

1 Introduced by the Council President at the request of the Office of
2 General Counsel and amended by the Finance Committee:

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5 **ORDINANCE 2020-629-E**

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

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

24 **WHEREAS**, following a City audit, in 2012, then General Counsel
25 for the City issued a legal opinion that the PFPF Board did not
26 have the authority to create the Senior Staff Plan. On April 20,
27 2016, the current General Counsel issued an opinion, also
28 concluding that the Senior Staff Plan was unauthorized. Pursuant
29 to section 7.02, Jacksonville Charter, a legal opinion rendered by
30 the General Counsel is the final authority on a legal issue until

1 "overruled or modified by a court of competent jurisdiction"; and

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

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

18 **WHEREAS**, the PFPF Board restored Keane's Senior Staff Plan
19 pension benefits to the amount authorized by the Senior Staff Plan,
20 and on June 4, 2020 voted to neither pursue an appeal of the
21 nonfinal order nor move for a rehearing concerning the ruling; and

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

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

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

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

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

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

16 **Section 1. Settlement Approval and Authorization to**
17 **Execute and Implement.** The Council hereby approves, and the Mayor,
18 or his designee, and the Corporation Secretary are hereby
19 authorized to execute, for and on behalf of the City, the joint
20 Complete Release in substantially the form as attached hereto and
21 incorporated herein by this reference as **Revised Exhibit 1**, labeled
22 as "Revised Exhibit 1, Rev Complete Release, November 4, 2020 -
23 Finance".

24 **Section 2. Further Action Authorized.** The General
25 Counsel, or his designee, is authorized to take such further action
26 and to execute all other documents necessary, including a joint
27 dismissal of all claims and counterclaims, to effectuate the
28 approved settlement. Further action also includes ensuring
29 Plaintiff receives payment within ten (10) calendar days of the
30 Mayor signing this ordinance.

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

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6 Form Approved:

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8 /s/ Paige H. Johnston

9 Office of General Counsel

10 Legislation Prepared By Rita M. Mairs

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