

1 Introduced by Council Member Priestly Jackson and Co-Sponsored by  
2 Council Members Becton, Bowman, Boylan, Carlucci, Cumber, DeFoor,  
3 Dennis, Diamond, Ferraro, Freeman, Gaffney, Hazouri, Morgan, Newby,  
4 Pittman, Salem, White and Wilson and amended thrice on the Floor of  
5 Council and amended by the Transportation, Energy and Utilities  
6 Committee:

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9 **RESOLUTION 2019-894-A**

10 A RESOLUTION ENCOURAGING THE JEA BOARD TO TAKE  
11 FORMAL ACTION TO RESCIND THE INVITATION TO  
12 NEGOTIATE AT THE NEXT JEA BOARD MEETING;  
13 DIRECTING THE CHIEF OF LEGISLATIVE SERVICES TO  
14 FORWARD A COPY OF THIS RESOLUTION TO THE JEA  
15 BOARD AND THE JEA CHIEF EXECUTIVE OFFICER;  
16 REQUESTING ONE CYCLE EMERGENCY PASSAGE;  
17 STRONGLY ENCOURAGING THE JEA BOARD TO BRING  
18 FORWARD ANY DISCUSSIONS OF A RECAPITALIZATION  
19 EVENT OR OTHER EVENT DEFINED UNDER SECTION  
20 21.04(P) OF THE CHARTER TO THE COUNCIL AND  
21 OBTAIN COUNCIL APPROVAL BEFORE INITIATING  
22 ACTION TO PURSUE SUCH EVENT; DIRECTING THE JEA  
23 BOARD TO ACKNOWLEDGE AND ADDRESS CITY COUNCIL  
24 RESOLUTION 2019-894; STRONGLY ENCOURAGING THE  
25 JEA BOARD TO REFUND AND WAIVE ANY FUTURE  
26 CHARGES FOR THE COST RELATED TO PUBLIC RECORDS  
27 REQUESTED BY ANY MEDIA OUTLET FROM THE JEA  
28 FROM JANUARY 1, 2018 TO JULY 1, 2020 REGARDING  
29 RECORDS RELATED TO SALE OF JEA INCLUDING THE

1 INVITATION TO NEGOTIATE AND THE PERFORMANCE  
2 UNIT PLAN; PROVIDING AN EFFECTIVE DATE.

3 **WHEREAS**, on July 23, 2019, the JEA Board convened to discuss  
4 scenarios that could change the future of JEA; and

5 **WHEREAS**, one of the scenarios proposed during the meeting  
6 included inviting private companies to purchase the eighth largest  
7 municipally owned public utility, through a competitive  
8 solicitation known as an invitation to negotiate ("ITN"), however  
9 the July 23, 2019 agenda published in advance of the Board meeting  
10 only made reference to "Strategic Planning" with no additional  
11 information or explanation being provided as to the action being  
12 deliberated by the JEA Board, additionally timely notice to the  
13 Council auditors was not provided; and

14 **WHEREAS**, after the JEA Board meeting on July 23, 2019, the  
15 published board agenda was amended to include specific Strategic  
16 Planning scenarios, entitled Scenario 2A: Traditional Utility  
17 Response Implementation Plan, Scenario 2B: Traditional Utility  
18 Response + Traditional Legislative Approach to Eliminating Major  
19 Business Constraints, and Scenario 3: Non-traditional utility  
20 response, which included the ITN. The three proposed scenarios were  
21 not timely noticed to the public in advance of the JEA Board agenda  
22 and vote on Scenario 3; and

23 **WHEREAS**, at the conclusion of the 3 hour Board meeting, the  
24 JEA Board authorized the CEO to issue an ITN and engage in the  
25 competitive solicitation process with specific parameters for the  
26 sale of the asset; and

27 **WHEREAS**, on July 23, 2019, the Jacksonville City Council also  
28 convened the first City Council Meeting of the City Council with  
29 nine newly elected council members and 10 returning council  
30 members. The Council began the new year immediately addressing the  
31 ½ cent sales tax Resolution proposed by the Duval County School

1 Board and voting on the millage rate legislation which began the  
2 legislative review of the proposed \$1.2 billion budget for the  
3 Consolidated City of Jacksonville, in addition to the regular  
4 business of the City Council committee work; and

5 **WHEREAS**, in the months following the July 23 Board meeting,  
6 JEA reached out to City Council Members individually concerning JEA  
7 pension liability, collective bargaining and the assumption of the  
8 pension liability by the City of Jacksonville in the event of the  
9 sale of JEA, however, based on the subsequent need to set up a  
10 series of workshops on the Future of JEA, it does not appear that  
11 the City Council was adequately apprised of the significant  
12 additional matters discussed in the July 23, 2019 JEA Board  
13 meeting; and

14 **WHEREAS**, on October 21, 2019, Council President Scott Wilson  
15 established a series of fact finding workshops on the Future of JEA  
16 with all members of the City Council as participants to address the  
17 issues that were the subject of the July 23 Board meeting; and

18 **WHEREAS**, since the July 23, 2019 JEA Board meeting, the  
19 General Counsel has advised the JEA Board that the long term  
20 performance unit plan ("PUP") approved by the JEA Board at the July  
21 23 meeting as currently structured contained outstanding legal  
22 issues under the City Charter and other laws. City Council  
23 unanimously called for the JEA Board to take formal action to  
24 rescind the JEA resolution approving the PUP; and

25 **WHEREAS**, the City Council desires to be fully apprised of the  
26 significant changes to the structure of the eighth largest  
27 municipally owned utility as well as to ensure that the rate payers  
28 are informed as to the potential future of JEA and desires full  
29 communication and engagement; and

30 **WHEREAS**, on February 13, 2018, the Office of General Counsel  
31 issued a memorandum to the Mayor, Members of the Jacksonville City

1 Council and JEA Board of Directors indicating that City Council and  
2 the JEA evaluate the PFM final report and decide whether to support  
3 further exploratory consideration and action regarding JEA  
4 privatization. It was further advised that the City Council by  
5 resolution articulate its intent and that process undertaken be  
6 undertaken in a "cohesive, collaborative and cooperative approach  
7 by the entire Consolidated Government..."; and

8 **WHEREAS**, the members of the City continue to receive concerns  
9 from constituents and the public voicing their strong opposition to  
10 and concerns with the JEA privatization exploration process and the  
11 quality of life impact; now therefore

12 **BE IT RESOLVED** by the Council of the City of Jacksonville:

13 **Section 1. Encouraging the JEA Board to take formal**  
14 **action to rescind the Invitation to Negotiate.** The Council strongly  
15 encourages the JEA Board to take formal action at the next JEA  
16 Board meeting to rescind the Invitation to Negotiate, adopted by  
17 the JEA board at the July 23, 2019 Board meeting. Further, should  
18 a change to the Consolidated Government structure which includes  
19 JEA as an independent authority be in the best interest of the  
20 Consolidated Government, the Council encourages JEA to advise and  
21 fully engage all the stakeholders, ratepayers and interested  
22 parties in such a process and decision.

23 **Section 2. Directing to forward.** The Chief of the  
24 Legislative Services Division is hereby directed to forward a copy  
25 of this resolution for distribution to the JEA Board and the Chief  
26 Executive Officer of JEA, Aaron Zahn.

27 **Section 3. Requesting One Cycle Emergency Passage**  
28 **pursuant to Council Rule 4.901 Emergency.** One Cycle Emergency  
29 Passage of this legislation is requested. The nature of the  
30 emergency is that the action is being requested at the next JEA  
31 Board meeting after the December 17, 2019 meeting and the City

1 Council is requesting action to rescind the Invitation to Negotiate  
2 at that next JEA Board meeting.

3 **Section 4. Strongly Encouraging the JEA Board to Bring**  
4 **Forward to the Council Any Discussions Prior to a Recapitalization**  
5 **Event or any action taken Pursuant to Section 21.04(p) of the**  
6 **Charter and Obtain Approval from the Council Prior to Initiating**  
7 **Such Event.** The City Council hereby strongly encourages that prior  
8 to the JEA Board taking any board action to initiate a  
9 recapitalization event or taking any action pursuant to its  
10 authority under Section 21.04(p), *City Charter*, that the JEA Board  
11 bring forward any discussions to the City Council and obtain the  
12 approval of the City Council in advance of any action to pursue a  
13 recapitalization event or other transaction permitted under Section  
14 21.04(p) of the Charter.

15 **Section 5. Directing the JEA Board to Acknowledge and**  
16 **Address City Council Resolution 2019-894.** The City Council hereby  
17 strongly directs the JEA Board at the next JEA Board meeting  
18 (special or regular) to acknowledge and address City Council  
19 Resolution 2019-894, to rescind the ITN prior to taking any and all  
20 action as a Board.

21 **Section 6. Strongly Encouraging the JEA Board to Refund**  
22 **and Waive any Future Charges for the Cost related to Public Records**  
23 **Requested by any Media Outlet from JEA From January 1, 2018 to**  
24 **July 1, 2020 Regarding Records Related to the Sale of JEA including**  
25 **the Invitation To Negotiate and the Performance Unit Plan.** Florida  
26 law authorizes the City to charge for the production of documents  
27 deemed to be public records. Providing more than a few documents  
28 for free, however, places a financial burden on the City that  
29 necessitates charging statutorily-authorized fees. In light of the  
30 extremely high volume of requests, and due to current budget  
31 restraints, a standardized policy regarding the processing of

1 public records and the related statutory fees is necessary. The JEA  
2 policy is to charge a per page amount for any hard copies and a  
3 special service charge if the request involves the extensive use of  
4 technology or labor. In accordance with the permissible statutory  
5 fees, JEA has charged the media outlets for public records  
6 requested related to the potential sale of JEA and related  
7 documents. In light of the public service that the media outlets  
8 have provided the citizens of Jacksonville regarding the potential  
9 sale of the JEA and concerns, the requests of which have led to  
10 further investigations by the Office of General Counsel, the City  
11 Council, the State Attorney's Office and Federal Authorities, the  
12 Council hereby strongly encourages the JEA board to refund the  
13 media outlets for any charges for public records requests from  
14 January 1, 2018 to present and to waive all future public records  
15 request to media outlets on the potential sale of JEA and related  
16 requests through July 1, 2020. The Council further suggests that  
17 the funds budgeted for the 2019-2020 year for outside public  
18 relations consultants and marketing firms could be used to cover  
19 these costs.

20 **Section 7. Effective Date.** This resolution shall become  
21 effective upon signature by the Mayor or upon becoming effective  
22 without the Mayor's signature.

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24 Form Approved:

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26 /s/ Margaret M. Sidman

27 Office of General Counsel

28 Legislation Prepared By: Margaret M. Sidman

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Amended & Rereferred 12/10/19  
Thrice Amended 1/14/20

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