Introduced by Council Member Crescimbeni:

ORDINANCE 2018-

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

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

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

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

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

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

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

Section 1. Referendum.

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

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

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

(d) The Supervisor of Elections is authorized and directed,
when printing the absentee ballots and ballot strips for use in the
voting machines for the special election called in Section 1(a)
hereinabove, to print the referendum question set forth in Section 3
hereof on said absentee ballots and ballot strips at the appropriate
place therefor. Immediately after each question shall be provided a
space for the voter to indicate whether the vote is "yes" or "no" on
the question.
Section 2. Notice of Referendum. The Supervisor of Elections is directed to ensure at least thirty (30) days' notice of the referendum by publishing at least twice in a daily newspaper of general circulation in Duval County, once in the fifth week and once in the third week prior to the week in which the referendum is to be held, in the manner provided in Section 18.05 of the City Charter and Section 100.342, Florida Statutes.

Section 3. Official Ballot and Title.

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

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

(____) YES.

(____) NO.

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

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

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

Section 5. Exercise of County Powers. This ordinance is
enacted by the Council exercising its power as the governing body of Duval County, Florida, under Section 3.01 of the Charter of the City of Jacksonville.

Section 6. Effective Date. This ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor’s signature.

Form Approved:

__________________________
Office of General Counsel
Legislation Prepared By: ____________________

GC-#1189753-v1-JEA_Referendum_Crescimbeni
Introduced by Council Member Crescimbeni:

ORDINANCE 2018-

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

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

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

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

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

WHEREAS, several stakeholders believe that the decision to
sell the JEA should include the owners of the JEA, the citizens of
Jacksonville; and

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

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

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

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

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

CHARTER AND RELATED LAWS

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

* * *

ARTICLE 21. - JEA

* * *

Section 21.04. - Powers.

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

* * *

(p) To transfer, sell, finance, lease or otherwise provide services
or products, or by-products, developed or used by JEA incident to
the exercise of the powers conferred by this article, including but
not limited to, energy performance contracting, water, sewer and
natural gas (and any other utility service hereafter provided by
JEA) contracting, power marketing services, the testing and
maintenance of customer-owned facilities such as transformers,
capacitors, lighting, HVAC systems, water cooling and heating
systems, energy management systems, etc.; the temporary leasing of
JEA facilities such as oil storage tanks; the supply of steam or
other thermal energy; the provision of specially conditioned power
on the premises of customers and the provision of services or
products to build, transfer, lease, finance, operate or sell
cogeneration facilities, small power production facilities,
specially conditioned power, energy conservation, energy efficiency
and dispersed generation to other electric utilities both within
and without the state or to any wholesale or retail customers of
JEA, upon such terms and conditions as JEA shall by resolution fix
and determine; and to transfer, sell, finance, lease or otherwise
provide services, products or by-products developed or used by JEA
incident to the exercise of the powers conferred by this article,
in the delivery of water, wastewater and natural gas services,
including but not limited to the financing, testing, maintenance
and operation of customer owned facilities used in water,
wastewater and natural gas functions; provided, however, that JEA
will not enter into any activity pursuant to this section in
addition to those activities listed herein without first providing
written notice of such activities to the council auditor no less
than 30 days before the commencement of such activity. Nothing in
this article shall authorize or be construed to authorize JEA to
transfer any function or operation which comprises more than ten
percent of the total of the utilities system by sale, lease or
otherwise to any other utility, public or private without approval
of the council; provided, however, that no approval by the council
shall become effective without subsequent referendum approval of
the terms and conditions of the sale. So long as there are
outstanding any of the city's "Capital Project Revenue Bonds" as
originally authorized pursuant to Ordinance 97-1054-E, the council
may approve only such transfer which does not materially adversely
affect future receipts of JEA contributions as defined therein.

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

Form Approved:

______________________________________
Office of General Counsel

Legislation Prepared By: _________________________

GC-#1189843-v1-Crescimbene_Ordinance_Amending_Section_21_11