

## LEGISLATIVE FACT SHEET

DATE: 03/29/17

BT or RC No: BT17-090  
(Administration & City Council Bills)

SPONSOR: Public Works / Public Buildings Division & Public Libraries  
(Department/Division/Agency/Council Member)

Contact for all inquiries and presentations: \_\_\_\_\_

Provide Name: John P. Pappas, P.E., Director of Public Works

Contact Number: 255 - 8707

Email Address: [pappas@coj.net](mailto:pappas@coj.net)

PURPOSE: White Paper (Explain Why this legislation is necessary? Provide; Who, What, When, Where, How and the Impact.) Council Research will complete this form for Council introduced legislation and the Administration is responsible for all other legislation. (Minimum of 350 words - Maximum of 1 page.)

The City of Jacksonville entered into agreements with a joint venture construction contractor consisting of The Auchter Company, Elkins Constructors, Inc., Lodestar Construction Company, LLC, and James E. Parris, Jr., Inc., doing business as Auchter/Elkins/Lodestar/Parris, Joint Venture ("Joint Venture"); the architect and engineer, Robert A.M. Stern Architects, L.L.P. ("RAMSA"); and the program manager Heery International, Inc. ("Heery") for the design, construction, and related monitoring and inspection services for a new downtown main Library (the "Project"), as part of the Better Jacksonville Plan. The Joint Venture, Heery and RAMSA thereafter engaged various subcontractors and consultants and set forth to perform and deliver their agreed upon services.

After the opening of the Library, certain water intrusion problems arose that necessitated the City's retaining an outside consultant to investigate and determine the reasons for the problems. The City then hired a separate contractor to perform corrections and repairs to the Library. A dispute arose between the City and the Joint Venture, Heery and RAMSA regarding performance of their various contractual requirements. That led to litigation filed by the City (styled, informally, as City of Jacksonville v. Heery, RAMSA and the Joint Venture and its various members, et al.; Case No. 2013-CA-003934). The Joint Venture filed third party complaints against multiple subcontractors, and several defendants and third party defendants filed crossclaims against each other.

Although thousands of pages of documentary evidence have been produced and reviewed, retained expert analyses have been performed, and certain depositions taken, extensive discovery and trial preparations remain at a significant cost to the parties. It is anticipated that if this lawsuit does not settle, the parties will incur lengthy and expensive litigation and face uncertain outcomes. The parties, wishing to avoid that, engaged in a two-day initial mediation and reached a proposed settlement.

As a part of the settlement, the City will receive checks from the defendants and almost all of the third party defendants, or their respective insurers, in the total amount of \$1,065,000. In addition, third party defendant Schindler Elevator Corporation has already replaced an elevator circuit board in issue to bring the elevators into compliance with the original contract requirements for a non-proprietary elevator system. The \$1,065,000 is proposed to be appropriated into two separate funds: \$315,000 to the newly-created Main Library-Capital Maintenance Fund; and \$750,000 to the Facilities Capital Maintenance-Gov't for future capital maintenance needs. In exchange for the monies paid and elevator replacement parts installed, all parties will dismiss with prejudice their respective claims in the lawsuit. The proposed settlement requires approval by the City Council pursuant to the requirements of Chapter 112, Ordinance Code.

APPROPRIATION: Total Amount Appropriated \$ 1,065,000.00 as follows:  
 List the source name and provide Object and Subobject Numbers for each category listed below:

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

Name of Federal Funding Source(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name of State Funding Source(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name of City of Jacksonville Funding Source(s)	From: Authorized Capital Projects - Judgements Recovered	Amount: \$1,065,000.00
	To: Authorized Capital Projects - Other Construction Costs	Amount: \$1,065,000.00
Name of In-Kind Contribution(s)	From: _____	Amount: _____
	To: _____	Amount: _____
Name & Number of Bond Account(s)	From: _____	Amount: _____
	To: _____	Amount: _____

**PLAIN LANGUAGE OF APPROPRIATION / FINANCIAL IMPACT / OTHER:**

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

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

This is an appropriation of settlement funds which will be used for the Capital Maintenance of the Main Library and for city facilities countywide.

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

**ACTION ITEMS:**

Emergency?  Yes  No

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

Federal or State Mandate?  Yes  No

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

Fiscal Year Carryover?

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

Subfund 32E is an all-years subfund

CIP Amendment?    
 Contract / Agreement Approval?

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

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

Payment of \$1,065,000 to the City is contingent upon Council approval and execution of the proposed settlement agreement prepared by OGC. Upon dismissal of the lawsuit, there will be no need for Department oversight of the settlement agreement

Related RC/BT?    
 Waiver of Code?

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

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

Code Exception?

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

Related Enacted Ordinances?

Code Reference: If yes, identify related code section(s) and ordinance reference number in the box below and provide detailed explanation and any changes necessary within white paper.

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

**ACTION ITEMS:** Yes No  
 Continuation of Grant?

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

Surplus Property Certification?

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

Reporting Requirements?

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

Division Chief: *John Popper*  
(signature)

Date: 3-29-17

Prepared By: *Alvin J. Smith*  
(signature)

Date: 3/29/2017

**ADMINISTRATIVE TRANSMITTAL**

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

Thru: John P. Pappas, P.E., Director of Public Works

(Name, Job Title, Department)

Phone: 255 - 8707

E-mail: [pappas@coj.net](mailto:pappas@coj.net)

From:

Initiating Department Representative (Name, Job Title, Department)

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Primary Contact: John P. Pappas, P.E., Director of Public Works

(Name, Job Title, Department)

Phone: 255 - 8707

E-mail: [pappas@coj.net](mailto:pappas@coj.net)

CC: Allison Korman Shelton, Director of Intergovernmental Affairs, Office of the Mayor

904-630-1825 E-mail: [akshelton@coj.net](mailto:akshelton@coj.net)

**COUNCIL MEMBER / INDEPENDENT AGENCY / CONSTITUTIONAL OFFICER TRANSMITTAL**

To: Peggy Sidman, Office of General Counsel, St. James Suite 480

Phone: 904-630-4647

E-mail: [psidman@coj.net](mailto:psidman@coj.net)

From:

Initiating Council Member / Independent Agency / Constitutional Officer

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Primary

Contact: (Name, Job Title, Department)

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

CC: Allison Korman Shelton, Director of Intergovernmental Affairs, Office of the Mayor

904-630-1825 E-mail: [akshelton@coj.net](mailto:akshelton@coj.net)

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

Independent Agency Action Item:

Yes

No

Boards Action / Resolution?

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

**FACT SHEET IS REQUIRED BEFORE LEGISLATION IS INTRODUCED**