

Council Member Salem offers the following Substitute to File No.
2024-46:

Introduced by Council Members Salem, Gay, Howland, Miller and White:

ORDINANCE 2024-46

AN ORDINANCE AMENDING SECTION 106.441
(ACCEPTANCE OF GIFTS, DONATIONS, ETC.), SUBPART
E (MISCELLANEOUS PROVISIONS), PART 4 (FISCAL
MANAGEMENT), CHAPTER 106 (BUDGET AND ACCOUNTING
CODE), *ORDINANCE CODE*; AMENDING SECTION 111.105
(SPECIAL EVENT AND PARKS, RECREATION AND
COMMUNITY SERVICES TRUST FUNDS) , PART 1 (PARKS,
RECREATION, CULTURE AND ENTERTAINMENT), CHAPTER
111 (SPECIAL REVENUE AND TRUST ACCOUNTS),
ORDINANCE CODE; AMENDING SECTION 122.602
(DEFINITIONS), PART 6 (CAPITAL IMPROVEMENT
PLAN), CHAPTER 122 (CAPITAL IMPROVEMENT PLAN),
ORDINANCE CODE; AMENDING SECTION 126.205
(INFORMAL PURCHASES AND SALES TRANSACTIONS),
PART 2 (SUPPLIES, CONTRACTUAL SERVICES AND
CAPITAL IMPROVEMENTS), CHAPTER 126 (PROCUREMENT
CODE), *ORDINANCE CODE*; CREATING A NEW PART 5
(IN-KIND SERVICES DONATIONS), CHAPTER 113 (GIFTS
TO CITY), *ORDINANCE CODE*; CREATING A NEW SECTION
122.608 (IN-KIND SERVICES DONATIONS FOR CAPITAL
IMPROVEMENT PROJECTS; COUNCIL APPROVAL
REQUIRED), PART 6 (CAPITAL IMPROVEMENT PLAN),
CHAPTER 122 (PUBLIC PROPERTY), *ORDINANCE CODE*;
PROSPECTIVELY AMENDING SUBPART C (PROCUREMENT

METHODS AND PROCEDURES), PART 3 (PROCUREMENT THRESHOLDS, MODES, METHODS, AND PROCEDURES), CHAPTER 126 (PROCUREMENT CODE), *ORDINANCE CODE*; ESTABLISHING A PROSPECTIVE DATE OF JULY 1, 2024, FOR THE CODE AMENDMENTS CONTAINED IN SECTION 7 OF THIS ORDINANCE TO BECOME EFFECTIVE; PROVIDING CODIFICATION INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Amending Section 106.441 (Acceptance of Gifts, Donations, Etc.), Subpart E (Miscellaneous Provisions), Part 4 (Fiscal Management), Chapter 106 (Budget and Accounting Code), Ordinance Code. Section 106.441 (Acceptance of Gifts, Donations, Etc.), Subpart E (Miscellaneous Provisions), Part 4 (Fiscal Management), Chapter 106 (Budget and Accounting Code), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 106 - BUDGET AND ACCOUNTING CODE

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PART 4. - FISCAL MANAGEMENT

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SUBPART E. - MISCELLANEOUS PROVISIONS

Sec. 106.441. - Acceptance of gifts, donations, etc.

Unless otherwise provided in the Code, ~~The~~ the Mayor is authorized to accept on behalf of the City, gifts, bequests, and other donations, whether testamentary, charitable or otherwise, for any purpose which the City has power under the Charter to perform, and the Mayor and Corporation Secretary are empowered to execute appropriate instruments of acceptance or receipt in connection therewith. Notwithstanding the general authority granted by the first sentence of this Section, the Mayor may not, without the approval of

1 the Council, accept any such gift, bequest, or other donation if the
2 same contains any condition, limitation, or restriction which:

3 (a) Would limit the general government in the exercise of its
4 governmental functions, or would have that effect.

5 (b) Requires any public building or facility, whether existing,
6 under construction or proposed, to be named after any individual,
7 whether living or deceased.

8 (c) Obligates the City to provide specific governmental services
9 to specific individuals or to a specific class of individuals, when
10 such services are already available generally to the public.

11 (d) Involves the purchase or lease of real property not already
12 under public ownership or the disposition of public property contrary
13 to the provisions contained in Chapter 122.

14 (e) Requires an appropriation by the Council.

15 (f) Involves the alteration, relocation, demolition, or removal
16 of any portion of a statue, obelisk, or monument.

17 (g) Involves services for capital improvements as defined in
18 Chapter 126 of the Code, including, but not limited to, projects
19 identified on the Capital Improvement Plan.

20 The provisions of this Section are not to be construed as
21 conflicting with the provisions of Section 122.401. Nothing in this
22 Section shall be construed as an appropriation of any funds received
23 pursuant to a gift, bequest, or donation.

24 **Section 2. Amending Section 111.105 (Special Event and**
25 **Parks, Recreation and Community Services Trust Funds), Part 1 (Parks,**
26 **Recreation, Culture and Entertainment), Chapter 111 (Special Revenue**
27 **and Trust Accounts), Ordinance Code.** Section 111.105 (Special Event
28 and Parks, Recreation and Community Services Trust Funds), Part 1
29 (Parks, Recreation, Culture and Entertainment), Chapter 111 (Special
30 Revenue and Trust Accounts), Ordinance Code, is hereby amended to
31 read as follows:

1 **CHAPTER 111 - SPECIAL REVENUE AND TRUST ACCOUNTS**

2 **PART 1. - PARKS, RECREATION, CULTURE AND ENTERTAINMENT**

3 * * *

4 **Sec. 111.105. - Special Event and Parks, Recreation and Community**
5 **Services Trust Funds.**

6 * * *

7 (b) *Parks, Recreation and Community Services Trust Fund.* There is
8 created an account to be known as the *Parks, Recreation and Community*
9 *Services Trust Fund*, into which shall be deposited all funds
10 appropriated from time to time by the Council and all donations,
11 gifts, and fees which are charged by the City or given to the City
12 from nongovernmental sources, together with the interest thereon,
13 to enhance parks. Park enhancements can be for: (i) operating
14 purposes such as providing higher than normal levels of service
15 (e.g., more frequent grass mowing or enhanced programming); or (ii)
16 capital and other improvements (including the subsequent maintenance
17 thereof if installation is funded pursuant to this paragraph). No
18 funding deposited and appropriated, or in-kind services donated,
19 pursuant to this Trust Fund may be used for the demolition,
20 alteration, relocation, or removal of any portion of a statue,
21 obelisk, or monument in a park, unless approved by Council in advance
22 of such work being performed. The Director of Finance and
23 Administration is authorized and directed to make disbursements from
24 this fund upon the written requisition of the Director of the Parks,
25 Recreation and Community Services Department, or his designee (the
26 "Director"). The Director is authorized to negotiate and execute
27 contracts and agreements with for-profit and not-for-profit entities
28 for the benefit of an individual park or the park system as a whole;
29 provided, however, that the Director of Finance and Administration
30 shall certify on such contracts or agreements that there are current
31 funds available in this trust fund to fund the particular park

enhancement in question, and provided further, that the Office of General Counsel shall approve such contracts and agreements before said contracts or agreements are executed by the parties. No single park enhancement, whether for improvements or enhanced programming, may exceed \$100,000 without Council approval; any single expenditure from this trust fund in excess of \$100,000 shall require prior Council approval. The Director may accept into this trust fund in-kind donations of labor and materials for the purposes set forth herein and direct the use of such donations, but the use of any in-kind donation having a value in excess of \$100,000 shall require prior Council approval. No operating funds may be transferred into this trust fund unless specifically approved by ~~City~~ Council. The Director shall administer the rules and guidelines regarding donations to this trust fund, which may include name recognition of donors consistent with the schedule set forth in the rules and guidelines. All monies and interest placed into this trust fund are hereby appropriated for the purposes of this trust fund and such appropriations shall not lapse at the close of any fiscal year, but instead shall carry over to the next fiscal year.

Section 3. Amending Section 122.602 (Definitions), Part 6 (Capital Improvement Plan), Chapter 122 (Public Property), Ordinance Code. Section 122.602 (Definitions), Part 6 (Capital Improvement Plan), Chapter 122 (Public Property), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 122 - PUBLIC PROPERTY

*** * ***

PART 6. - CAPITAL IMPROVEMENT PLAN

*** * ***

Sec. 122.602. - Definitions.

As used in this Part 6, the following terms shall have the following meanings:

1 (a) *Capital Improvement Project*. Excluded from the term and
2 definition of Capital Improvement shall be all Community
3 Redevelopment Area Projects. "Capital Improvement Project" means a
4 planned undertaking of the City or an independent agency that leads
5 to the acquisition, construction, removal, alteration, demolition,
6 rehabilitation, or extension of the useful life of capital assets.
7 Capital assets include things such as land, buildings, parks,
8 streets, utilities, and other items of value from which the community
9 derives benefit. To constitute a capital improvement project, the
10 project must:

- 11 1. Have a total cost greater than \$100,000 and a useful life
12 of more than ten years.
- 13 2. Be a one-time outlay, which is non-recurring in nature.
- 14 3. Add to, enhance the value of, or extend the life of the
15 City's physical assets.
- 16 4. Major equipment purchases must be associated with a Capital
17 Improvement Project and must meet the criteria in item 1 above
18 in order to be included as a Capital Improvement Project.

19 Any project which meets the definition of a Capital Improvement
20 Project must be included in the Capital Improvement Plan, regardless
21 of funding source.

22 * * *

23 **Section 4. Amending Section 126.205 (Informal purchases and**
24 **sales transactions), Part 2 (Supplies, Contractual Services and**
25 **Capital Improvements), Chapter 126 (Procurement Code), Ordinance**
26 **Code.** Section 126.205 (Informal purchases and sales transactions),
27 Part 2 (Supplies, Contractual Services and Capital Improvements),
28 Chapter 126 (Procurement Code), *Ordinance Code*, is hereby amended to
29 read as follows:

30 **CHAPTER 126 - PROCUREMENT CODE**

31 * * *

1 **PART 2. - SUPPLIES, CONTRACTUAL SERVICES AND CAPITAL IMPROVEMENTS**

2 * * *

3 **Sec.126.205. - Informal purchases and sales transactions.**

4 Purchases and sales other than those defined in Section 126.102(f),
5 hereof, shall be made in accordance with regulations established by
6 the Chief and approved by the Mayor. Prior City Council approval
7 shall be required for in-kind services awards or contracts that
8 require City Council approval pursuant to Section 106.441 and Chapter
9 113, Part 5 of the Code.

10 * * *

11 **Section 5. Creating a new Part 5 (In-Kind Services**
12 **Donations), Chapter 113 (Gifts to the City), Ordinance Code.** A new
13 Part 5 (In-Kind Services Donations), Chapter 113 (Gifts to the City),
14 Ordinance Code, is hereby created to read as follows:

15 **CHAPTER 113 - GIFTS TO THE CITY**

16 * * *

17 **PART 5. - IN-KIND SERVICES DONATIONS**

18 **Sec. 113.501. - Scope.**

19 This part establishes procedures for the receipt of in-kind
20 services donations.

21 **Sec. 113.502. - Acceptance.**

22 Unless otherwise provided in the Code, all in-kind services
23 donations may be accepted by the Mayor except that the following in-
24 kind services donations shall require City Council approval prior to
25 acceptance:

- 26 (a) In-kind services for any capital improvement;
27 (b) In-kind services that include the demolition, alteration,
28 relocation, or removal of any portion of a statue,
29 obelisk, or monument; or
30 (c) In-kind services with a monetary value exceeding \$100,000.

For purposes of this section the term "capital improvement" shall have the meaning defined in Chapter 126 of the Code.

Sec. 113.503. - Authorization and execution.

The Mayor and Corporation Secretary are authorized to execute appropriate instruments, including contracts and agreements, in connection with the acceptance or receipt of in-kind services donations under this Part, except for those in-kind services donations in this Chapter that require prior City Council approval.

Sec. 113.504. - Recognition.

It is the policy of the City to nurture and welcome all donations of in-kind services to the City. Therefore, it is the policy of the City that the Mayor appropriately recognize all donors in any reasonable and practicable manner that is otherwise consistent with the Code.

* * *

Section 6. Creating a new Section 122.608 (In-Kind Services Donations for Capital Improvement Projects; Council Approval Required), Part 6 (Capital Improvement Plan), Chapter 122 (Public Property), Ordinance Code. A new Section 122.608 (In-Kind Services Donations for Capital Improvement Projects; Council Approval Required), Part 6 (Capital Improvement Plan), Chapter 122 (Public Property), *Ordinance Code*, is hereby created to read as follows:

CHAPTER 122 - PUBLIC PROPERTY

* * *

PART 6. - CAPITAL IMPROVEMENT PLAN

* * *

Sec. 122.608. - In-Kind Services Donations for Capital Improvement Projects; Council Approval Required.

In-kind services donations for a Capital Improvement Project shall require a donation agreement between the City and the donor approved by City Council prior to the Mayor's acceptance and donor's

1 commencement of the in-kind services.

2 **Section 7. Prospectively amending Subpart C (Procurement**
3 **Methods and Procedures), Part 3 (Procurement Thresholds, Modes,**
4 **Methods, and Procedures), Chapter 126 (Procurement Code), Ordinance**
5 **Code.** Effective July 1, 2024, Subpart C (Procurement Methods and
6 Procedures), Part 3 (Procurement Thresholds, Modes, Methods, and
7 Procedures), Chapter 126 (Procurement Code), *Ordinance Code*, is
8 hereby amended to read as follows:

9 **CHAPTER 126 - PROCUREMENT CODE**

10 * * *

11 **PART 3. - PROCUREMENT THRESHOLDS, MODES, METHODS**

12 **AND PROCEDURES**

13 * * *

14 **SUBPART C. - PROCUREMENT METHODS AND PROCEDURES**

15 * * *

16 **Sec. 126.312. - Required contract provisions.** All contracts made
17 pursuant to this Chapter shall include any contract provisions
18 required by law. The Chief shall detail in the Procurement Operating
19 Manual all such required contract provisions to be included in
20 contracts executed pursuant to this Chapter.

21 **Sec. 126.313. - Informal purchases and sales transactions for in-kind**
22 **services.**

23 Prior City Council approval shall be required under this Chapter for
24 in-kind services awards or contracts that require City Council
25 approval pursuant to Section 106.441 and Chapter 113, Part 5 of the
26 Code.

27 **Section 8. Establishment of prospective date of July 1,**
28 **2024, for the Code amendments contained in Section 6 of this Ordinance**
29 **to become effective.** Consistent with Ordinance 2023-20-E, the Code
30 amendments contained in Section 7 of this Ordinance shall not become
31 effective until July 1, 2024.

Section 9. Codification Instructions. The Codifier and the Office of General Counsel are authorized to make all chapter and division "table of contents" consistent with the changes set forth herein. Such editorial changes and any other necessary to make the *Ordinance Code* consistent with the intent of this legislation are approved and directed herein, and the changes to the *Ordinance Code* shall be made forthwith and when inconsistencies are discovered.

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

Form Approved:

Office of General Counsel

Legislation Prepared By: Lawsikia J. Hodges

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CM Salem Substitute Bill No. 2024-46 Bullet Summary

- **Chapter 106**

- Amends Section 106.441 to prohibit the Mayor from accepting a donation without Council approval if the donation involves the:
 - Alteration, relocation, demolition, or removal of any portion of a statue, obelisk, or monument
 - Services for capital improvements, including, but not limited to, capital improvements identified in the CIP. The definition of capital improvement in Chapter 126 (Procurement Code) will be used which is broader than the definition of capital improvement project in Chapter 122, Part 6.

- **Chapter 111**

- Amends Section 111.105 to expressly prohibit the Parks Director from using funding deposited and appropriated or in-kind services donated under the Trust Fund for the demolition, alteration, relocation, or removal of any portion of a statue, obelisk, or monument

- **Chapter 113**

- Creates a new Part 5 (In-Kind Services Donations) that:
 - Allows the Mayor to accept in-kind services donations except the following in-kind services donations will require prior Council:
 - In-kind services for capital improvements
 - In-kind services that include the demolition, alteration, relocation, or removal of any portion of a statue, obelisk, or monument
 - In-kind services with a monetary value exceeding \$100,000
 - Allows the Mayor to execute contracts regarding the in-kind services that do not require prior approval
 - Allows the Mayor to recognize donors

- **Chapter 122**

- Amends Section 122.602(a) the definition of “Capital Improvement Project” to include the “removal, alteration, demolition, rehabilitation” of a capital asset
- Creates new Section 122.608 (In-Kind Services Donations for Capital Improvements Projects; Council Approval Required) to require a donation agreement and prior City Council approval of an in-kind services donation for a Capital Improvement Project

- **Chapter 126**

- Amends Section 126.205 (Informal purchases and sales transactions) to require prior City Council approval for in-kind services awards or contracts that required City Council approval pursuant to 106.441 and Chapter 113, Part 5
- Prospectively amends the new Procurement Code approved by Council in 2023-20 that will become effective July 1, 2024, to incorporate these changes

1 Introduced by the Council President at the request of the Sheriff and
2 Co-Sponsored by Council Members Howland, Miller Arias, J. Carlucci,
3 Amaro, Lahnen and Freeman:
4
5

6 **ORDINANCE 2024-**

7 AN ORDINANCE AMENDING SECTION 112.307 (CLAIMS
8 AND SUITS BROUGHT AGAINST THE CITY FOR MONETARY
9 RELIEF), PART 3 (SETTLEMENT OF CLAIMS AND SUITS
10 BY AND AGAINST CITY), CHAPTER 112 (CLAIMS BY AND
11 AGAINST CITY), ORDINANCE CODE, AND SECTION
12 128.313 (SETTLEMENT OF CLAIMS), SUBPART C
13 (SETTLEMENT AND SPECIAL COUNSEL), PART 3 (SELF-
14 INSURANCE PROGRAM), CHAPTER 128 (RISK MANAGEMENT
15 PROGRAM), ORDINANCE CODE, TO REQUIRE NOTICE TO
16 AND APPROVAL BY ANY CONSTITUTIONAL OFFICER OF
17 ANY SETTLEMENT OF CLAIMS BROUGHT AGAINST SUCH
18 INDIVIDUAL, THEIR AGENCY OR ANY OF THEIR
19 EMPLOYEES FOR WHOM COVERAGE IS PROVIDED PURSUANT
20 TO SECTION 128.104, ORDINANCE CODE, OR FOR WHICH
21 SETTLEMENT IS AUTHORIZED PURSUANT TO SECTION
22 112.307, ORDINANCE CODE, AND SECTION 128.408
23 (INSURANCE CLAIMS, SETTLEMENTS AND PROCEEDS),
24 PART 4 (ADMINISTRATION AND MISCELLANEOUS
25 INSURANCE PROGRAMS), CHAPTER 128 (RISK
26 MANAGEMENT PROGRAM), ORDINANCE CODE; PROVIDING
27 FOR SEVERABILITY; PROVIDING FOR CODIFICATION
28 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.
29

30 **WHEREAS**, pursuant to Sections 128.102 and 128.104, Ordinance
31 Code, the City is a self-insured against personal injury, accident

1 and other tort-related claims against the City, its elected officials,
2 certain Independent Agencies and their employees who acted who acted
3 within their course and scope of their employment and volunteers
4 acting in good faith and in the best interest of their agency; and

5 **WHEREAS**, the City's Risk Manager administers the Risk Management
6 program created in the Risk Management Code, Chapter 128 *Ordinance*
7 *Code*; and

8 **WHEREAS**, Section 128.313, *Ordinance Code*, authorizes and
9 provides a procedure for the settlement of such claims by the Risk
10 Manager; and

11 **WHEREAS**, non-personal injury, non-accident and other non-tort-
12 related claims for monetary damages that are not encompassed within
13 Chapter 128, *Ordinance Code*, are authorized to be settled by the City
14 pursuant to the procedures in Section 112.307, *Ordinance Code*, and

15 **WHEREAS**, neither the existing provisions of Section 128.313,
16 *Ordinance Code*, nor Section 112.307, *Ordinance Code*, provide any
17 requirement for the Constitutional Officer (who has been personally
18 named, who's agency or employee has been named, or who is the subject
19 of claims made in any civil litigation seeking monetary damages or
20 other relief) to be consulted or to participate in settlement
21 discussions, negotiations or decisions that may impact the operation,
22 reputation or image of their office; now therefore

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

24 **Section 1. Amending Section 112.307 (Claims and suits**
25 **brought against the City for monetary relief), Part 3 (Settlement of**
26 **Claims and Suits by and Against City), Chapter 112 (Claims by and**
27 **Against City), *Ordinance Code*. Section 112.307 (Claims and suits**
28 **brought against the City for monetary relief), Part 3 (Settlement of**
29 **Claims and Suits by and Against City), Chapter 112 (Claims by and**
30 **Against City), *Ordinance Code*, is hereby amended to read as follows:**

31 **CHAPTER 112. CLAIMS BY AND AGAINST CITY**

1 * * *

2 PART 3. SETTLEMENT OF CLAIMS AND SUITS BY AND AGAINST CITY

3 * * *

4 Sec. 112.307. - Claims and suits brought against the City for
5 monetary relief.

6 (a) Whenever there shall be a bona fide reasonable doubt or dispute
7 as to liability or amount due on any claim or in any court action
8 brought against the City seeking monetary relief, such claim,
9 whether in litigation or not, shall be compromised and settled
10 as follows:

11 (1) If the amount of the settlement of such claim is less than
12 \$5,000: When the appropriate department head or the
13 Sheriff, Clerk of Court, Property Appraiser, Tax Collector
14 or Supervisor of Elections (individually each a
15 "Constitutional Officer"), as the case may be, or his or
16 her designee, deems in writing that it is in the best
17 interest of the City and his or her agency or office to
18 settle the claim or court action and has the written
19 concurrence of the General Counsel or his Assistant
20 Counsel, such department head or Constitutional Officer
21 listed above or his or her designee may authorize
22 settlement of the claim.

23 (2) If the full amount of such claim is \$5,000 or greater:

24 (i) When the amount of the settlement of the claim or
25 court or administrative action against the City,
26 including attorneys' fees and costs, does not exceed
27 the sum of \$10,000, if the General Counsel deems in
28 writing that it is in the best interest of the City
29 to settle the claim or court action, and upon
30 receiving written approval of the appropriate
31 department head or the appropriate Constitutional

1 Officer or his or her designee, as applicable, the
2 General Counsel shall have authority to compromise
3 and settle the claim.

4 (ii) When the total amount of the settlement, including
5 attorneys' fees and costs, exceeds the sum of \$10,000,
6 but does not exceed the sum of \$50,000, the Mayor
7 shall have the authority to compromise and settle the
8 claim upon receipt of favorable written
9 recommendations from the General Counsel and upon
10 receiving written approval of the appropriate
11 Constitutional Officer or his or her designee, and
12 either the Director of Finance and Administration or
13 the Chairman of the City Council Finance Committee,
14 that they deem it to be in the best interests of the
15 City to settle the claim or court action. ~~An~~
16 ~~independent recommendation, either favorable or~~
17 ~~unfavorable, shall be received by the Mayor from each~~
18 ~~of the above named officials when the claim is~~
19 ~~settled.~~

20 (iii) When the total amount of such settlement, including
21 attorneys' fees and costs, exceeds \$50,000, such
22 claim and court or administrative action brought
23 against the City can be settled only by approval of
24 the City Council and upon receiving written approval
25 of the appropriate Constitutional Officer or his or
26 her designee.

27 (3) The appropriate department head or appropriate
28 Constitutional Officer or his or her designee, with written
29 concurrence of the General Counsel, shall authorize, in
30 writing, the appeal of an adverse ruling against the City.

31 * * *

1 Section 2. Amending Section 128.313 (Settlement of claims),
2 Subpart C (Settlement and Special Counsel), Part 3 (Self-Insurance
3 Program), Chapter 128 (Risk Management Program), Ordinance Code.
4 Section 128.313 (Settlement of Claims), Subpart C (Settlement and
5 Special Counsel), Part 3 (Self-Insurance Program), Chapter 128 (Risk
6 Management Program), Ordinance Code, is hereby amended to read as
7 follows:

8 CHAPTER 128. RISK MANAGEMENT PROGRAM

9 * * *

10 PART 3. SELF-INSURANCE PROGRAM

11 * * *

12 SUBPART C. SETTLEMENT AND SPECIAL COUNSEL

13 Sec. 128.313. - Settlement of claims.

14 (a) Claims arising from any of the risks covered by the Self-
15 Insurance Program, shall be settled as follows, provided
16 however, that in no instance can any a claim, other than a claim
17 for worker's compensation or property damage, against the
18 Sheriff, Clerk of Court, Property Appraiser, Tax Collector or
19 Supervisor of Elections (individually each a "Constitutional
20 Officer"), or any of their respective employees or agencies, be
21 settled unless it has been approved in writing by the appropriate
22 Constitutional Officer or his or her designee or, in the case
23 of suits against an individual employee who acted within the
24 course and scope of his or her employment, approval of the
25 employee:

26 (1) Claims that can be settled in the field, by the City's
27 authorized adjusters on behalf of the Self-Insurance
28 Program, may be settled (including the provision and
29 acceptance of releases on behalf of the Participant
30 involved), without the necessity of obtaining prior
31 approval of the settlement provided the settlement does

1 not exceed \$5,000 for bodily injury and \$5,000 for property
2 damage per occurrence.

3 (2) All settlements of claims that do not exceed \$50,000, and
4 are not in litigation, the Risk Manager or Director, upon
5 deeming it to be in the best interest of the Self-Insurance
6 Program to settle the claim, shall have the authority to
7 accept or give proper releases on behalf of the
8 participants involved and to settle the claims (but he or
9 she may not settle claims arising out of the same
10 occurrence exceeding in the aggregate of the limitation of
11 liability and specified in F.S. § 768.28(5), where
12 applicable, as amended).

13 (3) All settlements of claims that do not exceed \$50,000, but
14 are in litigation, the Director and the Risk Manager, upon
15 deeming it to be in the best interest of the Self-Insurance
16 Program to settle the claim, with the concurrence of the
17 General Counsel or his or her designee, shall have the
18 authority to accept or give proper releases on behalf of
19 the participants involved and to settle the claims (but he
20 or she may not settle claims arising out of the same
21 occurrence exceeding in the aggregate of the limitation of
22 liability and specified in F.S. § 768.28(5), where
23 applicable, as amended).

24 (4) All settlements of claims exceeding \$50,000, but not
25 exceeding \$200,000, the Director, upon a favorable written
26 recommendation of the Risk Manager and the General Counsel,
27 or his or her designee, upon deeming it to be in the best
28 interest of the Self-Insurance Program to settle the claim,
29 shall have the authority to accept or give proper releases
30 on behalf of the participants involved and to settle the
31 claims (but he or she may not settle claims arising out of

1 the same occurrence exceeding in the aggregate of the
2 limitation of liability and specified in F.S. § 768.28(5),
3 where applicable, as amended).

4 (5) For all settlements of claims exceeding \$200,000, the
5 Mayor, upon the written recommendation of the Risk Manager,
6 General Counsel or his or her designee, the Director, and
7 the chairperson of the Council Finance Committee, that they
8 deem it to be in the best interest of the Self-Insurance
9 Program to settle the claim, shall have the authority to
10 accept or give proper releases on behalf of the participant
11 involved and to settle the claims (as long as such
12 settlement does not exceed those limitations of liability
13 established in F.S. § 768.28(5), where applicable, as
14 amended).

15 (b) The authority granted by this Section shall be applicable only
16 to claims arising out of the risks covered by the Self-Insurance
17 Program. Otherwise, the provisions of Chapter 112 shall be
18 applicable to the settlement of claims and suits by or against
19 the City.

20 (c) Notwithstanding anything in the Ordinance Code to the contrary,
21 the General Counsel or the Director are authorized to employ
22 outside general counsel and special counsel, from time to time,
23 to perform legal services in connection with claims asserted
24 against the Self-Insurance Program. The employment of outside
25 general counsel and special counsel, and the compensation to be
26 paid thereto, shall be subject to the prior written concurrence
27 of the General Counsel or his or her designee, the Director or
28 the Budget Officer, and either the chairperson of the Council
29 Finance Committee or the Council President. Outside general
30 counsel and special counsel employed under the provisions of
31 this subsection shall be paid as Claim Expense from the Self-

Insurance Program, as provided in section 128.306.

(d) Subject to the right of review of the Mayor or Director, all strategic decisions related to the settlement of claims covered by the Self-Insurance Program, not otherwise provided for herein, including but not limited to decisions related to the expenditure of costs and decisions to appeal, shall be made by the Risk Manager after consultation, as appropriate, with the Office of General Counsel and, ~~for~~ regarding decisions to appeal for claims, except for worker's compensation and property damage, against the Sheriff, Clerk of Court, Property Appraiser, Tax Collector or Supervisor of Elections, or any of their respective employees or agencies, with the concurrence of the appropriate Constitutional Officer or his or her designee or, in the case of suits against an individual employee, approval of the employee.

Section 3. Amending Section 128.408 (Insurance claims, settlements and proceeds), Part 4 (Administration and Miscellaneous Insurance Programs), Chapter 128 (Risk Management Program), Ordinance Code. Section 128.407 (Insurance claims, settlements and proceeds), Part 4 (Administration and Miscellaneous Insurance Programs), Chapter 128 (Risk Management Program), Ordinance Code, is hereby amended to read as follows:

CHAPTER 128. RISK MANAGEMENT PROGRAM

*** * ***

PART 4. ADMINISTRATION AND MISCELLANEOUS INSURANCE PROGRAMS

*** * ***

Sec. 128.408. - Insurance claims, settlements and proceeds.

(a) The Division shall be authorized to make and settle Claims on behalf of all departments, divisions, agencies, boards, commissions, offices and organizational units of the City (and to the extent they are included, any Participating

Independent Agency) that are covered under a policy from the Miscellaneous Insurance Program, subject to the Division's receipt of all approvals required in sections 112.307 and 128.313.

* * *

Section 34. Severability. If any section, clause, sentence, or provision of this ordinance or the application of such section, clause, sentence, or provision to any person or bodies or under any circumstances shall be held to be inoperative, invalid, or unconstitutional, the invalidity of such section, clause, sentence, or provision shall not be deemed, held, or taken to affect the validity or constitutionality of any of the remaining parts of this ordinance, or the application of any of the provisions of this ordinance to persons, bodies, or in circumstances other than those as to which it or any part thereof shall have been inoperative, invalid, or unconstitutional, and it is intended that this ordinance shall be construed and applied as if any section, clause, sentence, or provision held inoperative, invalid, or unconstitutional had not been included in this ordinance.

Section. 45. Codification Instructions. The Codifier and the Office of General Counsel are authorized to make all chapter and division "tables of contents" consistent with the changes set forth herein. Such editorial changes and any others necessary to make the *Ordinance Code* consistent with the intent of this legislation are approved and directed herein, and changes to the *Ordinance Code* shall be made forthwith and when inconsistencies are discovered.

Section. 56. Effective Date. This ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Form Approved:

1

2

3 Office of General Counsel

4 Legislation Prepared By: Gaby Young

5 GC-#1605475-v2-Legislation_Amending_Section_112_307_FINAL.docx

Brosche Handout Re: 2024-45 Claims Settlement Legislation

Rules Committee: February 5, 2024

Background

1. Risk Management Division part of Finance and Administration
2. Tracy Flynn, Chief, is a licensed risk manager with over 27 years of claims experience
3. Chief of Risk is the "Risk Officer" and granted settlement authority by the Ordinance Code; OGC does not have settlement authority
4. Various City officials are required by the Ordinance Code to concur with our Risk Officer's settlement recommendations in order for them to be final: OGC attorney, General Counsel, Finance Director, Finance Chair, and the Mayor
5. The Risk Division has a team of 38 risk professionals who manage the hundreds of claims filed every year
6. Attachments: Listing of FY23 claims and amounts paid, by entity/agency for general liability and worker's compensation

Claims Process

1. Tracy Flynn and her team work closely with OGC on litigated claims
2. Claims get settled in many ways by authority of the Ordinance Code: by the adjuster, in negotiations with plaintiff's counsel, and sometimes during mediation
3. There are monthly meetings to review cases going to mediation, ad hoc meetings to discuss cases and settlement offers, and Tracy Flynn receives calls at all hours regarding cases and settlements
4. Responding quickly to offers of settlement is an important requirement of Risk Division Chief and employees
5. Each case involves thorough consideration of the facts and circumstances, including how such facts and circumstances might be received by a jury
6. Risk and OGC also consider the following factors:
 - a. For State claims, COJ is covered by sovereign immunity and liability is limited to \$200,000 (\$300,000 in aggregate)
 - b. For State claims, where an individual officer is named in the lawsuit and COJ makes the decision to go to trial, any judgment against the individually named officer will be borne by the individual officer; COJ is prohibited by State law from paying an individual officer's judgment
 - c. For Federal claims, there is no limitation of liability for either COJ or the individually named officer; COJ is prohibited by State law from paying an individual officer's judgment

Brosche Handout Re: 2024-45 Claims Settlement Legislation

Rules Committee: February 5, 2024

Bill 2024-45

1. Includes reference to Chapters 112 and 128
2. Chapter 112: litigated claims (employment practices, discrimination, EEOC, etc.) that do not go through Risk Management and involves department head request to settle
3. Chapter 128: self-insurance program and includes general liability and worker's compensation claims
4. Generally speaking, the legislation requires WRITTEN APPROVAL of the Sheriff and Constitutional Officers, as applicable, to settle a claim

Concerns with Legislation

1. Compromising insurability: Insurance premiums may increase or coverage may be cancelled
 - a. No other municipality in the nation requires written approval of affected organization leader, which the insurance industry deems to pose ethical conflicts of interest and "would materially affect our view of the risk and terms we are able to offer"
2. Increasing costs to taxpayers:
 - a. Missing opportunities to settle claims by imposing delays associated with obtaining written approval
 - b. As noted in #1 above, increasing costs for excess carrier insurance
 - c. Need for additional staff to accommodate reduced efficiency of written approval process
3. Disclosure of information:
 - a. Codifying written approval risks disclosure of Federally protected health information
 - b. Exposing COJ litigation process to opposing counsel

Possible Communication Framework

1. OGC will notify Sheriff/Constitutional Officer via email upon OGC's receipt of a pre-suit claim letter
2. OGC will notify Sheriff/Constitutional Officer via email upon OGC's service of a lawsuit
3. Sheriff/Constitutional Officer (or designee) can attend monthly meeting between OGC and Risk Management for all cases that will be mediated that month
4. Sheriff/Constitutional Officer (or designee) can attend ad hoc meetings to review and discuss cases not discussed in the monthly meeting and where the litigation process advances and requires action
5. OGC will implement a quarterly meeting to review and discuss all pending lawsuits
6. We will add space on the approval letter for settlement of a pre-suit claim over \$50,000 that travels for signature from Risk Management, to OGC, then to Director of Finance that allows the Sheriff/Constitutional Officer to indicate concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature for decision consideration and assurance of proper communication

Brosche Handout Re: 2024-45 Claims Settlement Legislation

Rules Committee: February 5, 2024

7. We will add space on the approval letter for settlement of a lawsuit over \$50,000 that travels for signature from Risk Management, to OGC, then to Director of Finance that allows the Sheriff/Constitutional Officer to indicate concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature for decision consideration and assurance of proper communication
8. For high-dollar and/or high-publicity cases, the Administration will meet with the Sheriff/Constitutional Officer to review and discuss a case for possible settlement/trial

Possible Paths Forward

1. Implement Internal Policy: Finance Director would like to work with the Sheriff/Constitutional Officers to develop a communication framework/internal policy; Finance Director will take personal responsibility for ensuring proper communication of claims process
2. Defer Legislation for 90 Days: Per #1 above, develop a communication framework/policy and allow it to work
3. Remove references to written approval (include references to concurrence)
4. Limit claims to high-dollar and/or high-publicity cases or any other definition deemed appropriate by the Sheriff/Constitutional Officers that focuses on claims of interest

CITY OF JACKSONVILLE

Valued as of 09/30/2023 General
Liability

Location Folder	Claim Count		Total Incurred	
City Council	1	0.05%	500	0.01%
Clerk of Courts	3	0.14%	7,500	0.14%
Downtown Investment Authority	3	0.14%	43,000	0.81%
Finance and Administration	5	0.24%	5,793	0.11%
Fire Rescue	68	3.27%	194,267	3.64%
General Counsel	2	0.10%	104,000	1.95%
Jacksonville Aviation Authority	6	0.29%	100	0.00%
Jacksonville Electric Authority	454	21.83%	1,292,670	24.21%
Jacksonville Housing Authority	17	0.82%	72,957	1.37%
Jacksonville Port Authority	5	0.24%	30,687	0.57%
Mayor's Advisory Board	3	0.14%	-	0.00%
Mayor's Office	1	0.05%	5,000	0.09%
Neighborhoods	21	1.01%	44,690	0.84%
Parks, Recreation, and Community Services	65	3.13%	205,040	3.84%
Planning and Development	7	0.34%	21,595	0.40%
Property Appraiser	1	0.05%	10,000	0.19%
Public Libraries	1	0.05%	-	0.00%
Public Works	1,131	54.38%	1,533,697	28.73%
Sheriff's Office	266	12.79%	1,744,668	32.68%
Sports and Entertainment	7	0.34%	10,000	0.19%
Supervisor of Elections	8	0.38%	-	0.00%
Tax Collector	5	0.24%	13,061	0.24%
Grand Totals - 2,080 Claims	2,080		5,339,225	

CITY OF JACKSONVILLE

Valued as of 09/30/2023 Workers
Compensation

Location Folder	Claim Count		Total Incurred	
City Council	1	0.08%	507	0.00%
Clerk of Courts	6	0.48%	16,727	0.11%
Downtown Investment Authority	2	0.16%	182,406	1.20%
Finance and Administration	9	0.72%	34,303	0.22%
Fire Rescue	350	28.04%	4,057,385	26.60%
Human Rights Commission	1	0.08%	1,000	0.01%
Inspector General	1	0.08%	1,033	0.01%
Jacksonville Aviation Authority	10	0.80%	251,990	1.65%
Jacksonville Electric Authority	29	2.32%	212,640	1.39%
Jacksonville Housing Authority	9	0.72%	144,612	0.95%
Jacksonville Port Authority	5	0.40%	14,421	0.09%
Medical Examiner	7	0.56%	28,793	0.19%
Neighborhoods	44	3.53%	237,430	1.56%
Parks, Recreation, and Community Services	37	2.96%	445,989	2.92%
Planning and Development	8	0.64%	32,850	0.22%
Property Appraiser	3	0.24%	7,766	0.05%
Public Libraries	16	1.28%	34,813	0.23%
Public Works	75	6.01%	579,209	3.80%
Sheriff's Office	621	49.76%	8,890,344	58.28%
Sports and Entertainment	1	0.08%	12,500	0.08%
Supervisor of Elections	9	0.72%	66,033	0.43%
Tax Collector	4	0.32%	2,185	0.01%
Grand Totals - 1,248 Claims	1,248		15,254,936	



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February 4, 2024

Anna Brosche, Chief Financial Officer
Tracy A. Flynn, Chief of Risk Management
Finance and Administration Department
City of Jacksonville
117 W. Duval St., Suite 335
Jacksonville, FL 32202-3381

Re: City of Jacksonville Contract
Casualty Claim Settlement – Potential Legislative Changes

Dear Mrs. Brosche and Mrs. Flynn,

Below please find a narrative outlining concerns with regard to potential Jacksonville legislative changes.

Main concerns in granting Department Heads and/or Constitutional Officers legislative authority to veto Risk Management and Office of General Council claim settlement decisions are outlined as follows:

- 1. Limited relevant insurance carriers**
- 2. Underwriter perceptions and appetites**
- 3. Contractual realities**
- 4. Claims administration requirements**
- 5. Licensed in-house adjusters**
- 6. Risk management program and best practices**

1. Limited relevant insurance carriers

The city of Jacksonville is one of ten Cities with a population of one million or greater. As such, from an underwriting perspective, there are limited insurance companies willing to write casualty insurance coverage even in an excess capacity for Cities the size of Jacksonville. Case in point, the City's coverage was non-renewed after the 2020 election due to the riots in Portland and countrywide. The insurance carrier chose to no longer underwrite municipalities with populations in excess of 400,000. This limited the number of carriers further to the handful we have today.



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2. Underwriter perceptions and appetites

Insurance policies are contracts. They are underwritten based on the individual exposures of a Risk and how they fit within the parameters of an insurance company's set of criteria. This information is developed through the completion of an annual application, which often forms a part of the policy (contract). Segments of the policy have been incorporated in the following narrative for your convenience. As the policy constitutes a contract, all parties must abide by the terms and conditions of the policy for coverage to apply.

3. Contractual realities

Please note below the policy can be void if the INSURED conceals or misrepresents any material fact in the INSURED'S submission and/or application(s).

Representations: By accepting this Policy and as a condition precedent to coverage, the **INSURED** agrees that:

- (a) The information contained within the **Declarations** is complete and accurate and is based upon representations made by the **INSURED** to Underwriters in the submission and/or application(s) for this Policy;
- (b) Underwriters have issued this Policy in reliance upon the **INSURED'S** representations in the submission and/or application(s);
- (c) Except as otherwise provided in this Policy or by law, this Policy is void in any case of fraud; or, if the **INSURED** conceals or misrepresents any material facts in the **INSURED'S** submission and/or application(s) for this Policy. If the Policy is wholly voidable due to fraud, misrepresentation or concealment by the **INSURED** as aforementioned, Underwriters, at their sole discretion, may elect to void coverage only for the particular loss or **CLAIM** which is affected by such concealment and/or misrepresentation and/or fraud.

Removing decision authority from Risk Management, will constitute a material change which will have to be submitted and approved by the underwriter.

Following is a section from the General Policy Conditions for the current City of Jacksonville Excess Liability policy.



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CLAIMS, OCCURRENCES or SUITS: Underwriters reserve the right to deny coverage under this Policy if there has not been full compliance with the following duties:

The **INSURED** shall as soon as practical notify Underwriters through the **THIRD PARTY CLAIM ADMINISTRATOR** of any **CLAIM, OCCURRENCE or SUIT** meeting the following criteria:

- (a) The cost of which is likely to result in payment by Underwriters under this Policy;
- (b) All **CLAIMS** reserved at 50% or more of the **SELF INSURED RETENTION**;
- (c) All **CLAIMS** where there has been a settlement demand above the **SELF INSURED RETENTION** and there is a trial, binding arbitration or binding mediation date within 90 days;
- (d) Catastrophic losses (including Paraplegia, Quadriplegia, Severe Burns, Fatalities, Significant Brain Injury, Amputation of Major Extremity);
- (e) Within 180 consecutive days following the **DISCOVERY** of any actual, attempted or pending alleged **SEXUAL ABUSE**;
- (f) Discrimination or Violation of Civil Rights where the **CLAIM** is reserved at 50% or more of the **SELF INSURED RETENTION** or within 90 days of a trial date, whichever is sooner;
- (g) Third-party **CLAIMS** involving **LAW ENFORCEMENT ACTIVITIES**;
- (h) Act or series of **ACTS OF TERRORISM**;
- (i) Any **CLAIMS** where there is a question as to whether there will be coverage under this Policy.

Underwriters shall have the right, but not the obligation, to be associated with the **INSURED** in, and/or assume charge of, the investigation, handling, defense or settlement of any **CLAIMS, SUIT** or proceedings relative to an **OCCURRENCE or CLAIM** where in the sole opinion of the Underwriters, Underwriters' liability under this Policy is likely to be involved.

The **INSURED** shall make no commitment to pay or settle any **CLAIMS, OCCURRENCES or SUITS** where Underwriters' liability under this Policy is involved without the prior written agreement of Underwriters. Underwriters shall not withhold agreement without just cause. Neither shall the **INSURED** refuse any reasonable opportunity to pay or settle a **CLAIM** when such refusal will result in Underwriters having liability under this Policy without the prior agreement of Underwriters. Underwriters shall not withhold agreement without just cause. If the **INSURED** refuses to consent to settlement of any **CLAIMS, OCCURRENCES or SUITS** where Underwriters' liability under this Policy is potentially involved, and settlement or compromise is recommended by Underwriters and acceptable to the claimant, then calculation of, and Underwriters' obligation under **ULTIMATE NET LOSS** with respect to the **CLAIMS, OCCURRENCES or SUITS** shall be limited to the amount of damages or payments for which the **CLAIMS, OCCURRENCES or SUITS** could have been settled for, plus any expenses payable under **ULTIMATE NET LOSS** incurred until the date of the **INSURED'S** refusal to settle or compromise the **CLAIMS, OCCURRENCES or SUITS** as recommended by Underwriters.

The point in showing this to you is to point out the very specific reporting requirements for coverage to apply. Please note specifically, (d) and (g) above.

Once a claim fits within the parameters of this listing, the insurance company assigns one of their own adjusters who communicates with the Jacksonville risk management assigned adjuster, oversees the loss, and requires updates on open claims until they are closed. Please note the last paragraph, a portion of which follows.



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"If the INSURED refuses to consent to settlement of any CLAIMS, OCCURRENCES or SUITS where Underwriters' liability under this Policy is potentially involved, and settlement or compromise is recommended by Underwriters and acceptable to the claimant, then calculation of, and Underwriters' obligation under ULTIMATE NET LOSS with respect to the CLAIMS, OCCURRENCES or SUITS shall be limited to the amount of damages or payments for which the CLAIMS, OCCURRENCES or SUITS could have been settled for, plus any expenses payable under ULTIMATE NET LOSS incurred until the date of the INSURED'S refusal to settle or compromise the CLAIMS, OCCURRENCES or SUITS as recommended by Underwriters."

4. Claims administration requirements

Below is a sample of the Claim Administration information required by the insurance company underwriters when they consider whether they will write the coverage for an entity with a self-administered claim unit. As you can see, the information required to approve the Risk Management staff is extensive.

1. Claim service standards - please provide a copy of the Claim Handling Guidelines.
2. Organization of the in-house claims unit, to include:
 - a) Profiles of key people involved.
 - b) Areas of expertise, e.g., Public Officials, Errors & Omissions, Law Enforcement, etc.
 - c) What is their history handling claims?
 - d) Procedures and processes in place to comply with MMSEA Section 111 requirements for liability and no-fault claim payments, to the Centers for Medicare & Medicaid Services (CMS).
 - e) Geographic area covered.
 - f) Are the adjusters appropriately licensed?
 - g) Organizational chart.
 - h) When and what types of losses are referred out an independent adjusting firm or attorney.
 - i) Details on staff leaving or added in the past two years.
3. Samples of reports and computer/database systems used.
 - a) Specific loss large loss report to carrier or client.
 - b) Sample account loss run.
 - c) Identity the claims management system.
 - d) Is the system maintained by a contractor or employee?
 - e) Can the insured make changes to system to automate reports or capture additional data with own staff?
4. List of defense counsels, independent adjusters/appraisers and experts used.
5. Details of disaster recovery plans, e.g., backup of computer data and paper files.
6. How long has the City self-administered their liability claims?
7. Do you agree to provide detailed claim reports with requested supporting documentation on reported losses following the notice provisions in the policy no less than quarterly?
8. Do you agree to provide loss runs on a quarterly basis with losses broken out by policy period reflecting the type of loss (AL, GL, Public Officials, etc.) consistent with the coverages provided to the insured?



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5. Licensed in-house adjusters

Florida Statute 626 provides information regarding licensing requirements in the State of Florida. The adjusters managing claims in the Risk Management Department are Florida Licensed Adjusters. The adjusters collaborate with other staff within the Risk Management Department and the Office of General Council who are not licensed but are approved through the application process. The separation of departments allows these individuals to make decisions based on the individual merits of each case without bias or prejudice.

6. Risk management program and best practices

Department Heads and/or Constitutional Officers having authority to veto settlements and force trials, causes concern for placement of future coverage for the City of Jacksonville. We reached out to our various public entity specialist and found no other Public Entities have enacted this type of legislation.

The underwriters contacted advised they would most likely require contracting with an outside Third-Party Administrator to consider providing coverage going forward in this scenario. Regarding the City's current coverage provider, they have responded with "it would materially affect our view of the risk and terms we are able to offer." In other words, changing from licensed adjusters managing the settlement of claims constitutes a material change and would have to be reported mid-term. Whether they would choose to continue on the risk and or non-renew is at issue. See below from the current policy:

In the event of cancellation, expiration or revision of the relationship between the **NAMED INSURED** and in-house claims administrator, the **NAMED INSURED** must notify Underwriters in writing 90 days prior to the effective date of such cancellation, expiration or revision, and the **NAMED INSURED** and Underwriters must agree upon the specifications for the new **THIRD PARTY CLAIMS ADMINISTRATOR**.

If the relationship between **NAMED INSURED** and the in-house claims administrator is terminated for any reason without Underwriters' prior written approval, Underwriters reserve the right to deny coverage under this Policy for any **CLAIMS** or **OCCURRENCES** reported to Underwriters after the termination date of the **INSURED'S** agreement with the in-house claims administrator.

Should you have any questions, please let us know.

Best Regards,

Brenda Lewis-Lipscomb

CIC, AINS
Commercial Account Executive
Senior Vice President

Brenda.Lewis@bbrown.com
O (904) 565-8254 | C (904) 509-6042 | F (904) 565-2440
BBrown.com | NYSE: BRO

Hernandez, Maribel

From: Coarsey, David S.
Sent: Wednesday, January 24, 2024 3:59 PM
To: Brosche, Anna
Subject: RE: 2024-0045 Claims Settlement Legislation

EXTERNAL EMAIL: This email originated from a non-COJ email address. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Thank you for letting me know, talk to you next week.

Shawn

Undersheriff Shawn Coarsey
Jacksonville Sheriff's Office
Jacksonville, Florida 32202
904-630-7570

From: Brosche, Anna <BroscheA@coj.net>
Sent: Wednesday, January 24, 2024 3:45 PM
To: Coarsey, David S. <David.Coarsey@jaxsheriff.org>
Subject: RE: 2024-0045 Claims Settlement Legislation

EXTERNAL EMAIL SOURCE

This email was sent from a non-JSO account. Do not open any links or any attachments unless you trust the sender and know the content is safe.

Thank you, Undersheriff.

Absolutely, that would be fine. I know it is a lot to digest.

In full transparency and in case your decision is to move forward with the legislation as written on February 5th during Rules Committee, I am reaching out to Council Members to schedule meetings to help them understand the Risk Management process and our concerns. I will be sharing the exact same information I have shared with you as we want to avoid discussing our claims settlement process at the podium and risk sharing information that would be detrimental to the City of Jacksonville and JSO i.e., invite more litigation or higher settlement amounts.

I look forward to hearing back and/or fielding any questions that arise.

My cell is (904) 537-7202.

Best,

Anna Brosche, CPA, MAcc
CFO, Director of Finance and Administration
City of Jacksonville

117 West Duval Street, Suite 300, Jacksonville, FL 32202

Office: (904) 255-5354

Email: broschea@coj.net

Website: Jacksonville.gov



A NEW DAY.

Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure.

From: Coarsey, David S. <David.Coarsey@jaxsheriff.org>

Sent: Wednesday, January 24, 2024 3:34 PM

To: Brosche, Anna <BroscheA@coj.net>

Subject: RE: 2024-0045 Claims Settlement Legislation

EXTERNAL EMAIL: This email originated from a non-COJ email address. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Anna,

Thank you for the correspondence, we would like a chance to review this and discuss with the executive staff. I will reach out to you next week if that is okay with you?

Shawn

Undersheriff Shawn Coarsey
Jacksonville Sheriff's Office
Jacksonville, Florida 32202
904-630-7570

From: Brosche, Anna <BroscheA@coj.net>

Sent: Wednesday, January 24, 2024 1:29 PM

To: Coarsey, David S. <David.Coarsey@jaxsheriff.org>

Cc: Young, Gaby <GCIYoung@coj.net>; Mattina, Lara Z <Lara.Mattina@jaxsheriff.org>; Granat, Sean <SGranat@coj.net>; Flynn, Tracy <TFlynn@coj.net>; Fackler, Michael <MFackler@coj.net>

Subject: 2024-0045 Claims Settlement Legislation

EXTERNAL EMAIL SOURCE

This email was sent from a non-JSO account. Do not open any links or any attachments unless you trust the sender and know the content is safe.

Good afternoon, Sheriff Waters and Undersheriff Coarsey. Thank you again for your time yesterday regarding Bill 2024-0045.

During our meeting, you expressed that the lack of communication regarding the Jamie Johnson settlement was disappointing and unacceptable. We stand in agreement with you, reiterate our deepest apologies expressed yesterday in person, and appreciate the opportunity to establish a communication framework for ensuring your involvement/awareness in the claims settlement process at the level that respects your position as a duly elected Constitutional Officer, as an important part of the consolidated government of the City of Jacksonville, and as a party to the claims. We welcome your involvement.

Also discussed yesterday and an important consideration: The City of Jacksonville has sovereign immunity for amounts above \$300,000 (maximum exposure). Where an officer is a named defendant in a case and the case goes to trial, the City of Jacksonville is prohibited by State law from paying any amounts for the named officer; the named officer will bear any financial amounts attributed to them in a verdict.

I promised to follow up with a communication framework. Below are numerous ways in which JSO can have a voice, protect its interests, and have confidence in the claims settlement process:

- OGC can notify JSO via email upon OGC's receipt of a pre-suit claim letter involving JSO.
- We currently have an approval letter for settlement of a pre-suit claim over \$50,000 that travels for signature from Risk Management, to OGC, then to Director of Finance. We could add a space on the approval letter allows the Sheriff to indicate his concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature so that I can ensure proper communication.
- OGC can notify JSO via email upon OGC's service of a lawsuit involving JSO.
- We would like to implement a quarterly meeting to review and discuss all pending lawsuits involving JSO.
- There is a monthly meeting between OGC and Risk Management for all cases that will be mediated that month. We welcome your JSO designee to participate in these meetings and learn the process, learn the factors considered, and ask questions and provide input.
- There are ad hoc meetings to review and discuss cases that were not discussed in the monthly meeting and where the litigation process advances and requires action. Your designee having consistent exposure to the overall claims settlement process and its fluidity can ensure proper channels of communication remain open and they can participate in such ad hoc meetings.
- Upon settlement of a lawsuit over \$50,000, there is letter that travels for signature from Risk Management, to OGC, then to Director of Finance. We could add a space on the approval letter allows the Sheriff to indicate his concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature so that I can ensure proper communication.
- In high-dollar, high-publicity cases, the Administration may meet to review and discuss a case for possible settlement/trial. We welcome your participation in such meetings.
- NOTE: OGC has NO authority to settle cases and gains its authority from Risk Management.

We do have concerns with the proposed legislation that we didn't get into deeply during our meeting, which are:

1. Codifying JSO/Constitutional Officer involvement removes any perceived or actual distance from the business decision of settling cases.
2. The implications of named officers not being covered by sovereign immunity liability limits.
3. Gaining written settlement approval will:
 - a. Increase costs by missing opportunities to settle. Whether in the mediation process when settlements often happen on the fly, or in discussions with opposing counsel, the need to stop the process by days to get written approval will put settlements at risk and cause them to be higher.
 - b. Increase costs by requiring additional personnel in the Risk Management process to handle additional steps in the already excessive caseloads. Gaining written approval will reduce efficiency.
 - c. Risk exposure of the way the City of Jacksonville settles cases and give opposing counsel the opportunity to leverage knowledge to gain higher settlements.

- d. Make public records of the private information of cases and defendants that should remain private (in possible violation of Federal HIPAA laws).
- e. Increase insurance premiums for excess coverage above our self-insurance limits.
- f. Challenge relationships with our insurance carriers and possibly risk cancellation of coverage (by the carrier) and COJ becoming an uninsurable excess coverage entity.
- g. NOTE: Our contracts with excess insurers contain provisions that allow the carriers to dictate settlement amounts to us.

Given the above concerns, we have suggestions for consideration (in order of preference):

- 1. Ideally, we would like to NOT codify the process. I will take personal responsibility to ensure that we communicate openly with JSO regarding claims settlements and I can be the point person for the communications. We can document a process/framework, but not put it in the Ordinance Code. In addition to this solution addressing some of the concerns above, it also allows us the flexibility to modify our process/framework in the future should we desire.
- 2. You could defer the legislation and give the communication framework time to yield the results you seek (consider deferring for 90 days).
- 3. If we must codify, remove any references to "written approval" from the legislation.
- 4. If we must codify, focus on the high-dollar and/or high-publicity claims and codifying notification/communication (but not written approval).

I/we are happy to discuss further as you consider how you would like to move forward. I am committed to a process that respects and supports you and JSO and we stand ready to work together.

Sincere regards,

Anna Brosche, CPA, MAcc

CFO, Director of Finance and Administration

City of Jacksonville

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A NEW DAY.

Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure.

Settlement of claims and suits against the City¹

The settlement of claims and suits against the City is governed by Chapter 112 and 128 of the Jacksonville Municipal Code. Chapter 128 is narrowly focused on claims and suits seeking monetary relief for personal injury and property damage alleged to have been caused by the City. Chapter 112 covers claims and suits for monetary relief not covered by Chapter 128; and also claims and suits against the City for nonmonetary relief.

1) Chapter 128 (Risk Management Program)

A) Risk Management Program Generally

Chapter 128 is titled the “Risk Management Program.” It is a comprehensive program consisting of a Self-Insurance Program, a Miscellaneous Insurance Program, and other related activities designed to absorb or transfer risk from City operations. The Risk Management Program covers all City operations of all City departments, divisions, boards, commissions, offices and organizational units including all Constitutional Officers of the City of Jacksonville (with the exception of the Duval County School Board and the School Board Members, who participate in their own risk management program). The Program also allows the City’s independent agencies to participate upon request of the independent agency and approval by the City Council. The current independent agency participants are the Jacksonville Port Authority, the Jacksonville Aviation Authority, the Jacksonville Housing Authority, and JEA (hereinafter collectively referred to as “the Participants.”

Section 128.102 explains that “[t]he purpose of the Risk Management Program is to generally manage the risk associated with City operations, [and to] provide uniform and centralized self-insurance for Automobile Liability, General Liability, and Workers' Compensation” Automobile Liability includes claims for bodily injury or property damage suffered from accidental vehicle collisions involving City employee drivers. General Liability covers other types of claims for bodily injury or property damage including (1)

¹ This paper discusses the settlement of claims and suits **against the City**. The settlement of Claims and suits brought **by the City** are also governed by the Jacksonville Municipal Code, but are not discussed here.

Premises Liability (i.e. slip/trip and falls caused by negligent maintenance of sidewalks, walkways, or City building interiors; negligent maintenance of streets, street lights, stop signs, and traffic lights or other City property); Medical Liability (i.e. negligence by jail nurses, jail doctors, or emergency medical technicians/paramedics); and Police Liability (i.e. alleged improper police activity such as excessive force, false arrest, and deliberate indifference to serious medical needs). Finally, Workers' Compensation covers medical expenses and wages of City employees who are injured while performing their job duties. Claims and suits that do not fall into Automobile Liability, General Liability, or Workers' Compensation are governed by Chapter 112, Jacksonville Municipal Code.

The Risk Management Program covers claims and suits against the City and the Participants, and also against officials, officers, employees and volunteers of the City and the Participants, so long as the officials, officers, employees, and volunteers acted in good faith and in the best interest of the City or The Participants. Coverage of individuals is subject to limitations imposed by Florida State Statutes.

The Risk Management Program is part of the City's Finance and Administration Department ("Department"). The Director of Finance and Administration is authorized to promulgate rules for the management and maintenance of the Program, and is required to submit to the City Council a comprehensive annual report on the Program. Chapter 24, Part 4, of the Municipal Code establishes the Risk Management Division, which is responsible for employee safety programs, insurance, and risk management functions. Section 24.402, Jacksonville Municipal Code, provides that the Risk Manager is the division chief of the Risk Management Division, who is required to have at least a four-year degree in business, insurance, risk management, or a law degree and at least five years' experience in relevant insurance and risk management activities. Among other duties, the Risk Manager oversees and supervises the Risk Management Program.

One of the main components² of the Risk Management Program is the Self-Insurance Program. In simple terms, the Self-Insurance Program acts

² Another component of the Risk Management Program is the Miscellaneous Insurance Program through which the City purchases commercial insurance to cover cyber, terrorism, aviation, marine, deadly weapons, out-of-state auto,

as an insurance company, collecting contributions from the Program's participants and paying the costs and expenses of defense and/or settlement of claims and suits against the participants.

The Self-Insurance Fund is used to pay the claim costs and administrative expenses of the Self-Insurance Program. On an annual basis, the Risk Manager determines the amount that each participant is required to contribute to the Fund. This determination is made using accounting and actuarial principles based generally on each participant's projected claim costs, share of administrative expenses, and contribution to the Self-Insurance Operating Reserve.

The City also maintains excess insurance coverage for claims in excess of the self-insured retention (SIR) amount (\$1,500,000 for workers' compensation matters and \$2,000,000 for other covered matters for FY 2024-2025). This policy requires written approval of the excess carrier before paying a settlement in excess of the SIR, and the excess carrier retains the right to settle a claim that in its sole opinion may create indemnification obligations for it under the policy. Risk management files are subject to audits by the excess insurance carrier; if an audit reveals the involvement of someone other than a licensed adjuster or attorney in the claims process, the excess carrier could deny coverage.

The Risk Management Division receives and investigates all claims covered by the Risk Management Program. The Division evaluates each claim to determine the level of risk it poses, its potential costs to the Program, and whether it should be defended or settled. The Division employs 38 employees, 16 of whom are licensed liability and workers' compensation adjusters. These professionals use their special training and experience in evaluating, handling, and deciding whether to settle claims. In addition to protecting the Self-Insurance Fund, the Division must ensure that claims are handled fairly, honestly, and without regard to any claimant's race, color, religion, national origin, or gender.

voting precincts, riverwalk, and medical malpractice. This is not an exhaustive list.

B) Settlement of Claims and Suits Under the Risk Management Program

Settlement of claims covered by the Risk Management Program are governed by Section 128.313, Jacksonville Municipal Code. Differing authorization is required, depending on the settlement amount. In summary:

- (1) Settlements not exceeding \$5,000 may be settled by the City's authorized adjusters;
- (2) Settlements not exceeding \$50,000, that are not in litigation, require the approval the Risk Manager or Director of Finance and Administration;
- (3) Settlements not exceeding \$50,000, that are in litigation, require the approval of the Risk Manager or Director of Finance and Administration, with the concurrence of the General Counsel;
- (4) Settlements exceeding \$50,000 but not exceeding \$200,000 require the approval of the Director of Finance and Administration, with the favorable written recommendation of the Risk Manager and the General Counsel;
- (5) Settlements that exceed \$200,000 require the approval of the Mayor, with written recommendation of the Director of Finance and Administration, the Risk Manager, the General Counsel, and the chairperson of the Council Finance Committee.

The Code provides that, subject to the right of review of the Mayor or Director, all strategic decisions related to the settlement of claims covered by the Risk Management Program, including but not limited to decisions related to the expenditure of costs and decisions to appeal, shall be made by the Risk Manager after consultation, as appropriate, with the Office of General Counsel. This consultation occurs throughout the claims process, from presuit notice to final settlement or the decision to proceed to trial.

The Risk Management team meets regularly with OGC attorneys to discuss cases, with in-depth analysis of the likelihood of success at trial and the cost of litigation. Trials are expensive. The Risk Management process is designed to promote fiscal responsibility and protect the public treasury by comparing and managing the uncertainty of trial with the certainty of a settlement. In addition to costs for expert witnesses, court reporters, and exhibit preparation, trials divert time and resources from City operation. Instead of doing their jobs, City employees have to spend time in depositions, witness preparation, and other trial preparation. The Risk Management process takes all of these factors into account.

The settlement of a claim or suit against the City is not an admission of wrongdoing by the City, and settlement documents contain specific language on this point. A settlement is merely a business decision made to protect the Self-Insurance Fund from a calculated risk.

The primary goal of Risk Management in claims handling, whether presuit or in litigation, is to minimize financial and other risks for the City. The risk management ordinance recognizes the need for an assessment of the risks inherent in litigation by those with expertise in such matters: risk managers and attorneys. The Risk Manager has over 25 years of risk, legal, and claims experience. The Casualty Manager has over 17 years of claims experience, with an aggregate of over 100 years for the Casualty staff. The Workers' Compensation Manager has 27 years of claims experience, with an aggregate of over 114 years for the Workers' Compensation staff.

Risk Management works with all city departments, including JSO and JFRD to support operations and ensure the best outcome for all parties, including individual employees or officers that may be included in suits.

2) Chapter 112 (Claims by and Against City)

A) Claims Against the City (Not Covered by the Risk Management Program)

Chapter 112, Jacksonville Ordinance Code, governs the handling of claims made by and against the City, that are not covered by Chapter 128. While this Chapter encourages independent agencies to establish similar procedures, it only controls the City's departments, divisions, boards, commissions, offices and organizational units. Chapter 112 covers three types of claims against the City: actions brought against the City alleging improper legislative action or inaction, actions brought against the City seeking nonmonetary relief, and Claims and suits brought against the City for monetary relief.

B) Actions Brought Against the City Alleging Improper Legislative Action or Inaction

Section 112.305 governs the settlement of actions brought against the City alleging improper legislative action or inaction. It provides that:

- (1) Zoning actions may be settled by resolution of the City Council;
- (2) Actions attacking the constitutionality of an ordinance as written (facial validity) may be settled by resolution of the City Council;
- (3) Actions attacking the constitutionality of the manner in which an ordinance is enforced may be settled upon the written authorization of the department head³ charged with the enforcement of the ordinance, concurred with in writing by the General Counsel.

In addition, the approval of the City Council for items (1) and (2) and the approval of the appropriate department head for item (3) above is required to take an appeal of an adverse ruling against the City.

³ For the purposes of Section 112.305, the term department head includes City Department Directors, the Sheriff, the Clerk of Court, the Property Appraiser, the Tax Collector, and the Supervisor of Elections.

C) Actions Brought Against the City Seeking Nonmonetary Relief

Section 112.306 provides that all actions, except those governed by Section 112.305, that seek nonmonetary relief, may be settled by the appropriate department head, upon written approval of the General Counsel.

D) Claims and Suits Brought Against the City For Monetary Relief

Section 112.307 governs all claims and suits against the City, whether in litigation or not, that are not covered by the Risk Management Program. These claims and suits are settled as follows:

- (1) Settlements less than \$5,000 require the written approval of the appropriate department head with written concurrence of the General Counsel;
- (2) Settlements between \$5,000 and \$10,000 require the written approval of the General Counsel and the appropriate department head;
- (3) Settlements between \$10,000 and \$50,000 require approval of the Mayor with favorable written recommendations from the General Counsel, and either the Director of Finance and Administration or the Chairman of the City Council Finance Committee.
- (4) Settlements that exceed \$50,000 require the approval of the City Council.

This Section also provides that the appropriate department head, with written concurrence of the General Counsel, is required for the appeal of an adverse ruling against the City.

Funding for expenses related to claims covered by Chapter 112 comes from the appropriate department or the Office of General Counsel subject to fund availability. Costs of settlement are paid by the appropriate department.

Brosche Handout Re: 2024-45 Claims Settlement Legislation

Rules Committee: February 5, 2024

Background

1. Risk Management Division part of Finance and Administration
2. Tracy Flynn, Chief, is a licensed risk manager with over 27 years of claims experience
3. Chief of Risk is the “Risk Officer” and granted settlement authority by the Ordinance Code; OGC does not have settlement authority
4. Various City officials are required by the Ordinance Code to concur with our Risk Officer’s settlement recommendations in order for them to be final: OGC attorney, General Counsel, Finance Director, Finance Chair, and the Mayor
5. The Risk Division has a team of 38 risk professionals who manage the hundreds of claims filed every year
6. Attachments: Listing of FY23 claims and amounts paid, by entity/agency for general liability and worker’s compensation

Claims Process

1. Tracy Flynn and her team work closely with OGC on litigated claims
2. Claims get settled in many ways by authority of the Ordinance Code: by the adjuster, in negotiations with plaintiff’s counsel, and sometimes during mediation
3. There are monthly meetings to review cases going to mediation, ad hoc meetings to discuss cases and settlement offers, and Tracy Flynn receives calls at all hours regarding cases and settlements
4. Responding quickly to offers of settlement is an important requirement of Risk Division Chief and employees
5. Each case involves thorough consideration of the facts and circumstances, including how such facts and circumstances might be received by a jury
6. Risk and OGC also consider the following factors:
 - a. For State claims, COJ is covered by sovereign immunity and liability is limited to \$200,000 (\$300,000 in aggregate)
 - b. For State claims, where an individual officer is named in the lawsuit and COJ makes the decision to go to trial, any judgment against the individually named officer will be borne by the individual officer; COJ is prohibited by State law from paying an individual officer’s judgment
 - c. For Federal claims, there is no limitation of liability for either COJ or the individually named officer; COJ is prohibited by State law from paying an individual officer’s judgment

Brosche Handout Re: 2024-45 Claims Settlement Legislation

Rules Committee: February 5, 2024

Bill 2024-45

1. Includes reference to Chapters 112 and 128
2. Chapter 112: litigated claims (employment practices, discrimination, EEOC, etc.) that do not go through Risk Management and involves department head request to settle
3. Chapter 128: self-insurance program and includes general liability and worker's compensation claims
4. Generally speaking, the legislation requires WRITTEN APPROVAL of the Sheriff and Constitutional Officers, as applicable, to settle a claim

Concerns with Legislation

1. Compromising insurability: Insurance premiums may increase or coverage may be cancelled
 - a. No other municipality in the nation requires written approval of affected organization leader, which the insurance industry deems to pose ethical conflicts of interest and "would materially affect our view of the risk and terms we are able to offer"
2. Increasing costs to taxpayers:
 - a. Missing opportunities to settle claims by imposing delays associated with obtaining written approval
 - b. As noted in #1 above, increasing costs for excess carrier insurance
 - c. Need for additional staff to accommodate reduced efficiency of written approval process
3. Disclosure of information:
 - a. Codifying written approval risks disclosure of Federally protected health information
 - b. Exposing COJ litigation process to opposing counsel

Possible Communication Framework

1. OGC will notify Sheriff/Constitutional Officer via email upon OGC's receipt of a pre-suit claim letter
2. OGC will notify Sheriff/Constitutional Officer via email upon OGC's service of a lawsuit
3. Sheriff/Constitutional Officer (or designee) can attend monthly meeting between OGC and Risk Management for all cases that will be mediated that month
4. Sheriff/Constitutional Officer (or designee) can attend ad hoc meetings to review and discuss cases not discussed in the monthly meeting and where the litigation process advances and requires action
5. OGC will implement a quarterly meeting to review and discuss all pending lawsuits
6. We will add space on the approval letter for settlement of a pre-suit claim over \$50,000 that travels for signature from Risk Management, to OGC, then to Director of Finance that allows the Sheriff/Constitutional Officer to indicate concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature for decision consideration and assurance of proper communication

Brosche Handout Re: 2024-45 Claims Settlement Legislation

Rules Committee: February 5, 2024

7. We will add space on the approval letter for settlement of a lawsuit over \$50,000 that travels for signature from Risk Management, to OGC, then to Director of Finance that allows the Sheriff/Constitutional Officer to indicate concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature for decision consideration and assurance of proper communication
8. For high-dollar and/or high-publicity cases, the Administration will meet with the Sheriff/Constitutional Officer to review and discuss a case for possible settlement/trial

Possible Paths Forward

1. Implement Internal Policy: Finance Director would like to work with the Sheriff/Constitutional Officers to develop a communication framework/internal policy; Finance Director will take personal responsibility for ensuring proper communication of claims process
2. Defer Legislation for 90 Days: Per #1 above, develop a communication framework/policy and allow it to work
3. Remove references to written approval (include references to concurrence)
4. Limit claims to high-dollar and/or high-publicity cases or any other definition deemed appropriate by the Sheriff/Constitutional Officers that focuses on claims of interest

CITY OF JACKSONVILLE

Valued as of 09/30/2023 General Liability

Location Folder	Claim Count		Total Incurred	
City Council	1	0.05%	500	0.01%
Clerk of Courts	3	0.14%	7,500	0.14%
Downtown Investment Authority	3	0.14%	43,000	0.81%
Finance and Administration	5	0.24%	5,793	0.11%
Fire Rescue	68	3.27%	194,267	3.64%
General Counsel	2	0.10%	104,000	1.95%
Jacksonville Aviation Authority	6	0.29%	100	0.00%
Jacksonville Electric Authority	454	21.83%	1,292,670	24.21%
Jacksonville Housing Authority	17	0.82%	72,957	1.37%
Jacksonville Port Authority	5	0.24%	30,687	0.57%
Mayor's Advisory Board	3	0.14%	-	0.00%
Mayor's Office	1	0.05%	5,000	0.09%
Neighborhoods	21	1.01%	44,690	0.84%
Parks, Recreation, and Community Services	65	3.13%	205,040	3.84%
Planning and Development	7	0.34%	21,595	0.40%
Property Appraiser	1	0.05%	10,000	0.19%
Public Libraries	1	0.05%	-	0.00%
Public Works	1,131	54.38%	1,533,697	28.73%
Sheriff's Office	266	12.79%	1,744,668	32.68%
Sports and Entertainment	7	0.34%	10,000	0.19%
Supervisor of Elections	8	0.38%	-	0.00%
Tax Collector	5	0.24%	13,061	0.24%
Grand Totals - 2,080 Claims	2,080		5,339,225	



CITY OF JACKSONVILLE

Valued as of 09/30/2023 Workers Compensation

Location Folder	Claim Count		Total Incurred	
City Council	1	0.08%	507	0.00%
Clerk of Courts	6	0.48%	16,727	0.11%
Downtown Investment Authority	2	0.16%	182,406	1.20%
Finance and Administration	9	0.72%	34,303	0.22%
Fire Rescue	350	28.04%	4,057,385	26.60%
Human Rights Commission	1	0.08%	1,000	0.01%
Inspector General	1	0.08%	1,033	0.01%
Jacksonville Aviation Authority	10	0.80%	251,990	1.65%
Jacksonville Electric Authority	29	2.32%	212,640	1.39%
Jacksonville Housing Authority	9	0.72%	144,612	0.95%
Jacksonville Port Authority	5	0.40%	14,421	0.09%
Medical Examiner	7	0.56%	28,793	0.19%
Neighborhoods	44	3.53%	237,430	1.56%
Parks, Recreation, and Community Services	37	2.96%	445,989	2.92%
Planning and Development	8	0.64%	32,850	0.22%
Property Appraiser	3	0.24%	7,766	0.05%
Public Libraries	16	1.28%	34,813	0.23%
Public Works	75	6.01%	579,209	3.80%
Sheriff's Office	621	49.76%	8,890,344	58.28%
Sports and Entertainment	1	0.08%	12,500	0.08%
Supervisor of Elections	9	0.72%	66,033	0.43%
Tax Collector	4	0.32%	2,185	0.01%
Grand Totals - 1,248 Claims	1,248		15,254,936	





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February 4, 2024

Anna Brosche, Chief Financial Officer
Tracy A. Flynn, Chief of Risk Management
Finance and Administration Department
City of Jacksonville
117 W. Duval St., Suite 335
Jacksonville, FL 32202-3381

Re: City of Jacksonville Contract
Casualty Claim Settlement – Potential Legislative Changes

Dear Mrs. Brosche and Mrs. Flynn,

Below please find a narrative outlining concerns with regard to potential Jacksonville legislative changes.

Main concerns in granting Department Heads and/or Constitutional Officers legislative authority to veto Risk Management and Office of General Council claim settlement decisions are outlined as follows:

- 1. Limited relevant insurance carriers**
- 2. Underwriter perceptions and appetites**
- 3. Contractual realities**
- 4. Claims administration requirements**
- 5. Licensed in-house adjusters**
- 6. Risk management program and best practices**

1. Limited relevant insurance carriers

The city of Jacksonville is one of ten Cities with a population of one million or greater. As such, from an underwriting perspective, there are limited insurance companies willing to write casualty insurance coverage even in an excess capacity for Cities the size of Jacksonville. Case in point, the City's coverage was non-renewed after the 2020 election due to the riots in Portland and countrywide. The insurance carrier chose to no longer underwrite municipalities with populations in excess of 400,000. This limited the number of carriers further to the handful we have today.



2. Underwriter perceptions and appetites

Insurance policies are contracts. They are underwritten based on the individual exposures of a Risk and how they fit within the parameters of an insurance company's set of criteria. This information is developed through the completion of an annual application, which often forms a part of the policy (contract). Segments of the policy have been incorporated in the following narrative for your convenience. As the policy constitutes a contract, all parties must abide by the terms and conditions of the policy for coverage to apply.

3. Contractual realities

Please note below the policy can be void if the INSURED conceals or misrepresents any material fact in the INSURED'S submission and/or application(s).

Representations: By accepting this Policy and as a condition precedent to coverage, the **INSURED** agrees that:

- (a) The information contained within the **Declarations** is complete and accurate and is based upon representations made by the **INSURED** to Underwriters in the submission and/or application(s) for this Policy;
- (b) Underwriters have issued this Policy in reliance upon the **INSURED'S** representations in the submission and/or application(s);
- (c) Except as otherwise provided in this Policy or by law, this Policy is void in any case of fraud; or, if the **INSURED** conceals or misrepresents any material facts in the **INSURED'S** submission and/or application(s) for this Policy. If the Policy is wholly voidable due to fraud, misrepresentation or concealment by the **INSURED** as aforementioned, Underwriters, at their sole discretion, may elect to void coverage only for the particular loss or **CLAIM** which is affected by such concealment and/or misrepresentation and/or fraud.

Removing decision authority from Risk Management, will constitute a material change which will have to be submitted and approved by the underwriter.

Following is a section from the General Policy Conditions for the current City of Jacksonville Excess Liability policy.



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CLAIMS, OCCURRENCES or SUITS: Underwriters reserve the right to deny coverage under this Policy if there has not been full compliance with the following duties:

The **INSURED** shall as soon as practical notify Underwriters through the **THIRD PARTY CLAIM ADMINISTRATOR** of any **CLAIM, OCCURRENCE or SUIT** meeting the following criteria:

- (a) The cost of which is likely to result in payment by Underwriters under this Policy;
- (b) All **CLAIMS** reserved at 50% or more of the **SELF INSURED RETENTION**;
- (c) All **CLAIMS** where there has been a settlement demand above the **SELF INSURED RETENTION** and there is a trial, binding arbitration or binding mediation date within 90 days;
- (d) Catastrophic losses (including Paraplegia, Quadriplegia, Severe Burns, Fatalities, Significant Brain Injury, Amputation of Major Extremity);
- (e) Within 180 consecutive days following the **DISCOVERY** of any actual, attempted or pending alleged **SEXUAL ABUSE**;
- (f) Discrimination or Violation of Civil Rights where the **CLAIM** is reserved at 50% or more of the **SELF INSURED RETENTION** or within 90 days of a trial date, whichever is sooner;
- (g) Third-party **CLAIMS** involving **LAW ENFORCEMENT ACTIVITIES**;
- (h) Act or series of **ACTS OF TERRORISM**;
- (i) Any **CLAIMS** where there is a question as to whether there will be coverage under this Policy.

Underwriters shall have the right, but not the obligation, to be associated with the **INSURED** in, and/or assume charge of, the investigation, handling, defense or settlement of any **CLAIMS, SUIT** or proceedings relative to an **OCCURRENCE or CLAIM** where in the sole opinion of the Underwriters, Underwriters' liability under this Policy is likely to be involved.

The **INSURED** shall make no commitment to pay or settle any **CLAIMS, OCCURRENCES or SUITS** where Underwriters' liability under this Policy is involved without the prior written agreement of Underwriters. Underwriters shall not withhold agreement without just cause. Neither shall the **INSURED** refuse any reasonable opportunity to pay or settle a **CLAIM** when such refusal will result in Underwriters having liability under this Policy without the prior agreement of Underwriters. Underwriters shall not withhold agreement without just cause. If the **INSURED** refuses to consent to settlement of any **CLAIMS, OCCURRENCES or SUITS** where Underwriters' liability under this Policy is potentially involved, and settlement or compromise is recommended by Underwriters and acceptable to the claimant, then calculation of, and Underwriters' obligation under **ULTIMATE NET LOSS** with respect to the **CLAIMS, OCCURRENCES or SUITS** shall be limited to the amount of damages or payments for which the **CLAIMS, OCCURRENCES or SUITS** could have been settled for, plus any expenses payable under **ULTIMATE NET LOSS** incurred until the date of the **INSURED'S** refusal to settle or compromise the **CLAIMS, OCCURRENCES or SUITS** as recommended by Underwriters.

The point in showing this to you is to point out the very specific reporting requirements for coverage to apply. Please note specifically, (d) and (g) above.

Once a claim fits within the parameters of this listing, the insurance company assigns one of their own adjusters who communicates with the Jacksonville risk management assigned adjuster, oversees the loss, and requires updates on open claims until they are closed. Please note the last paragraph, a portion of which follows.



“If the INSURED refuses to consent to settlement of any CLAIMS, OCCURRENCES or SUITS where Underwriters’ liability under this Policy is potentially involved, and settlement or compromise is recommended by Underwriters and acceptable to the claimant, then calculation of, and Underwriters’ obligation under ULTIMATE NET LOSS with respect to the CLAIMS, OCCURRENCES or SUITS shall be limited to the amount of damages or payments for which the CLAIMS, OCCURRENCES or SUITS could have been settled for, plus any expenses payable under ULTIMATE NET LOSS incurred until the date of the INSURED’S refusal to settle or compromise the CLAIMS, OCCURRENCES or SUITS as recommended by Underwriters.”

4. Claims administration requirements

Below is a sample of the Claim Administration information required by the insurance company underwriters when they consider whether they will write the coverage for an entity with a self-administered claim unit. As you can see, the information required to approve the Risk Management staff is extensive.

1. Claim service standards - please provide a copy of the Claim Handling Guidelines.
2. Organization of the in-house claims unit, to include:
 - a) Profiles of key people involved.
 - b) Areas of expertise, e.g., Public Officials, Errors & Omissions, Law Enforcement, etc.
 - c) What is their history handling claims?
 - d) Procedures and processes in place to comply with MMSEA Section 111 requirements for liability and no-fault claim payments, to the Centers for Medicare & Medicaid Services (CMS).
 - e) Geographic area covered.
 - f) Are the adjusters appropriately licensed?
 - g) Organizational chart.
 - h) When and what types of losses are referred out an independent adjusting firm or attorney.
 - i) Details on staff leaving or added in the past two years.
3. Samples of reports and computer/database systems used.
 - a) Specific loss large loss report to carrier or client.
 - b) Sample account loss run.
 - c) Identify the claims management system.
 - d) Is the system maintained by a contractor or employee?
 - e) Can the insured make changes to system to automate reports or capture additional data with own staff?
4. List of defense counsels, independent adjusters/appraisers and experts used.
5. Details of disaster recovery plans, e.g., backup of computer data and paper files.
6. How long has the City self-administered their liability claims?
7. Do you agree to provide detailed claim reports with requested supporting documentation on reported losses following the notice provisions in the policy no less than quarterly?
8. Do you agree to provide loss runs on a quarterly basis with losses broken out by policy period reflecting the type of loss (AL, GL, Public Officials, etc.) consistent with the coverages provided to the insured?



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5. Licensed in-house adjusters

Florida Statute 626 provides information regarding licensing requirements in the State of Florida. The adjusters managing claims in the Risk Management Department are Florida Licensed Adjusters. The adjusters collaborate with other staff within the Risk Management Department and the Office of General Council who are not licensed but are approved through the application process. The separation of departments allows these individuals to make decisions based on the individual merits of each case without bias or prejudice.

6. Risk management program and best practices

Department Heads and/or Constitutional Officers having authority to veto settlements and force trials, causes concern for placement of future coverage for the City of Jacksonville. We reached out to our various public entity specialist and found no other Public Entities have enacted this type of legislation.

The underwriters contacted advised they would most likely require contracting with an outside Third-Party Administrator to consider providing coverage going forward in this scenario. Regarding the City's current coverage provider, they have responded with "it would materially affect our view of the risk and terms we are able to offer." In other words, changing from licensed adjusters managing the settlement of claims constitutes a material change and would have to be reported mid-term. Whether they would choose to continue on the risk and or non-renew is at issue. See below from the current policy:

In the event of cancellation, expiration or revision of the relationship between the **NAMED INSURED** and in-house claims administrator, the **NAMED INSURED** must notify Underwriters in writing 90 days prior to the effective date of such cancellation, expiration or revision, and the **NAMED INSURED** and Underwriters must agree upon the specifications for the new **THIRD PARTY CLAIMS ADMINISTRATOR**.

If the relationship between **NAMED INSURED** and the in-house claims administrator is terminated for any reason without Underwriters' prior written approval, Underwriters reserve the right to deny coverage under this Policy for any **CLAIMS** or **OCCURRENCES** reported to Underwriters after the termination date of the **INSURED'S** agreement with the in-house claims administrator.

Should you have any questions, please let us know.

Best Regards,

Brenda Lewis-Lipscomb

CIC, AINS

Commercial Account Executive
Senior Vice President

Brenda.Lewis@bbrown.com

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From: [Coarsey, David S.](#)
To: [Brosche, Anna](#)
Subject: RE: 2024-0045 Claims Settlement Legislation
Date: Wednesday, January 24, 2024 3:59:14 PM
Attachments: [image001.png](#)

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Thank you for letting me know, talk to you next week.

Shawn

Undersheriff Shawn Coarsey
Jacksonville Sheriff's Office
Jacksonville, Florida 32202
904-630-7570

From: Brosche, Anna <BroscheA@coj.net>
Sent: Wednesday, January 24, 2024 3:45 PM
To: Coarsey, David S. <David.Coarsey@jaxsheriff.org>
Subject: RE: 2024-0045 Claims Settlement Legislation

*****EXTERNAL EMAIL SOURCE*****

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Thank you, Undersheriff.

Absolutely, that would be fine. I know it is a lot to digest.

In full transparency and in case your decision is to move forward with the legislation as written on February 5th during Rules Committee, I am reaching out to Council Members to schedule meetings to help them understand the Risk Management process and our concerns. I will be sharing the exact same information I have shared with you as we want to avoid discussing our claims settlement process at the podium and risk sharing information that would be detrimental to the City of Jacksonville and JSO i.e., invite more litigation or higher settlement amounts.

I look forward to hearing back and/or fielding any questions that arise.

My cell is (904) 537-7202.

Best,

Anna Brosche, CPA, MAcc

CFO, Director of Finance and Administration

City of Jacksonville

117 West Duval Street, Suite 300, Jacksonville, FL 32202

Office: (904) 255-5354

Email: broschea@coj.net

Website: Jacksonville.gov



Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure.

From: Coarsey, David S. <David.Coarsey@jaxsheriff.org>

Sent: Wednesday, January 24, 2024 3:34 PM

To: Brosche, Anna <BroscheA@coj.net>

Subject: RE: 2024-0045 Claims Settlement Legislation

EXTERNAL EMAIL: This email originated from a non-COJ email address. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Anna,

Thank you for the correspondence, we would like a chance to review this and discuss with the executive staff. I will reach out to you next week if that is okay with you?

Shawn

Undersheriff Shawn Coarsey

Jacksonville Sheriff's Office

Jacksonville, Florida 32202

904-630-7570

From: Brosche, Anna <BroscheA@coj.net>

Sent: Wednesday, January 24, 2024 1:29 PM

To: Coarsey, David S. <David.Coarsey@jaxsheriff.org>

Cc: Young, Gaby <GCYoung@coj.net>; Mattina, Lara Z <Lara.Mattina@jaxsheriff.org>; Granat, Sean <SGranat@coj.net>; Flynn, Tracy <TFlynn@coj.net>; Fackler, Michael <MFackler@coj.net>

Subject: 2024-0045 Claims Settlement Legislation

*****EXTERNAL EMAIL SOURCE*****

This email was sent from a non-JSO account. Do not open any links or any attachments unless you trust the sender and know the content is safe.

Good afternoon, Sheriff Waters and Undersheriff Coarsey. Thank you again for your time yesterday regarding Bill 2024-0045.

During our meeting, you expressed that the lack of communication regarding the Jamie Johnson settlement was disappointing and unacceptable. We stand in agreement with you, reiterate our deepest apologies expressed yesterday in person, and appreciate the opportunity to establish a communication framework for ensuring your involvement/awareness in the claims settlement process at the level that respects your position as a duly elected Constitutional Officer, as an important part of the consolidated government of the City of Jacksonville, and as a party to the claims. We welcome your involvement.

Also discussed yesterday and an important consideration: The City of Jacksonville has sovereign immunity for amounts above \$300,000 (maximum exposure). Where an officer is a named defendant in a case and the case goes to trial, the City of Jacksonville is prohibited by State law from paying any amounts for the named officer; the named officer will bear any financial amounts attributed to them in a verdict.

I promised to follow up with a communication framework. Below are numerous ways in which JSO can have a voice, protect its interests, and have confidence in the claims settlement process:

- OGC can notify JSO via email upon OGC's receipt of a pre-suit claim letter involving JSO.
- We currently have an approval letter for settlement of a pre-suit claim over \$50,000 that travels for signature from Risk Management, to OGC, then to Director of Finance. We could add a space on the approval letter allows the Sheriff to indicate his concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature so that I can ensure proper communication.
- OGC can notify JSO via email upon OGC's service of a lawsuit involving JSO.
- We would like to implement a quarterly meeting to review and discuss all pending lawsuits involving JSO.
- There is a monthly meeting between OGC and Risk Management for all cases that will be mediated that month. We welcome your JSO designee to participate in these meetings

and learn the process, learn the factors considered, and ask questions and provide input.

- There are ad hoc meetings to review and discuss cases that were not discussed in the monthly meeting and where the litigation process advances and requires action. Your designee having consistent exposure to the overall claims settlement process and its fluidity can ensure proper channels of communication remain open and they can participate in such ad hoc meetings.
- Upon settlement of a lawsuit over \$50,000, there is letter that travels for signature from Risk Management, to OGC, then to Director of Finance. We could add a space on the approval letter allows the Sheriff to indicate his concurrence/nonconcurrence PRIOR to it coming to the Director of Finance for signature so that I can ensure proper communication.
- In high-dollar, high-publicity cases, the Administration may meet to review and discuss a case for possible settlement/trial. We welcome your participation in such meetings.
- NOTE: OGC has NO authority to settle cases and gains its authority from Risk Management.

We do have concerns with the proposed legislation that we didn't get into deeply during our meeting, which are:

1. Codifying JSO/Constitutional Officer involvement removes any perceived or actual distance from the business decision of settling cases.
2. The implications of named officers not being covered by sovereign immunity liability limits.
3. Gaining written settlement approval will:
 - a. Increase costs by missing opportunities to settle. Whether in the mediation process when settlements often happen on the fly, or in discussions with opposing counsel, the need to stop the process by days to get written approval will put settlements at risk and cause them to be higher.
 - b. Increase costs by requiring additional personnel in the Risk Management process to handle additional steps in the already excessive caseloads. Gaining written approval will reduce efficiency.
 - c. Risk exposure of the way the City of Jacksonville settles cases and give opposing counsel the opportunity to leverage knowledge to gain higher settlements.
 - d. Make public records of the private information of cases and defendants that should remain private (in possible violation of Federal HIPAA laws).
 - e. Increase insurance premiums for excess coverage above our self-insurance limits.
 - f. Challenge relationships with our insurance carriers and possibly risk cancellation of coverage (by the carrier) and COJ becoming an uninsurable excess coverage entity.
 - g. NOTE: Our contracts with excess insurers contain provisions that allow the carriers to dictate settlement amounts to us.

Given the above concerns, we have suggestions for consideration (in order of preference):

1. Ideally, we would like to NOT codify the process. I will take personal responsibility to ensure that we communicate openly with JSO regarding claims settlements and I can be the point person for the communications. We can document a process/framework, but not put it in the Ordinance Code. In addition to this solution addressing some of the concerns above, it also allows us the flexibility to modify our process/framework in the future should we desire.
2. You could defer the legislation and give the communication framework time to yield the results you seek (consider deferring for 90 days).
3. If we must codify, remove any references to “written approval” from the legislation.
4. If we must codify, focus on the high-dollar and/or high-publicity claims and codifying notification/communication (but not written approval).

I/we are happy to discuss further as you consider how you would like to move forward. I am committed to a process that respects and supports you and JSO and we stand ready to work together.

Sincere regards,

Anna Brosche, CPA, MAcc

CFO, Director of Finance and Administration

City of Jacksonville

117 West Duval Street, Suite 300, Jacksonville, FL 32202

Office: (904) 255-5354

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Settlement of claims and suits against the City¹

The settlement of claims and suits against the City is governed by Chapter 112 and 128 of the Jacksonville Municipal Code. Chapter 128 is narrowly focused on claims and suits seeking monetary relief for personal injury and property damage alleged to have been caused by the City. Chapter 112 covers claims and suits for monetary relief not covered by Chapter 128, and also claims and suits against the City for nonmonetary relief.

1) Chapter 128 (Risk Management Program)

A) Risk Management Program Generally

Chapter 128 is titled the “Risk Management Program.” It is a comprehensive program consisting of a Self-Insurance Program, a Miscellaneous Insurance Program, and other related activities designed to absorb or transfer risk from City operations. The Risk Management Program covers all City operations of all City departments, divisions, boards, commissions, offices and organizational units including all Constitutional Officers of the City of Jacksonville (with the exception of the Duval County School Board and the School Board Members, who participate in their own risk management program). The Program also allows the City’s independent agencies to participate upon request of the independent agency and approval by the City Council. The current independent agency participants are the Jacksonville Port Authority, the Jacksonville Aviation Authority, the Jacksonville Housing Authority, and JEA (hereinafter collectively referred to as “the Participants.”

Section 128.102 explains that “[t]he purpose of the Risk Management Program is to generally manage the risk associated with City operations, [and to] provide uniform and centralized self-insurance for Automobile Liability, General Liability, and Workers' Compensation” Automobile Liability includes claims for bodily injury or property damage suffered from accidental vehicle collisions involving City employee drivers. General Liability covers other types of claims for bodily injury or property damage including (1)

¹ This paper discusses the settlement of claims and suits **against the City**. The settlement of Claims and suits brought **by the City** are also governed by the Jacksonville Municipal Code, but are not discussed here.

Premises Liability (i.e. slip/trip and falls caused by negligent maintenance of sidewalks, walkways, or City building interiors; negligent maintenance of streets, street lights, stop signs, and traffic lights or other City property); Medical Liability (i.e. negligence by jail nurses, jail doctors, or emergency medical technicians/paramedics); and Police Liability (i.e. alleged improper police activity such as excessive force, false arrest, and deliberate indifference to serious medical needs). Finally, Workers' Compensation covers medical expenses and wages of City employees who are injured while performing their job duties. Claims and suits that do not fall into Automobile Liability, General Liability, or Workers' Compensation are governed by Chapter 112, Jacksonville Municipal Code.

The Risk Management Program covers claims and suits against the City and the Participants, and also against officials, officers, employees and volunteers of the City and the Participants, so long as the officials, officers, employees, and volunteers acted in good faith and in the best interest of the City or The Participants. Coverage of individuals is subject to limitations imposed by Florida State Statutes.

The Risk Management Program is part of the City's Finance and Administration Department ("Department"). The Director of Finance and Administration is authorized to promulgate rules for the management and maintenance of the Program, and is required to submit to the City Council a comprehensive annual report on the Program. Chapter 24, Part 4, of the Municipal Code establishes the Risk Management Division, which is responsible for employee safety programs, insurance, and risk management functions. Section 24.402, Jacksonville Municipal Code, provides that the Risk Manager is the division chief of the Risk Management Division, who is required to have at least a four-year degree in business, insurance, risk management, or a law degree and at least five years' experience in relevant insurance and risk management activities. Among other duties, the Risk Manager oversees and supervises the Risk Management Program.

One of the main components² of the Risk Management Program is the Self-Insurance Program. In simple terms, the Self-Insurance Program acts

² Another component of the Risk Management Program is the Miscellaneous Insurance Program through which the City purchases commercial insurance to cover cyber, terrorism, aviation, marine, deadly weapons, out-of-state auto,

as an insurance company, collecting contributions from the Program's participants and paying the costs and expenses of defense and/or settlement of claims and suits against the participants.

The Self-Insurance Fund is used to pay the claim costs and administrative expenses of the Self-Insurance Program. On an annual basis, the Risk Manager determines the amount that each participant is required to contribute to the Fund. This determination is made using accounting and actuarial principles based generally on each participant's projected claim costs, share of administrative expenses, and contribution to the Self-Insurance Operating Reserve.

The City also maintains excess insurance coverage for claims in excess of the self-insured retention (SIR) amount (\$1,500,000 for workers' compensation matters and \$2,000,000 for other covered matters for FY 2024-2025). This policy requires written approval of the excess carrier before paying a settlement in excess of the SIR, and the excess carrier retains the right to settle a claim that in its sole opinion may create indemnification obligations for it under the policy. Risk management files are subject to audits by the excess insurance carrier; if an audit reveals the involvement of someone other than a licensed adjuster or attorney in the claims process, the excess carrier could deny coverage.

The Risk Management Division receives and investigates all claims covered by the Risk Management Program. The Division evaluates each claim to determine the level of risk it poses, its potential costs to the Program, and whether it should be defended or settled. The Division employs 38 employees, 16 of whom are licensed liability and workers' compensation adjusters. These professionals use their special training and experience in evaluating, handling, and deciding whether to settle claims. In addition to protecting the Self-Insurance Fund, the Division must ensure that claims are handled fairly, honestly, and without regard to any claimant's race, color, religion, national origin, or gender.

voting precincts, riverwalk, and medical malpractice. This is not an exhaustive list.

B) Settlement of Claims and Suits Under the Risk Management Program

Settlement of claims covered by the Risk Management Program are governed by Section 128.313, Jacksonville Municipal Code. Differing authorization is required, depending on the settlement amount. In summary:

- (1) Settlements not exceeding \$5,000 may be settled by the City's authorized adjusters;
- (2) Settlements not exceeding \$50,000, that are not in litigation, require the approval the Risk Manager or Director of Finance and Administration;
- (3) Settlements not exceeding \$50,000, that are in litigation, require the approval of the Risk Manager or Director of Finance and Administration, with the concurrence of the General Counsel;
- (4) Settlements exceeding \$50,000 but not exceeding \$200,000 require the approval of the Director of Finance and Administration, with the favorable written recommendation of the Risk Manager and the General Counsel;
- (5) Settlements that exceed \$200,000 require the approval of the Mayor, with written recommendation of the Director of Finance and Administration, the Risk Manager, the General Counsel, and the chairperson of the Council Finance Committee.

The Code provides that, subject to the right of review of the Mayor or Director, all strategic decisions related to the settlement of claims covered by the Risk Management Program, including but not limited to decisions related to the expenditure of costs and decisions to appeal, shall be made by the Risk Manager after consultation, as appropriate, with the Office of General Counsel. This consultation occurs throughout the claims process, from presuit notice to final settlement or the decision to proceed to trial.

The Risk Management team meets regularly with OGC attorneys to discuss cases, with in-depth analysis of the likelihood of success at trial and the cost of litigation. Trials are expensive. The Risk Management process is designed to promote fiscal responsibility and protect the public treasury by comparing and managing the uncertainty of trial with the certainty of a settlement. In addition to costs for expert witnesses, court reporters, and exhibit preparation, trials divert time and resources from City operation. Instead of doing their jobs, City employees have to spend time in depositions, witness preparation, and other trial preparation. The Risk Management process takes all of these factors into account.

The settlement of a claim or suit against the City is not an admission of wrongdoing by the City, and settlement documents contain specific language on this point. A settlement is merely a business decision made to protect the Self-Insurance Fund from a calculated risk.

The primary goal of Risk Management in claims handling, whether presuit or in litigation, is to minimize financial and other risks for the City. The risk management ordinance recognizes the need for an assessment of the risks inherent in litigation by those with expertise in such matters: risk managers and attorneys. The Risk Manager has over 25 years of risk, legal, and claims experience. The Casualty Manager has over 17 years of claims experience, with an aggregate of over 100 years for the Casualty staff. The Workers' Compensation Manager has 27 years of claims experience, with an aggregate of over 114 years for the Workers' Compensation staff.

Risk Management works with all city departments, including JSO and JFRD to support operations and ensure the best outcome for all parties, including individual employees or officers that may be included in suits.

2) Chapter 112 (Claims by and Against City)

A) Claims Against the City (Not Covered by the Risk Management Program)

Chapter 112, Jacksonville Ordinance Code, governs the handling of claims made by and against the City, that are not covered by Chapter 128. While this Chapter encourages independent agencies to establish similar procedures, it only controls the City's departments, divisions, boards, commissions, offices and organizational units. Chapter 112 covers three types of claims against the City: actions brought against the City alleging improper legislative action or inaction, actions brought against the City seeking nonmonetary relief, and Claims and suits brought against the City for monetary relief.

B) Actions Brought Against the City Alleging Improper Legislative Action or Inaction

Section 112.305 governs the settlement of actions brought against the City alleging improper legislative action or inaction. It provides that:

- (1) Zoning actions may be settled by resolution of the City Council;
- (2) Actions attacking the constitutionality of an ordinance as written (facial validity) may be settled by resolution of the City Council;
- (3) Actions attacking the constitutionality of the manner in which an ordinance is enforced may be settled upon the written authorization of the department head³ charged with the enforcement of the ordinance, concurred with in writing by the General Counsel.

In addition, the approval of the City Council for items (1) and (2) and the approval of the appropriate department head for item (3) above is required to take an appeal of an adverse ruling against the City.

³ For the purposes of Section 112.305, the term department head includes City Department Directors, the Sheriff, the Clerk of Court, the Property Appraiser, the Tax Collector, and the Supervisor of Elections.

C) Actions Brought Against the City Seeking Nonmonetary Relief

Section 112.306 provides that all actions, except those governed by Section 112.305, that seek nonmonetary relief, may be settled by the appropriate department head, upon written approval of the General Counsel.

D) Claims and Suits Brought Against the City For Monetary Relief

Section 112.307 governs all claims and suits against the City, whether in litigation or not, that are not covered by the Risk Management Program. These claims and suits are settled as follows:

- (1) Settlements less than \$5,000 require the written approval of the appropriate department head with written concurrence of the General Counsel;
- (2) Settlements between \$5,000 and \$10,000 require the written approval of the General Counsel and the appropriate department head;
- (3) Settlements between \$10,000 and \$50,000 require approval of the Mayor with favorable written recommendations from the General Counsel, and either the Director of Finance and Administration or the Chairman of the City Council Finance Committee.
- (4) Settlements that exceed \$50,000 require the approval of the City Council.

This Section also provides that the appropriate department head, with written concurrence of the General Counsel, is required for the appeal of an adverse ruling against the City.

Funding for expenses related to claims covered by Chapter 112 comes from the appropriate department or the Office of General Counsel subject to fund availability. Costs of settlement are paid by the appropriate department.