000.00 (for a
23 total settlement payment of \$250,000.00) and Keane will retain his
24 Senior Staff Plan pension benefits which will not be subject to
25 further recalculation; in exchange for these terms, Keane is fully
26 releasing all claims against the Defendants and any purported
27 entitlement to attorney's fees or costs; and

28 **WHEREAS**, the PFPF Board, as co-defendant, adopted Resolution No.
29 2020-08-27-01, in which the PFPF Board approved settlement of the
30 litigation and payment by the PFPF Board to Keane in the amount of
31 \$125,000.00; and

1 **WHEREAS**, it is anticipated that if this lawsuit does not settle,
2 the parties will incur lengthy and expensive litigation and face
3 uncertain outcomes, which the parties wish to avoid; and

4 **WHEREAS**, the Council finds that it is in the best interest of
5 the City that the dispute be resolved without resorting to further
6 litigation, costs and expenses; and

7 **WHEREAS**, because the tortious interference claim against the
8 City is a risk covered by the City's Self-Insurance Program, the
9 payment of the City's settlement amount of \$125,000.00 is provided
10 for by the general liability Self-Insurance Program funds.

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

12 **Section 1. Settlement Approval and Authorization to Execute**
13 **and Implement.** The Council hereby approves, and the Mayor, or his
14 designee, and the Corporation Secretary are hereby authorized to
15 execute, for and on behalf of the City, the joint Complete Release
16 in substantially the form as attached hereto and incorporated herein
17 by this reference as **Exhibit 1.**

18 **Section 2. Further Action Authorized.** The General Counsel,
19 or his designee, is authorized to take such further action and to
20 execute all other documents necessary, including a joint dismissal
21 of all claims and counterclaims, to effectuate the approved
22 settlement.

23 **Section 3. Effective Date.** This Ordinance shall become
24 effective upon signature by the Mayor or upon becoming effective
25 without the Mayor's signature.

1 Form Approved:

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3 /s/ Rita M. Mairs

4 Office of General Counsel

5 Legislation Prepared By Rita M. Mairs

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