

1 Introduced by Council Member Priestly Jackson and Co-Sponsored by
2 Council Members Freeman, Salem, Becton, Bowman, Cumber, Dennis,
3 Ferraro, Hazouri, Pittman, Carlucci, R. Gaffney, Boylan, DeFoor,
4 Diamond, Morgan, Newby, White and Wilson:
5
6

7 **RESOLUTION 2019-894**

8 A RESOLUTION ENCOURAGING JEA BOARD TO TAKE
9 FORMAL ACTION TO RESCIND THE INVITATION TO
10 NEGOTIATE AT THE NEXT JEA BOARD MEETING;
11 DIRECTING THE CHIEF OF LEGISLATIVE SERVICES TO
12 FORWARD A COPY OF THIS RESOLUTION TO THE JEA
13 BOARD AND THE JEA CHIEF EXECUTIVE OFFICER;
14 REQUESTING EMERGENCY PASSAGE UPON
15 INTRODUCTION; PROVIDING AN EFFECTIVE DATE.
16

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

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

28 **WHEREAS**, after the JEA Board meeting on July 23, 2019, the
29 published board agenda was amended to include specific Strategic
30 Planning scenarios, entitled Scenario 2A: Traditional Utility
31 Response Implementation Plan, Scenario 2B: Traditional Utility

1 Response + Traditional Legislative Approach to Elimination Major
2 Business Constraints, and Scenario 3: Non-traditional utility
3 response, which included the ITN. The three proposed scenarios were
4 not timely noticed to the public in advance of the JEA Board agenda
5 and vote on Scenario 3; and

6 **WHEREAS**, at the conclusion of the 3 hour Board meeting, the
7 JEA Board authorized the CEO to issue an ITN and engage in the
8 competitive solicitation process with specific parameters for the
9 sale of the asset; and

10 **WHEREAS**, on July 23, 2019, the Jacksonville City Council also
11 convened the first City Council Meeting of the City Council with
12 nine newly elected council members and 10 returning council
13 members. The Council began the new year immediately addressing the
14 ½ cent sales tax Resolution proposed by the Duval County School
15 Board and voting on the millage rate legislation which began the
16 legislative review of the proposed \$1.2 billion budget for the
17 Consolidated City of Jacksonville, in addition to the regular
18 business of the City Council committee work; and

19 **WHEREAS**, in the months following the July 23 Board meeting,
20 JEA reached out to City Council Members individually concerning JEA
21 pension liability, collective bargaining and the assumption of the
22 pension liability by the City of Jacksonville in the event of the
23 sale of JEA, however, based on the subsequent need to set up a
24 series of workshops on the Future of JEA, it does not appear that
25 the City Council was adequately apprised of the significant
26 additional matters discussed in the July 23, 2019 JEA Board
27 meeting; and

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

1 **WHEREAS**, since the July 23, 2019 JEA Board meeting, the
2 General Counsel has advised the JEA Board that the long term
3 performance unit plan ("PUP") approved by the JEA Board at the July
4 23 meeting as currently structured contained outstanding legal
5 issues under the City Charter and other laws. City Council
6 unanimously called for the JEA Board to take formal action to
7 rescind the JEA resolution approving the PUP plan; and

8 **WHEREAS**, the City Council desires to be fully apprised of the
9 significant changes to the structure of the eighth largest
10 municipally owned utility as well as to ensure that the rate payers
11 are informed as to the potential future of JEA and desires full
12 communication and engagement; and

13 **WHEREAS**, on February 13, 2018, the Office of General Counsel
14 issued a memorandum to the Mayor, Members of the Jacksonville City
15 Council and JEA Board of Directors indicating that City Council and
16 the JEA evaluate the PFM final report and decide whether to support
17 further exploratory consideration and action regarding JEA
18 privatization. It was further advised that the City Council by
19 resolution articulate its intent and that process undertaken be
20 undertaken in a "cohesive, collaborative and cooperative approach
21 by the entire Consolidated Government..."; and

22 **WHEREAS**, the members of the City continue to receive concerns
23 from constituents and the public voicing their strong opposition to
24 and concerns with the JEA privatization exploration process and the
25 quality of life impact; now therefore

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

27 **Section 1. Encouraging the JEA Board to take formal**
28 **action to rescind the Invitation to Negotiate.** The Council strongly
29 encourages JEA Board to take formal action at the next JEA Board
30 meeting to rescind the Invitation to Negotiate, adopted by the JEA
31 board at the July 23, 2019 Board meeting. Further, should a change

1 to the Consolidated Government structure which includes JEA as an
2 independent authority be in the best interest of the Consolidated
3 Government, the Council encourages JEA to advise and fully engage
4 all the stakeholders, ratepayers and interested parties in such a
5 process and decision.

6 **Section 2. Directing to forward.** The Chief of the
7 Legislative Services Division is hereby directed to forward a copy
8 of this resolution for distribution to the JEA Board and the Chief
9 Executive Officer of JEA, Aaron Zahn.

10 **Section 3. Requesting emergency passage upon introduction**
11 **pursuant to Council Rule 4.901 Emergency.** Emergency passage upon
12 introduction of this legislation is requested. The nature of the
13 emergency is that next JEA Board meeting is December 18, 2019 and
14 the City Council is requesting action to rescind the Invitation to
15 Negotiate at the December JEA Board meeting.

16 **Section 4. Effective Date.** This resolution shall become
17 effective upon signature by the Mayor or upon becoming effective
18 without the Mayor's signature.

19
20 Form Approved:

21
22 /s/ *Margaret M. Sidman*

23 Office of General Counsel

24 Legislation Prepared By: Margaret M. Sidman

25 GC-#1326126-v1-CM_Priestly_Jackson_Reso_Requesting_JEA_Rescind_ITN.docx

1

2

3