

1 Introduced by Council Member Crescimbeni:
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3

4 **ORDINANCE 2018-**

5 AN ORDINANCE RELATING TO THE SALE OF JEA, A
6 PUBLIC UTILITY, AND SETTING A PUBLIC STRAW
7 BALLOT VOTE REFERENDUM AS TO WHETHER THE
8 COUNCIL SHOULD CALL A BINDING REFERENDUM
9 APPROVING THE TERMS AND CONDITIONS OF ANY
10 COUNCIL ACTION THAT SELLS MORE THAN TEN
11 PERCENT OF JEA; DIRECTING THE SUPERVISOR OF
12 ELECTIONS TO PLACE THE REFERENDUM QUESTION ON
13 THE 2018 GUBERNATORIAL GENERAL ELECTION BALLOT
14 ON NOVEMBER 6, 2018; PROVIDING NOTICE TO THE
15 ELECTORATE; PROVIDING AN OFFICIAL BALLOT AND
16 TITLE; PROVIDING AN EFFECTIVE DATE.
17

18 **WHEREAS**, JEA was created by the Florida Legislature to serve the
19 citizens of Jacksonville and its surrounding communities with the
20 sole purpose of owning, managing an operating an electric utilities
21 system which over time expanded to include water and sewer utility
22 systems as well; and

23 **WHEREAS**, the JEA Board has begun to explore the possibility of
24 privatization of the publicly-owned utility and is undertaking a
25 valuation of JEA to consider financial impacts from privatizing; and

26 **WHEREAS**, the Public Financial Management Report, dated February
27 14, 2018, estimated the value of JEA between approximately \$4-\$6
28 billion, an amount of which could be modified based on the conditions
29 of the sale, including employees retirement obligations, rate freezes
30 and/or other City obligations; and

31 **WHEREAS**, according the Office of General Counsel, a referendum

1 of the voters is not required to sell JEA, rather it could be a
2 decision to be made by the Mayor and the City Council; and

3 **WHEREAS**, several stakeholders believe that the decision to sell
4 the JEA should include the owners of the JEA, the citizens of
5 Jacksonville; now therefore

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

7 **Section 1. Referendum.**

8 (a) A straw ballot referendum of the qualified electors
9 residing in Duval County, Florida is hereby called to be held on the
10 ballot of the 2018 Gubernatorial General Election, to afford
11 Jacksonville's citizenry the opportunity to speak out on the issue of
12 selling JEA and privatizing the electric, water, and sewer components
13 of the City of Jacksonville.

14 (b) The referendum shall be held and conducted in the manner
15 prescribed by Florida Statutes and Section 18.07, of the Charter of
16 the City of Jacksonville.

17 (c) All qualified electors in Duval County shall be entitled
18 and permitted to vote in the referendum. The places and times of
19 voting shall be those polling places and times established for voting
20 by law. The inspectors and clerks for the referendum shall be
21 designated by the Supervisor of Elections in accordance with
22 applicable State law.

23 (d) The Supervisor of Elections is authorized and directed,
24 when printing the absentee ballots and ballot strips for use in the
25 voting machines for the special election called in Section 1(a)
26 hereinabove, to print the referendum question set forth in Section 3
27 hereof on said absentee ballots and ballot strips at the appropriate
28 place therefor. Immediately after each question shall be provided a
29 space for the voter to indicate whether the vote is "yes" or "no" on
30 the question.

1 **Section 2. Notice of Referendum.** The Supervisor of
2 Elections is directed to ensure at least thirty (30) days' notice of
3 the referendum by publishing at least twice in a daily newspaper of
4 general circulation in Duval County, once in the fifth week and once
5 in the third week prior to the week in which the referendum is to be
6 held, in the manner provided in Section 18.05 of the City Charter and
7 Section 100.342, Florida Statutes.

8 **Section 3. Official Ballot and Title.**

9 (a) The Council hereby directs that the following straw ballot
10 referendum question, in substantially the form set forth below, be
11 placed on the ballot at the Gubernatorial General Election to be held
12 on November 6, 2018:

13
14 "Should the City of Jacksonville City Council
15 call for a binding referendum to approve the
16 terms and conditions of any City Council action
17 approving the sale of more than 10% of JEA?

18 (_____) YES.

19 (_____) NO.

20
21 (b) The ballot title for the above subsection (a) official
22 referendum question shall be as follows:

23
24 STRAW BALLOT CALLING FOR REFERENDUM APPROVAL OF
25 ANY SALE OF MORE THAN 10% OF JEA.

26
27 **Section 4. Referendum Results.** The Supervisor of Elections
28 for Duval County, Florida shall certify the results of the straw
29 ballot referendum to the Florida Department of State in accordance
30 with law.

31 **Section 5. Exercise of County Powers.** This ordinance is

1 enacted by the Council exercising its power as the governing body of
2 Duval County, Florida, under Section 3.01 of the Charter of the City
3 of Jacksonville.

4 **Section 6. Effective Date.** This ordinance shall become
5 effective upon signature by the Mayor or upon becoming effective
6 without the Mayor's signature.

7

8 Form Approved:

9

10 _____

11 Office of General Counsel

12 Legislation Prepared By: _____

13 GC-#1189753-v1-JEA_Referendum_Crescimbeni

1 Introduced by Council Member Crescimbeni:
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4 **ORDINANCE 2018-**

5 AN ORDINANCE RELATING TO THE CITY COUNCIL'S
6 POWER TO SELL THE JEA; AMENDING SECTION 21.04,
7 CHARTER, TO PROVIDE THAT ANY APPROVAL BY THE
8 COUNCIL OF THE SALE OF 10% OR MORE OF JEA MUST
9 INCLUDE THE CALL FOR A SUBSEQUENT REFERENDUM
10 APPROVING THE TERMS AND CONDITIONS OF THE
11 SALE; PROVIDING AN EFFECTIVE DATE.
12

13 **WHEREAS**, JEA was created by the Florida Legislature to serve
14 the citizens of Jacksonville and its surrounding communities with
15 the sole purpose of owning, managing an operating an electric
16 utilities system which over time expanded to include water and
17 sewer utility systems as well; and

18 **WHEREAS**, the JEA Board has begun to explore the possibility of
19 privatization of the publicly-owned utility and is undertaking a
20 valuation of JEA to consider financial impacts of privatizing; and

21 **WHEREAS**, the Public Financial Management Report, dated
22 February 14, 2018, estimated the value of JEA between approximately
23 \$4-\$6 billion, an amount which could be modified based on the
24 conditions of the sale, including employees retirement obligations,
25 the retention of employees, rate freezes and/or other City
26 obligations; and

27 **WHEREAS**, according the Office of General Counsel, a referendum
28 of the voters is not required to sell JEA, rather it could be a
29 decision to be made by the Mayor and the City Council; and

30 **WHEREAS**, several stakeholders believe that the decision to

1 sell the JEA should include the owners of the JEA, the citizens of
2 Jacksonville; and

3 **WHEREAS**, pursuant to Article 21, Section 21.11, the
4 Legislature granted unique powers to the City Council to amend or
5 repeal provisions of Article 21; and

6 **WHEREAS**, amending Article 21 to return to the voters the
7 referendum power otherwise granted by Article 3 of the Charter is
8 consistent with the powers otherwise granted in the Charter and
9 consistent with all other provisions of the Charter; and

10 **WHEREAS**, this Ordinance has been noticed as required in
11 Section 21.11, Charter, now therefore

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

13 **Section 1. Charter Amended.** The Charter of the City of
14 Jacksonville is hereby amended to read as follows:

15 **CHARTER AND RELATED LAWS**

16 **PART A - CHARTER LAWS CHARTER OF THE CITY OF JACKSONVILLE, FLORIDA**

17 * * *

18 **ARTICLE 21. - JEA**

19 * * *

20 **Section 21.04. - Powers.**

21 JEA shall have the following powers, in addition to powers
22 otherwise conferred:

23 * * *

24 (p) To transfer, sell, finance, lease or otherwise provide services
25 or products, or by-products, developed or used by JEA incident to
26 the exercise of the powers conferred by this article, including but
27 not limited to, energy performance contracting, water, sewer and
28 natural gas (and any other utility service hereafter provided by
29 JEA) contracting, power marketing services, the testing and
30 maintenance of customer-owned facilities such as transformers,
31 capacitors, lighting, HVAC systems, water cooling and heating

1 systems, energy management systems, etc.; the temporary leasing of
2 JEA facilities such as oil storage tanks; the supply of steam or
3 other thermal energy; the provision of specially conditioned power
4 on the premises of customers and the provision of services or
5 products to build, transfer, lease, finance, operate or sell
6 cogeneration facilities, small power production facilities,
7 specially conditioned power, energy conservation, energy efficiency
8 and dispersed generation to other electric utilities both within
9 and without the state or to any wholesale or retail customers of
10 JEA, upon such terms and conditions as JEA shall by resolution fix
11 and determine; and to transfer, sell, finance, lease or otherwise
12 provide services, products or by-products developed or used by JEA
13 incident to the exercise of the powers conferred by this article,
14 in the delivery of water, wastewater and natural gas services,
15 including but not limited to the financing, testing, maintenance
16 and operation of customer owned facilities used in water,
17 wastewater and natural gas functions; provided, however, that JEA
18 will not enter into any activity pursuant to this section in
19 addition to those activities listed herein without first providing
20 written notice of such activities to the council auditor no less
21 than 30 days before the commencement of such activity. Nothing in
22 this article shall authorize or be construed to authorize JEA to
23 transfer any function or operation which comprises more than ten
24 percent of the total of the utilities system by sale, lease or
25 otherwise to any other utility, public or private without approval
26 of the council; provided, however, that no approval by the council
27 shall become effective without subsequent referendum approval of
28 the terms and conditions of the sale. So long as there are
29 outstanding any of the city's "Capital Project Revenue Bonds" as
30 originally authorized pursuant to Ordinance 97-1054-E, the council
31 may approve only such transfer which does not materially adversely

1 affect future receipts of JEA contributions as defined therein.

2 * * *

3 **Section 2. Effective Date.** Pursuant to Section 21.11,
4 Charter, this ordinance shall become effective only upon approval
5 of 2/3 of the membership of the council and upon signature by the
6 Mayor or upon becoming effective without the Mayor's signature.

7
8 Form Approved:

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10 _____

11 Office of General Counsel

12 Legislation Prepared By: _____

13 GC-#1189843-v1-Crescimbeni_Ordinance_Amending_Section_21_11