

LEGISLATIVE FACT SHEET

DATE: 06/13/17

BT or RC No: BT 17-121
(Administration & City Council Bills)

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

Contact for all inquiries and presentation: _____

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

Contact Number: 255 - 8707

Email Address: 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 a contract with ERC General Contracting Services, Inc. ("ERC") to construct the landfill incremental closure of approximately 25 acres of side slope terraces that are a part of the active Trail Ridge Landfill, known as Trail Ridge Landfill Incremental Closure Phase 4 ("Phase 4 Closure"). Great American Insurance Company ("Great American") provided the payment and performance bonds for the contract.

ERC struggled to stay on schedule and, by January 2014, ERC's work had mostly stopped, with heavy equipment being removed from the site. ERC had also stopped making payments to many of its subcontractors and, at Great American's request, the City ceased making payments to ERC. In February 2014 the City gave both ERC and Great American notice of ERC's default and termination.

Immediately thereafter, Great American began working with the City to prepare bid documents for a completion contractor; however, Great American ceased assisting with bid preparation after ERC filed a claim against the City. The City proceeded to bid and award a contract for completion of the Phase 4 Closure and also to repair deficiencies in ERC's work and damage to the already completed Phase 3 work located below Phase 4 that was caused by ERC's default. The Phase 4 Closure and repair work have been completed.

The City sued both ERC and Great American seeking to recover the City's costs to complete (styled informally as City of Jacksonville v. ERC and Great American, Case No. 2015-CA-002966). There is still extensive discovery to be performed, including document production and depositions and the associated travel to defendants' locations, and trial preparation remains at a significant cost to the parties. The parties, wishing to avoid these costs and the uncertain outcome of trial, engaged in mediation and reached a proposed Settlement Agreement - subject to City Council approval.

As settlement of the litigation, Great American will pay the City \$1,250,000. The \$1,250,000 is proposed to be appropriated to the enterprise fund titled "Landfill Closure" to reimburse funds expended for the completion work. The proposed Settlement Agreement requires approval by the City Council pursuant to the requirements of Chapter 112, Ordinance Code.

APPROPRIATION: Total Amount Appropriated \$1,250,000.00 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: Landfill Closure Fund - Judgements Recovered | Amount: \$1,250,000.00 |
| | To: Landfill Closure Fund - Miscellaneous Services & Charges | Amount: \$1,250,000.00 |
| 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 to replace funds expended for the completion of the Phase 4 closure. These funds shall carryforward to Fiscal Year 2018 to be used for closure related costs at Trail Ridge Landfill.

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.

These funds shall carryforward to Fiscal Year 2018 to be used for closure related costs at Trail Ridge Landfill.

CIP Amendment?

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

Contract / Agreement Approval?

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

Payment of \$1,250,000 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?

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

Waiver of Code?

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

Code Exception?

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

Related Enacted Ordinances?

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

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

ACTION ITEMS:

| | Yes | No |
|------------------------|--------------------------|-------------------------------------|
| Continuation of Grant? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

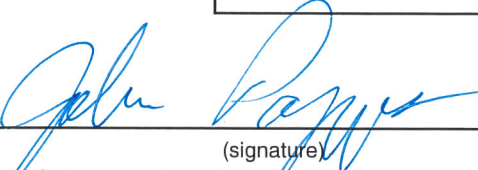
Explanation: How will the funds be used? Does the funding require a match? Is the funding for a specific time frame and/or multi-year? If multi-year, note year of grant? Are there long-term implications for the General Fund?

Surplus Property Certification?

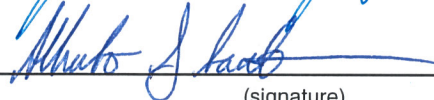
Attachment: If yes, attach appropriate form(s).

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: 
(signature)

Date: 6/13/17

Prepared By: 
(signature)

Date: 6/13/2017

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

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

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

904-630-1825 E-mail: 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

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

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