JEA

RESPONSE TO REQUEST FOR DOCUMENTS FROM COUNCIL MEMBER RORY DIAMOND DATED DECEMBER 5, 2019

Executive Summary

The Performance Unit Plan ("PUP") is the product of discussions the JEA Board Compensation Committee began on January 15, 2019. The Compensation Committee desired to utilize "employee incentives [that] drive value and teamwork".[1] JEA reviewed available options over the course of the following months and engaged Willis Towers Watson ("WTW"), a noted consulting firm specializing in benchmarking compensation and benefits. WTW provided JEA information about developing a Long-Term Incentive Plan and proposed a "multi-pronged LTI [Long-Term Incentive] design which included, among other things, performance units.[2] In June, 2019, the JEA Compensation Committee authorized JEA to "start the process of finalizing a long term compensation framework."[3]

In June, 2019, the Office of General Counsel ("OGC") affirmed the authority of the JEA Board to create or establish a long-term employee incentive plan.[4] On July 22, 2019 (prior to the JEA Board meeting on the 23rd), OGC confirmed its review of Resolution 2019-10 (which authorizes the PUP) and the authority of the JEA Board to consider, approve or deny the resolution.[5] The JEA Board approved Resolution 2019-10 on July 23, 2019, which resolution "APPROVED LONG-TERM PERFORMANCE UNIT PLAN AND RELATED DOCUMENTATION AND AUTHORIZING THE CEO TAKE ANY AND ALL ACTION TO PURSUE THE IMPLEMENTATION OF SUCH PLAN AND RELATED DOCUMENTATION.[6]

Based on JEA Board approval, the JEA leadership team worked extensively with the OGC, outside counsel retained by OGC (Pillsbury Winthrop and Foley & Lardner) and the Council Auditor in developing and reviewing the PUP. JEA's CFO provided draft PUP plan documents to the Office of Council Auditor as early as August 9, 2019 who, in turn, asked a series of questions.[7] The Council Auditor again met personally with JEA senior representatives on October 31, 2019.[8]

In August, September and October, JEA continued to work with specialized counsel retained by OGC and JEA employee services representatives to review and refine the PUP Plan and to prepare an Employee Brochure to explain the PUP and the option to participate or decline. [9]

Simultaneous with the above, JEA, OGC and specialized counsel retained by OGC continued their legal review and analysis. This review began in July, 2019 and continued consistently until the decision to discontinue consideration of PUP in November, 2019. The review included additional legal research, the development of legal memoranda[10] addressing questions raised by the OGC, and meetings between outside counsel, JEA representatives and OGC in September, October and November, 2019. Some, but not all, of the issues included compliance with state laws related to compensation, various Florida ethics laws, whether the PUP could allow JEA employees to benefit

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[1] Minutes of Compensation Committee dated January 15, 2019 (Tab 1).
[2] Tab 4. See specifically pages 26-28 of WTW report.
[3] Minutes of Compensation Committee dated June 18, 2019 (Tab 4).
[4] Memorandum to Lynne Rhode dated June 17, 2019 (Tab 3).
[5] Memorandum to File from Lawsikia Hodges, Lynne Rhode and Jason Gabriel dated July 22, 2019 (Tab 5).
[6] JEA Board Minutes of July 23, 2019 (Tab 6).
[7] Email from Jeffrey Rodda to Juli Crawford et. al. dated August 9, 2019 (Tab 2).
[8] Email from Heather Reber to Ryan Wannamaker et. Al. dated October 31, 2019 (Tab 2)
[9] Tabs 2, 8, 9, 11, and 14.
[10] Tab 10.

from growth in the net position value of JEA and what involvement, if any, by City Council was required.

In addition to the above review, and though not required to do so, on October 1, 2019, JEA sought an advisory opinion from the Florida Attorney General.[11] The request stated, "while it appears clear based on our research that the PUP is permissible under Florida law, given the potential significance of the Plan to both JEA and its approximately 2000 employees, we seek guidance from your Office to confirm that the PUP is lawful." Further, JEA had prepared an inquiry to the Florida Ethics Commission which it intended to send after a determination from the Florida Attorney General.[12]

Based on further consultation with OGC, JEA decided to suspend consideration and implementation of the PUP.[13] In accordance with Resolution 2019-863, JEA senior leadership has requested the JEA Board at its December 17, 2019, to rescind any further consideration or implementation of the PUP.

In deciding there were outstanding legal issues preventing adoption of the PUP as then written, the OGC did not find that the JEA Board acted outside of its authority to propose the PUP. Specifically, the General Counsel confirmed this in an email to JEA Board Chair April Green:[14]

> Per our conversation earlier this morning, it has come to my attention that a certain implication has been made that JEA did something legally wrong with regard to the preliminary adoption of the Performance Unit Plan (PUP) at the July 23, 2019 meeting. I write to address this unfortunate suggestion.
>
> Following the Board meeting, JEA gave OGC requisite time to research and review the specifics of the plan prior to its implementation. This was a collaborative process between OGC and JEA of due diligence and analysis that included an inquiry to the Florida Attorney General. In preliminarily approving the PUP, the JEA Board did not act outside of their legal authority.
>
> OGC ultimately concluded that the PUP had outstanding legal issues and JEA ultimately concluded that they would no longer pursue the plan. At the next JEA Board meeting, the Board will have the opportunity to vote and formally withdraw the plan. I anticipate the Board will take appropriate action at that time.

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[11] Tab 13.
[12] Tab 12.
[13] Tabs 15, 16, and 17.
[14] Tab 2.

RESPONSE TO REQUEST FOR DOCUMENTS FROM COUNCIL MEMBER RORY DIAMOND DATED DECEMBER 5, 2019

TAB

Compensation Committee Minutes 1/15/19 1

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OGC Memo 6/17/19 3

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*This production is as of December 11, 2019. JEA is continuing its review and will supplement its production with additional documents responsive to the request.

JEA COMPENSATION COMMITTEE MINUTES
January 15, 2019

The Compensation Committee of JEA met on Tuesday, January 15, 2019, in the 8th Floor Conference Room, JEA Plaza Tower, 21 W. Church Street, Jacksonville, Florida.

Agenda Item I – Opening Considerations

A. Call to Order – Interim Committee Chair Johnson called the meeting to order at 9:00 AM with Committee Member April Green in attendance, as well as Board Chair Alan Howard in observance. Also present were Aaron Zahn, Melissa Dykes, Angie Hiers, Jody Brooks, Mike Hightower, Gerri Boyce, Gina Kyle and David Bauerlein, Florida Times-Union.

B. Adoption of Agenda – The Agenda was adopted on **motion** by Ms. Green and second by Board Chair Howard.

C. Approval of Minutes – The May 14, 2018 minutes were approved on **motion** by Ms. Green and second by Board Chair Howard.

Agenda Item II – New Business

A. Introduction – Aaron Zahn, Managing Director/CEO introduced the subjects that would be discussed during the meeting.

B. JEA Total Compensation Philosophy – Aaron Zahn, Managing Director/CEO reviewed the Total Market Compensation Strategy, which demonstrates a commitment to results and the values of JEA. Mr. Zahn spoke of the process of alignment of stakeholders to JEA's corporate initiatives and the path taken to gain consensus of all stakeholders to the Guiding Principles and Corporate Measures. He spoke of the need to elevate the entire team and ensure that employee incentives drive value and teamwork. Mr. Zahn then provided the definition of total compensation and short term/long term incentives and provided a recommendation for a change in the JEA Board Policy Manual to incorporate these changes. This item was presented for information to the committee.

C. 5-to-5 Innovation Program – Melissa Dykes, President/Chief Operating Officer and Angie Hiers, VP & Chief Human Resources Officer presented the 5-to-5 Innovation Program, which is JEA's new ideas program. With this program, employees are encouraged to present ideas and are rewarded for developing and submitting innovative ideas that benefit JEA and the community. Employees who submit an idea that is implemented will be eligible for incentives ranging from $500 to $5,000 depending on the scope, cost savings and/or revenue generation associated with the idea and corresponding results. This item was presented for information to the committee.

D. Executive Contract – Aaron Zahn, Managing Director/CEO and Interim Committee Chair Johnson discussed the executive contract and discussed extending the current contract until July 31, 2019, to allow time for the total compensation plan to be worked out prior to finalizing the contract for the Managing Director/CEO. Contract discussions were deferred.

E. Other New Business

F. Announcements
    1. Schedule Next Meeting as Appropriate

G. Adjournment

APPROVED BY:

_____
Camille Johnson, Interim Committee Chair
Date: _____

Submitted by:

_____
Cheryl Mock
Executive Assistant

Rhode, Lynne C. (City of Jacksonville)

From: Granat, Sean <SGranat@coj.net>
Sent: Monday, June 17, 2019 3:41 PM
To: Rhode, Lynne C. (City of Jacksonville); Phillips, Jon
Cc: Register, Carolina; McDonald, Nancy M - Executive Assistant
Subject: RE: JEA Comp memo
Attachments: GC-#1288527-v1-JEA_Comp_Memo_Granat_Edits.docx

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Memo is attached.

Sean

Sean Granat, Esq.
Deputy General Counsel
City of Jacksonville, Office of General Counsel
117 West Duval Street, Suite 480
Jacksonville, FL 32202

(904)255-5061 – Direct
(904)255-5100 – Main
(904)630-1316 – fax

From: Rhode, Lynne C. (City of Jacksonville) [mailto:rhodlc@jea.com]
Sent: Monday, June 17, 2019 12:56 PM
To: Granat, Sean; Phillips, Jon
Cc: Register, Carolina; McDonald, Nancy M - Executive Assistant
Subject: JEA Comp memo

EXTERNAL EMAIL: This email originated from a non-COJ email address. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Sean and Jon,
I hope you both had a nice weekend! Wanted to let you know that I am in consecutive meetings from 1pm – 4:30pm this afternoon. But if any urgent questions come up while you are finalizing the memo, please feel free to text me on my cell phone at 804-212-7943 and I will step out and call you back ASAP. My EA Nancy McDonald, copied here, also can find me if need be.
Best,
Lynne

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202

Office: (904) 665-4115
Email: rhodlc@jea.com

Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. Any email sent to or from JEA's system may be considered a public record and subject to disclosure under Florida's Public Records Laws. Any information deemed confidential and exempt from Florida's Public Records Laws should be clearly marked. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact JEA by phone or in writing.

From: "Wannemacher, Ryan F. - Chief Financial Officer" <wannrf@jea.com>
Sent: Wednesday, August 14, 2019, 5:19 PM
To: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>; "Vinyard, Herschel T. - Chief Administrative Officer" <vinyht@jea.com>; "Zahn, Aaron F. - Managing Director/CEO" <zahnaf@jea.com>; "Dykes, Melissa H. - President/COO" <dykemh@jea.com>
Subject: FW: Performance Unit Plan (PUP) Questions
Attachments: scan_rhodlc_2019-08-14-13-24-00.pdf; scan_rhodlc_2019-08-14-13-21-11.pdf

FYI...

From: Wannemacher, Ryan F. - Chief Financial Officer
Sent: Wednesday, August 14, 2019 5:19 PM
To: 'Rodda, Jeffrey' <JRodda@coj.net>; Crawford, Juli E. - Director Financial Planning & Analysis <crawje@jea.com>; Orfano, Joseph E. - Treasurer <orfaje@jea.com>
Cc: Peterson, Phillip <PhillipP@coj.net>; Billy, Kyle <KBilly@coj.net>
Subject: RE: Performance Unit Plan (PUP) Questions

Jeff,

Attached are the latest drafts of the plan documents and award agreement that was approved by the board. This will answer many of these questions.

As we are still working on a number of other pressing items, can we circle up in a few weeks on any additional questions you may have after reviewing these documents?

I appreciate it.

Thank you,
Ryan

From: Rodda, Jeffrey <JRodda@coj.net>
Sent: Friday, August 9, 2019 12:38 PM
To: Crawford, Juli E. - Director Financial Planning & Analysis <crawje@jea.com>; Orfano, Joseph E. - Treasurer <orfaje@jea.com>
Cc: Wannemacher, Ryan F. - Chief Financial Officer <wannrf@jea.com>; Peterson, Phillip <PhillipP@coj.net>; Billy, Kyle <KBilly@coj.net>
Subject: Performance Unit Plan (PUP) Questions

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Juli,

I have been reviewing resolution 2019-10 and Exhibits 1 and 2 and now have a request and a list of questions. I would like to get a copy of the Performance Unit Plan Agreement that employees have to sign. I would appreciate it if it could be sent right away rather than waiting for the list of questions to be answered. Is that possible?

Here are my questions:

1. What is the purpose of the PUP?
2. What makes PUPs a legal form of compensation for public employees in Florida?
3. What form of compensation are they (bonus, regular wages, etc.)?
4. How will any gains or losses be reported to the IRS?
5. Is there a limit on how many PUPs an employee can purchase? What is the maximum?
6. Is there a distribution plan that provides each employee first right of refusal to a specified number of PUPs before their allotment is made available for other employees to purchase?
7. Can PUPs be granted to an employee at no cost?
8. Can a PUP be purchased by a Board member?
9. Is there a ceiling on the redemption value of a PUP?
10. What is the reason for limiting PUP purchases to payroll deductions only?
11. Can the PUP purchase payment be deducted pre-tax?
12. What will JEA do with money paid in by employees to purchase PUPs?
13. Assuming there is not a recapitalization event, does it take 4 years for a PUP to vest?
14. How will the funds from the purchase(s) and the value of the PUPs be shown in the financial statements?
15. Are the nitrogen credits considered an in-kind contribution to the City? If so, how/when is the value determined?
16. What is the assumed likelihood that PUPs will be paid in 2022?
17. Has any modeling been done to examine what the value might be at redemption?
18. What is the maximum cost to JEA?
19. If an employee breaks the covenants do they have to repay PUP payouts from previous performance periods?
20. What other local government entities/municipal utilities use PUPs?
21. What is the JEA Group?
22. What is the reason for including COJ OGC Attorney's assigned to JEA as eligible participants?

As always, I appreciate your time, assistance, and patience.

Please call or email if you need clarification.

Regards,

Jeff Rodda

Public Accounts Auditor
Office of the Council Auditor
117 West Duval Street
Suite 200

Jacksonville, Florida 32202
Office: 904-255-5477
Direct: 904-255-5487
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E-Mail: jrodda@coj.net

JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chair of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chair of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Participant willfully fails to perform the Participant's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(v) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination

of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules shall control.

(f) "Closing Date" means the date on which the Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan, payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date or any full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier of the third anniversary of the Purchase Date or Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 15th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 15th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 15, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. The Redemption Price shall include the Purchase Price per Performance Unit.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the earlier to occur of (i) the first anniversary of the last day of the Performance Period and (ii) the date on which a Recapitalization Event occurs.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants.

The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. On or before the Recapitalization Event, upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis. Following the Recapitalization Event, no Performance Units may be purchased.

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to termination for Cause or resignation shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To receive a Purchase Price under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments shall be made to the Participants no later than thirty (30) days following the date on which performance is certified pursuant to Section 3(c).

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes. Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units (it being understood that a Participant shall only be required to execute one Release prior to the first payment date for payments outside of a Recapitalization Event).

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no

such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan following a Recapitalization Event.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreement are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns. This Plan and any Agreement shall be binding on and shall inure to the benefit of JEA and its successors (including any organization that succeeds to substantially all of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreement shall mean and include any such successors or assigns. Neither this Plan nor any Agreement nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties. Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

[*Remainder of Page Intentionally Left Blank*]

SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period, (ii) the aggregate consideration paid, distributed, credited or otherwise provided to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

---

[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. **Certain Definitions; Incorporation by Reference**. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. **Deferral Election**. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence and the Participant's pay-for-performance pay shall be deferred at the time such pay would have otherwise been paid but for the Deferral Election. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that Participant defers hereunder are unfunded and

unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to Participant the aggregate Purchase Price of such Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group and (iii) take no action that would be considered contrary to the best interests of the JEA Group..

(b) Confidentiality.

(i) *Protection of Information.* The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has

expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. **Entire Agreement; Modification**. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. **Counterparts**. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. **Waiver**. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. **Right to Seek Counsel**. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. **Non-Appropriation**. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. **Section Headings**. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [TWO] pay periods commencing with the payroll period on [DATE]	_____

NAME	SIGNATURE	DATE
_____	_____	_____

From: "Lutrin, Jessica" <jessica.lutrin@pillsburylaw.com>

Sent: Thursday, August 22, 2019, 7:47 PM

To: "Vinyard, Herschel T. - Chief Administrative Officer" <vinyht@jea.com>; "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>; "KHyde@foley.com" <KHyde@foley.com>; "MKirwan@foley.com" <MKirwan@foley.com>

Cc: "Amdur, Stephen B." <stephen.amdur@pillsburylaw.com>; "Powers, Ted" <ted.powers@pillsburylaw.com>; "Bradley, Danielle" <danielle.bradley@pillsburylaw.com>

Subject: Revised PUP Documents

Attachments: JEA - Form of Long-Term Performance Unit Agreement 4812-4130-8572 v.9.docx; JEA - Long-Term Performance Unit Plan 4819-6312-2076 v.8.docx; Redline Pages - JEA - Long-Term Performance Unit Plan.pdf; Redline Pages - JEA - Form of Long-Term Performance Unit Agreement.pdf

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[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi All,

Attached please find revised drafts of the PUP and form of award agreement (clean and redlines of the changed pages). In addition to the revised successor language that I discussed with Kevin and Michael today, I made a couple of minor clean-up changes.

Please let me know if you have any questions.

Best,
Jessica

Jessica Lutrin | Partner
Pillsbury Winthrop Shaw Pittman LLP
31 West 52nd Street | New York, NY 10019-6131
t +1.212.858.1090
jessica.lutrin@pillsburylaw.com | website bio [pillsburylaw.com]

AUSTIN BEIJING HONG KONG HOUSTON LONDON LOS ANGELES MIAMI
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pillsbury [pillsburylaw.com]

The contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender or the Pillsbury Winthrop Shaw Pittman Help Desk at Tel: 800-477-0770, Option 1, immediately by telephone or by return E-mail and delete this message, along with any attachments, from your computer. Thank you.

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. Certain Definitions; Incorporation by Reference. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. Deferral Election. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence and the Participant's pay-for-performance pay shall be deferred at the time such pay would have otherwise been paid but for the Deferral Election. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that Participant defers hereunder are unfunded and

unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to Participant the aggregate Purchase Price of such Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group and (iii) take no action that would be considered contrary to the best interests of the JEA Group.

(b) Confidentiality.

(i) *Protection of Information.* The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has

expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the

parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [TWO] pay periods commencing with the payroll period on [DATE]	_____

_____	_____	_____
NAME	SIGNATURE	DATE

JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chair of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chair of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Participant willfully fails to perform the Participant's dutics to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(v) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination

of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules shall control.

(f) "Closing Date" means the date on which the Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan, payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date or any full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier of the third anniversary of the Purchase Date or Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 15th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 15th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 15, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. The Redemption Price shall include the Purchase Price per Performance Unit.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the earlier to occur of (i) the first anniversary of the last day of the Performance Period and (ii) the date on which a Recapitalization Event occurs.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants.

The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. On or before the Recapitalization Event, upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis. Following the Recapitalization Event, no Performance Units may be purchased.

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To receive a Purchase Price under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments shall be made to the Participants no later than thirty (30) days following the date on which performance is certified pursuant to Section 3(c).

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes. Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units (it being understood that a Participant shall only be required to execute one Release prior to the first payment date for payments outside of a Recapitalization Event).

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no

such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan following a Recapitalization Event.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreement are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns. This Plan and any Agreement shall be binding on and shall inure to the benefit of JEA and its successors (including any organization that succeeds to substantially all of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreement shall mean and include any such successors or assigns. This Plan and any Agreement shall be assigned to and assumed by any successor of JEA (including any organization that succeeds to substantially all of the assets and business of JEA). Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any Agreement shall become the rights and obligations of such successor. Further, JEA shall require any successor (including any organization that succeeds to substantially all of the assets and business of JEA) to assume expressly and agree to perform this Plan and any Agreement in the same manner and to the same extent that JEA would be required to perform this Plan and any Agreement if no such succession had taken place. Neither this Plan nor any Agreement nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution.

Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties.

Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

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SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period, (ii) the aggregate consideration paid, distributed, credited or otherwise provided to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

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[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. On or before the Recapitalization Event, upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis. Following the Recapitalization Event, no Performance Units may be purchased.

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The

or her Performance Units (it being understood that a Participant shall only be required to execute one Release prior to the first payment date for payments outside of a Recapitalization Event).

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan following a Recapitalization Event.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreement are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns. This Plan and any Agreement shall be binding on and shall inure to the benefit of JEA and its successors (including any organization that succeeds to substantially all of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreement shall mean and include any such successors or assigns.

This Plan and any Agreement shall be assigned to and assumed by any successor of JEA (including any organization that succeeds to substantially all of the assets and business of JEA). Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any Agreement shall become the rights and obligations of such successor. Further, JEA shall require any successor (including any organization that succeeds to substantially all of the assets and business of JEA) to assume expressly and agree to perform this Plan and any Agreement in the same manner and to the same extent that JEA would be required to perform this Plan and any Agreement if no such succession had taken place. Neither this Plan nor any Agreement nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum

unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to Participant the aggregate Purchase Price of such Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group and (iii) take no action that would be considered contrary to the best interests of the JEA Group.

(b) Confidentiality.

(i) *Protection of Information*. The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has

Rhode, Lynne C. (City of Jacksonville)

From: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Sent: Friday, August 23, 2019 10:11 AM
To: Wannemacher, Ryan F. - Chief Financial Officer
Cc: Vinyard, Herschel T. - Chief Administrative Officer; Rhode, Lynne C. (City of Jacksonville); KHyde@foley.com; MKirwan@foley.com
Subject: PUP

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Ryan,

I hope you are well.

I just spoke with Michael Kirwan at Foley and, based on his calculations, the PUP formula is spitting out much larger numbers than we anticipated. Do you have any PUP formula calculations that you could please share with us? It would be helpful to see your calculations (even if rough) so that we can reconcile the calculations to the formula and adjust the formula in the PUP, if necessary.

Thank you,
Jessica

Jessica Lutrin | Partner
Pillsbury Winthrop Shaw Pittman LLP
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jessica.lutrin@pillsburylaw.com | website bio [pillsburylaw.com]

pillsbury [pillsburylaw.com]

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Rhode, Lynne C. (City of Jacksonville)

From: MKirwan@foley.com
Sent: Friday, August 23, 2019 2:54 PM
To: Lutrin, Jessica; Wannemacher, Ryan F. - Chief Financial Officer
Cc: Vinyard, Herschel T. - Chief Administrative Officer; Rhode, Lynne C. (City of Jacksonville); KHyde@foley.com
Subject: RE: PUP

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Thanks Jessica. I would think the carve out for debt should be a bit broader. Perhaps the following: "and (y) the assumption or payment of any principal and interest, as well as payment of any prepayment fees or penalties and other defeasance costs on JEA's bonds and borrowings)..."

I think we should delete the audit requirement since there would likely not be an audit after a sale of the entire utility.

Foley & Lardner LLP
One Independent Drive | Suite 1300
Jacksonville, FL 32202-5017
P 904.633.8913

[foley.com]
[foley.com]

FOLEY
FOLEY & LARDNER LLP

From: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Sent: Friday, August 23, 2019 11:21 AM
To: Wannemacher, Ryan F. - Chief Financial Officer <wannrf@jea.com>
Cc: Vinyard, Herschel T. - Chief Administrative Officer <vinyht@jea.com>; Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>; Hyde, Kevin E. <KHyde@foley.com>; Kirwan, Michael B. <MKirwan@foley.com>
Subject: RE: PUP

** EXTERNAL EMAIL MESSAGE **
As discussed with Ryan and Michael, below are the proposed edits to the definition of "Current Year Value". Any thoughts are welcome.

"Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's [audited] financial statements immediately following the Closing

Date), (ii) the aggregate consideration paid, distributed, credited or otherwise provided to the City of Jacksonville whether in cash or in-kind (excluding (x) any public service taxes or franchise fees and (y) the payment of any principal and interest on JEA's bonds and borrowings) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

From: Wannemacher, Ryan F. - Chief Financial Officer <wannrf@jea.com>
Sent: Friday, August 23, 2019 10:37 AM
To: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Cc: Vinyard, Herschel T. - Chief Administrative Officer <vinyht@jea.com>; Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>; khyde@foley.com; mkirwan@foley.com
Subject: Re: PUP

Jessica,

Thanks for following up. I agree that it makes sense to clarify that the contribution to the city should not include the debt pay off. It should be any amounts after the payment of debt.

Thanks
Ryan

Get Outlook for iOS

On Fri, Aug 23, 2019 at 10:11 AM -0400, "Lutrin, Jessica" <jessica.lutrin@pillsburylaw.com> wrote:

[External email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Ryan,

I hope you are well.

I just spoke with Michael Kirwan at Foley and, based on his calculations, the PUP formula is spitting out much larger numbers than we anticipated. Do you have any PUP formula calculations that you could please share with us? It would be helpful to see your calculations (even if rough) so that we can reconcile the calculations to the formula and adjust the formula in the PUP, if necessary.

Thank you,
Jessica

Jessica Lutrin | Partner
Pillsbury Winthrop Shaw Pittman LLP

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pillsbury [pillsburylaw.com]

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Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. Any email sent to or from JEA's system may be considered a public record and subject to disclosure under Florida's Public Records Laws. Any information deemed confidential and exempt from Florida's Public Records Laws should be clearly marked. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact JEA by phone or in writing.

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Rhode, Lynne C. (City of Jacksonville)

From: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Sent: Saturday, August 24, 2019 6:45 AM
To: Rhode, Lynne C. (City of Jacksonville); KHyde@foley.com
Cc: Amdur, Stephen B.; Powers, Ted
Subject: Assignment and Assumption Language

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Lynne and Kevin,

Below is a draft of the revised assignment and assumption language to address the issues that we discussed yesterday. The language reflects Steve's input. You'll see that we broke out the language into two sub-sections to make it easier to read.

Please let us know if you have any questions.

Best,
Jessica

**

(i) This Plan and any Agreements shall be binding on and shall inure to the benefit of JEA and its successors (including any organization(s) that succeeds to ~~substantially~~ all or a majority of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreements shall mean and include any such successors or assigns. This Plan and any Agreements shall be assigned to and assumed by any successor of JEA (including any organization(s) that succeeds to ~~substantially~~ all or a majority of the assets and business of JEA) and this Plan and any applicable Agreements may be assigned in part to and assumed by any successor of a substantial portion of the assets and business of JEA as determined by the Administrator in its sole discretion, which such determination shall be final and binding on JEA, the Participants (and their respective beneficiaries) and any such successor. Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any applicable Agreements shall become the rights and obligations of such successor. Further, JEA shall require any successor ~~(including any organization that succeeds to all of the assets and business of JEA)~~ to assume expressly and agree to perform this Plan and any applicable Agreements in the same manner and to the same extent that JEA would be required to perform this Plan and any such Agreements if no such succession had taken place. This Plan and any Agreements shall be administered in a manner which best reflects the spirit and purpose of this Section 9(e)(i), and the Board may amend or clarify this Plan and/or any Agreements to reflect the spirit and purpose of this Section 9(e)(i) in accordance with the amendment procedures set forth in Section 8(a).**

(ii) Neither this Plan nor any Agreements nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a

Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

** Section 8(a) provides as follows: "This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent."

Jessica Lutrin | Partner
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Rhode, Lynne C. (City of Jacksonville)

From: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Sent: Friday, August 30, 2019 6:00 PM
To: Rhode, Lynne C. (City of Jacksonville)
Subject: PUP

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Lynne,

Here are drafts of the language we discussed yesterday:

To be added as a new Section 5(g) –

"Civil Service Reversion. If at any time during the period commencing on the date on which an Employee is notified by JEA of his or her eligibility to participate in the Plan and the last day of the Performance Period, such Employee's designation changes from [management] to [civil service] (whether or not such change is voluntary), the level at which such Employee participates in the Plan shall be adjusted to reflect such change. If such change occurs (i) at any time prior to the Purchase Date, the number of Performance Units that such Employee shall be eligible to purchase shall be reduced to a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been [civil service] on the date on which such Employee was notified of his or her eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, the Employee shall forfeit a number of Performance Units such that the Employee shall have purchased a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been [civil service] on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA shall refund to the Employee the aggregate Purchase Price in respect of such forfeited Performance Units. Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants."

To be added as a new Section 9(o) –

"The aggregate Purchase Price paid by the Participants in respect to the Performance Units shall be deposited into a FDIC-insured savings account with a financial institution. JEA shall be entitled to any interest on the amount deposited into the savings account."

Please let me know if you have any questions. Have a nice holiday weekend!

Best,
Jessica

Jessica Lutrin | Partner
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Rhode, Lynne C. (City of Jacksonville)

From: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Sent: Tuesday, September 10, 2019 11:17 AM
To: Rhode, Lynne C. (City of Jacksonville)
Subject: PUP
Attachments: JEA - Long-Term Performance Unit Plan - Invitation Booklet 4816-7518-1216 v.7.docx; JEA - Long-Term Performance Unit Plan 4819-6312-2076 v.11.docx; JEA - Form of Long-Term Performance Unit Agreement 4812-4130-8572 v.10.docx; Redline - JEA - Long-Term Performance Unit Plan.pdf; Redline - JEA - Form of Long-Term Performance Unit Agreement.pdf

Follow Up Flag: Follow up
Flag Status: Completed

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Hi Lynne,

As requested, I reviewed the PUP plan document and form of agreement and attached are revised drafts (clean and redlines) reflecting my comments. I've also attached a draft of the invitation booklet we discussed yesterday. You'll see that I've flagged a couple of items for your consideration in the footnotes to the booklet.

Please let me know if you have any questions.

Best,
Jessica

Jessica Lutrin | Partner
Pillsbury Winthrop Shaw Pittman LLP
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Rhode, Lynne C. (City of Jacksonville)

From: Maillis, Patricia L. - Director, Employee Services
Sent: Thursday, September 12, 2019 2:36 PM
To: Rhode, Lynne C. (City of Jacksonville)
Cc: Kendrick, Jonathan A. - VP & Chief Human Resources Officer
Subject: Confidential - Feedback on PUPs Plan Docs

Hi Lynne,

I reviewed the PUP docs from the v9/10. From an employee and benefits perspective, here are some concerns:

1) The documents read very legalize. Typically there is a Plan document that is very legal and formal in nature (which is appropriate), however, the employee letter and an exhibit(s) would be highlights of interest with references to see the Plan doc. The exhibit should include an example of the how the benefit is calculated: metrics, calculation and potential results. Referencing the Financial Statements is not appropriate.

2) The Plan does not provide clear calculation of how monies will grow.

3) The goals for the Plan as a Retention Tool don't align with a tool where an employee is investing their dollars. There is no Company investment. Usually when there is an investment from the employee it is to ensure success and ownership in the company. The Plan appears to hold employees captive. Understand there are Plans that have provisions to vest, but this is typically where there is an investment made by the company, not the employee. While there are typically penalties associated with certain investments for early withdrawal, e.g., timeframes to retain the investment, I do believe that most investments tools have forfeiture rules, whereby a person may receive a refund, but not a return of your money at $0 (unless it is a stock and it crashes). Employees who separate from the company whether for cause or voluntarily should have the right to a refund of their money or if the value is less than their purchase, the decreased value. Increased value can have the caveat of vesting or retention.

   Example: If an employee voluntarily or involuntarily terminates, they will be refunded 100% of the value of the units at the purchase price. They will not be eligible for any increase in the value. If the value has decreased, the person may only receive the value of the units as of the termination date.

4) Does this Plan comply with all applicable non-qualified IRS rules for government Deferred Compensation plans.

Pat Maillis
Director, Employee Services
Direct: (904-665-4132)
Cell : (904-703-3453)
JEA

From: "Hodges, Lawsikia" <LHodges@coj.net>

Sent: Monday, November 4, 2019, 11:07 AM

To: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>

Subject: FW: docs needed for tomorrow's meeting

Attachments: JEA - Form of Employee Protection and Retention Program Agreement.docx; JEA - Form of Long-Term Performance Unit Agreement.docx

---

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Lynne, I do not believe I ever received the final PUP from you; can you please send me this document.

From: Rhode, Lynne C. (City of Jacksonville) [mailto:rhodlc@jea.com]
Sent: Friday, September 13, 2019 8:30 AM
To: Hodges, Lawsikia
Subject: RE: docs needed for tomorrow's meeting

EXTERNAL EMAIL: This email originated from a non-COJ email address. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

From: Hodges, Lawsikia <LHodges@coj.net>
Sent: Thursday, September 12, 2019 10:47 PM
To: Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>

Subject: docs needed for tomorrow's meeting
Importance: High

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Lynne, can you send me the final documents (with exhibit attachments) for the following:

- Long-term Performance Unit Plan
- Long-term Performance Unit Agreement

The most recent drafts in our system of these documents do not include final revisions or the exhibit attachments to the agreement. These documents would be helpful in reviewing your opinion so that we have a full understand of the PUP.

Thank you!

Lawsikia J. Hodges
Deputy Government Operations
Board Certified City, County and Local Government Lawyer
(904) 255-5059

Disclaimer regarding Uniform Electronic Transactions Act (UETA) (Florida Statutes Section 668.50): If this communication concerns negotiation of a contract or agreement, UETA does not apply to this communication; contract formation in this matter shall occur only with manually-affixed original signatures on original documents.

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THIS EMPLOYEE PROTECTION AND RETENTION PROGRAM AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Employee").

RECITALS:

WHEREAS, all JEA employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, the Board approves of JEA exploring strategic options to ensure that it continues to serve its customers and citizens in a cost-effective and reliable way;

WHEREAS, JEA desires to recognize the past and continued service of its employees;

WHEREAS, in recognition of the Employee obtaining performance standards that shall be individually determined and evaluated based on the Employee's proportionate contribution to JEA, JEA desires to award the Employee a retention payment subject to, and conditioned upon, the occurrence of a Recapitalization Event on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Chair of the Compensation Committee of the Board, all full-time employees who are actively employed with JEA on July 23, 2019 are eligible to receive a retention payment.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Employee agree as follows:

1. Certain Definitions. As used in this Agreement, the following terms shall have the meanings given to them in this Section 1. Certain other terms are defined elsewhere in this Agreement.

(a) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(b) "Board" means the Board of Directors of JEA.

(c) "Cause" means (x) in the case where the Employee has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of grant of the Retention Payment that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where the Employee does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of grant of the Retention Payment or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Employee has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Employee has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Employee willfully fails to perform the Employee's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Employee materially breaches any term of any contract to which the Employee and any member of the JEA Group is a party; or

(v) the Employee materially breaches any term of this Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Employee of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination of the Employee's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with an applicable definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules shall control.

(d) "Closing Date" means the date on which the Recapitalization Event occurs.

(e) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(f) "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas,

techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, JEA recognizes the applicability of Chapter 119, Florida Statutes.

(g) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders the Employee unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that JEA's absence management vendor has no obligation to investigate whether Disability exists unless the Employee or representative thereof puts JEA on notice within ninety (90) days after the Employee's termination of employment.

(h) "Involuntary Termination" means, with respect to the Employee, a termination of the Employee's employment by any member of the JEA Group without Cause or due to such Employee's death or Disability.

(i) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(j) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(k) "Retention Period" means, respectively, a two (2)-year period following the Recapitalization Event as follows: (i) with respect to the first Payment Installment, the period from July 23, 2019 through the Closing Date; (ii) with respect to the second Payment Installment, the period from the Closing Date through the first anniversary of the Closing Date; and (iii) with respect to the third Payment Installment, the period from the first anniversary of the Closing Date through the second anniversary of the Closing Date.

2. Agreement to Provide Retention Payment. Subject to the terms of this Agreement (including the conditions set forth below), the Employee shall be entitled to receive a payment in the aggregate amount of $[_____] (the "Retention Payment"). The Retention Payment shall vest in three (3) equal installments (each, a "Payment Installment") on the Closing Date, the first anniversary of the Closing Date and the second anniversary of the Closing Date (each such date, a "Vesting Date"). The Payment Installments shall be paid to the Employee as soon as reasonably practicable after each applicable Vesting Date, but in any event no later than thirty

(30) days after the applicable Vesting Date. For the avoidance of doubt, in no event shall the Employee be entitled to receive any amounts in excess of the Retention Payment under this Agreement.

3. Conditions to Receipt of the Retention Payment. The Employee's right to receive the Retention Payment is conditioned on his or her execution of this Agreement and all of the following: (a) the Recapitalization Event occurring no later than December 31, 2021; (b) the Employee's continuous employment with any member of the JEA Group during the Retention Period (except as set forth herein); (c) the Employee's execution and non-revocation of a release of claims in favor of the JEA Group and the City of Jacksonville ("Release") in a form reasonably satisfactory to JEA; (d) the Employee's compliance with the covenants set forth in Section 5; and (e) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes. If the Employee breaches or threatens to breach any of the covenants in Section 5, JEA shall not pay the Employee the Retention Payment (to the extent unpaid) and/or the Employee shall be required to promptly repay all or any portion of the Retention Payment previously paid to the Employee, as applicable. Within sixty (60) days prior to the anticipated Closing Date, JEA shall deliver the Release to the Employee and, to the extent required by Applicable Law, the Employee shall have twenty-one (21) or forty-five (45) days from the date the Release is delivered to the Employee to review the Release and an additional seven (7) days to revoke the Release. The Employee must have executed an irrevocable Release prior to the Closing Date to receive any portion of the Retention Payment.

4. Involuntary Termination. Notwithstanding the provisions of Section 3(b), if the Employee ceases to be employed with any member of the JEA Group during a Retention Period due to an Involuntary Termination, the Employee shall be eligible to receive the entire amount of the Retention Payment (to the extent unpaid) and the Payment Installments shall vest on the applicable Vesting Dates. Any amount payable pursuant to this Section 4 shall be paid to the Employee at the same time as the Payment Installments (to the extent unpaid) would have been paid had there been no termination of employment.

5. Covenants. The Employee shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE EMPLOYEE'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Employee shall (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Employee, (ii) provide full support and cooperation in the best interests of the JEA Group up to and including the Closing Date, (iii) throughout the course of the Employee's employment with the JEA Group and following the Closing Date and/or the Employee's separation of service with the JEA Group, if applicable, take no action that would be

considered contrary to the best interests of the JEA Group, and (iv) devote best efforts to assist the JEA Group in maximizing its performance and finalizing the Recapitalization Event and any transition related thereto.

(b) Confidentiality.

(i) *Protection of Information.* The Employee acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, its ability to diligently serve its customers, the value of JEA's business and assets and the investor relations that JEA has expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Employee shall keep confidential this Agreement and its terms; provided that the Employee may provide this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Employee's relationship with the JEA Group and thereafter, the Employee agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Employee's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Employee's or of others who were under confidentiality obligations as to the item or items involved. The Employee further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings.* The Employee acknowledges and JEA agrees that the Employee may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Employee may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

(c) No Public Statements. Subject to the limitations of Applicable Law, until the Closing Date, the Employee agrees to make no unauthorized social media posts, press releases, statements to journalists, employees or prospective employers, interviews, editorials, commentaries, speeches, or other public statements about the JEA Group, the City of Jacksonville or any government official of the City of Jacksonville, including about the JEA Group's business and the respective directors, officers, employees, parents, subsidiaries, partners, affiliates, operating divisions, representatives and agents of any member of the JEA Group and the City of Jacksonville, this Agreement (or the subject matter hereof) or the

Recapitalization Event.

6. Tax Withholding. The JEA Group shall be entitled to make deductions from the Retention Payment in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

7. Sections 409A and 457(f). This Agreement is intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Agreement shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Agreement if it would cause this Agreement or any payment hereunder not to be in compliance with Code Sections 409A and 457(f).

8. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of JEA and its successors (including any organization that succeeds to substantially all of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Agreement shall mean and include any such successors or assigns. Neither this Agreement nor any right or interest hereunder shall be assignable or transferable by the Employee or his or her beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of the Employee, payments that otherwise would have been made to the Employee shall instead be made to the Employee's estate.

9. Governing Law. All questions concerning the construction, validity and interpretation of this Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

10. Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by Applicable Law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County in the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive,

unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

11. Entire Agreement; Modification. This Agreement contains the entire understanding and agreement between the parties relating to the Retention Payment and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 11, may be modified only by agreement in writing signed by both JEA and the Employee.

12. Counterparts. This Agreement may be executed in two (2) or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

13. Waiver. Any failure of the Employee to comply with any of his or her obligations under this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under this Agreement may be waived only in writing signed by the Employee. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

14. Survival. The provisions of this Agreement that are intended to survive this Agreement and to survive the Employee's termination of employment shall survive in accordance with their terms.

15. Severability. If any provision of this Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Agreement shall continue in full force and effect.

16. Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Agreement with unions representing covered bargaining unit employees of JEA. This Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

17. Penalties. In the event that any payments under this Agreement to the Employee are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to the Employee an amount equal to the full amount of the Penalties. Such payment is intended to place the Employee in the same economic position the Employee would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make the Employee economically whole for Penalties caused by, relating to or arising from the

Employee's breach of this Agreement or the Employee's failure to comply with his or her obligations under Applicable Law.

18. Compliance with Applicable Law. No provision of this Agreement shall be deemed to violate Applicable Law and this Agreement shall be interpreted in accordance with this intent.

19. Right to Seek Legal Counsel. The Employee acknowledges that the Employee has the right to review this Agreement with legal counsel of the Employee's choosing before signing it and that he or she was encouraged and advised to consult with an attorney prior to signing it.

20. Non-Appropriation. The Employee acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

21. Determinations. All determinations regarding the Retention Payment, including the amount, if any, of any Payment Installment payable to the Employee, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Agreement, and shall be final, conclusive and binding on all parties.

22. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

EMPLOYEE

_____

Name: [●]

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. Certain Definitions; Incorporation by Reference. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. Deferral Election. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence and the Participant's pay-for-performance pay shall be deferred at the time such pay would have otherwise been paid but for the Deferral Election. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that Participant defers hereunder are unfunded and

unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (including the Purchase Price in respect of such Performance Units), JEA shall not pay the Participant any payment in respect of his or her Performance Units (to the extent unpaid) and/or and the Participant shall be required to promptly repay any amounts previously paid to the Participant in respect of his or her Performance Units, as applicable.

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group up to and including the Closing Date, (iii) throughout the course of the Participant's employment with the JEA Group and following the Closing Date and/or the Participant's separation of service with the JEA Group, if applicable, take no action that would be considered contrary to the best interests of the JEA Group, and (iv) devote best efforts to

assist the JEA Group in maximizing its performance and finalizing the Recapitalization Event and any transition related thereto.

(b) Confidentiality.

(i) *Protection of Information.* The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions.* For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings.* The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also

disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

(c) No Public Statements. Subject to the limitations of Applicable Law, until the Closing Date, the Participant agrees to make no unauthorized social media posts, press releases, statements to journalists, employees or prospective employers, interviews, editorials, commentaries, speeches, or other public statements about the JEA Group, the City of Jacksonville or any government official of the City of Jacksonville, including about the JEA Group's business and the respective directors, officers, employees, parents, subsidiaries, partners, affiliates, operating divisions, representatives and agents of any member of the JEA Group and the City of Jacksonville, this Agreement (or the subject matter hereof) or the Recapitalization Event.

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Legal Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal counsel of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with an attorney prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [TWO] pay periods commencing with the payroll period on [DATE]	_____

NAME	SIGNATURE	DATE
_____	_____	_____

From: "Lutrin, Jessica" <jessica.lutrin@pillsburylaw.com>

Sent: Thursday, September 26, 2019, 3:33 PM

To: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>; "khyde@foley.com" <khyde@foley.com>

Subject: RE: Edits

Attachments: JEA - Long-Term Performance Unit Plan - Invitation Booklet 4816-7518-1216 v.8.docx; Redline - JEA - Long-Term Performance Unit Plan - Invitation Booklet.pdf

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[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Lynne,

Apologies, I was traveling for meetings, so I only sent Kevin the revised invitation booklet today. Attached for your reference is the revised booklet (clean and a redline). There were a couple of open items in the hand edits that you sent me, which I've flagged in the footnotes. In the interest of time, it may make sense for the two of us to work through those open items while Kevin reviews the booklet.

I'm available tomorrow from 11am – 12pm and 12.30pm – 2pm and on Tuesday from 10am – 1pm, 1.30pm – 3pm and 4pm – 5.30pm. I'm not available on Monday.

Best,
Jessica

Jessica Lutrin | Partner
Pillsbury Winthrop Shaw Pittman LLP
31 West 52nd Street | New York, NY 10019-6131
t +1.212.858.1090
jessica.lutrin@pillsburylaw.com | website bio [pillsburylaw.com]

From: Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>
Sent: Thursday, September 26, 2019 3:11 PM
To: khyde@foley.com; Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Subject: RE: Edits

*** EXTERNAL EMAIL ***

Hi Kevin and Jessica,
Just circling back on this. When do you anticipate having a revised PUP booklet for Melissa's review? Also, could we please schedule a call to discuss processes, including the appropriate process for reallocation of any PUPs not purchased in the first round? I am relatively available tomorrow after 11am as well as Monday afternoon and much of Tuesday next week.
Thank you,
Lynne

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

Building Community®

From: Rhode, Lynne C. (City of Jacksonville)
Sent: Monday, September 16, 2019 5:26 PM
To: khyde@foley.com
Subject: FW: Edits

FYI – Per our conversation today, I asked Jessica to get you a redline for your review. Thanks Kevin!

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

Building Community®

From: Rhode, Lynne C. (City of Jacksonville)
Sent: Monday, September 16, 2019 4:01 PM
To: 'Lutrin, Jessica' <jessica.lutrin@pillsburylaw.com>
Subject: Edits

Hi Jessica,

I hope you had a nice weekend! Please see attached comments/edits to the booklet. Could you please review, edit and respond as needed and send a redline to Kevin for his input as well then circle back up with me?
Thank you,
Lynne

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. Any email sent to or from JEA's system may be considered a public record and subject to disclosure under Florida's Public Records Laws. Any information deemed confidential and exempt from Florida's Public Records Laws should be clearly marked. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact JEA by phone or in writing.

The contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender or the Pillsbury Winthrop Shaw Pittman Help Desk at Tel: 800-477-0770, Option 1, immediately by telephone or by return E-mail and delete this message, along with any attachments, from your computer. Thank you.

DRAFT 09-26-2019
CONFIDENTIAL

[INSERT JEA LOGO]

INVITATION TO PARTICIPATE IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

Dear [NAME],

As a new benefit to JEA employees, we are delighted to let you know that you are eligible to participate in the JEA Long-Term Performance Unit Plan (the "**Plan**"). The Plan was approved by JEA's Board of Directors as part of the long-term compensation framework and is available starting in 2020.

How the Plan Works

The Plan allows you to purchase performance units from JEA referred to as "PUPs." The purchase price of each PUP is $10.00 and is paid by deferring a portion of your pay earned in 2020 equal to the aggregate purchase price of the PUPs you wish to purchase. The number of PUPs available to you to purchase is set forth in the cover letter to the Plan and your Long-Term Performance Unit Agreement provided to you.[1] For example, if JEA allocates you five PUPs and you wish to purchase all five PUPs, the aggregate purchase price to be deferred from your pay earned would be equal to $50.00 ($10.00 x five PUPs). When the PUPs vest, subject to the satisfaction of certain conditions, you are eligible to receive a cash payment in consideration for the PUPs you purchased. The amount of the cash payment is calculated based on the attainment of specified corporate performance metrics and includes the aggregate purchase price you paid for your PUPs. For additional information on how the Plan works, please refer to the frequently asked questions on Tab A of this invitation booklet.

Risks Associated with Participating in the Plan

As described above, in order to purchase PUPs under the Plan, you must pay a purchase price of $10.00 per PUP. As it is possible that you may forfeit the entire amount of the purchase price under certain circumstances (for example, if your employment with JEA is terminated for cause), you should carefully consider whether to purchase the PUPs. In considering whether to purchase the PUPs, you should review the risks described on Tab B of this invitation booklet and the financial information contained in Tab C of this invitation booklet.

Instructions and Additional Information

If you wish to participate in the Plan and purchase the PUPs, please review this invitation booklet carefully and follow the instructions set forth on Tab D of this invitation booklet. All required forms and materials must be postmarked by no later than [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase PUPs and participate in the Plan.[2]

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1 JEA to confirm whether there will be a separate cover letter to the Plan and Long-Term Performance Unit Agreement.

2 JEA to provide the postmark date.

For further information concerning the Plan, please contact [NAME], [TITLE] at JEA, via email at [EMAIL ADDRESS].[3]

This is an exciting time for JEA!

Sincerely,

Aaron Zahn
Managing Director & Chief Executive Officer

---

[3] JEA to provide the name, title and email address of the JEA representative.

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TAB A

QUESTIONS AND ANSWERS ABOUT THE JEA LONG-TERM PERFORMANCE UNIT PLAN

INTRODUCTION[4]

Below are a number of frequently asked questions ("**FAQs**") regarding the principal features of the Plan. The Plan was adopted by the Board at its meeting on July 23, 2019.

This document is only intended to be a summary. Some provisions are described in abbreviated form and others are not mentioned at all. If there is any ambiguity in these FAQs or if there is a conflict between these FAQs and the official text of the Plan or your Long-Term Performance Unit Agreement, then the official text of the Plan or your Long-Term Performance Unit Agreement, as applicable, will govern.

Where the context so requires, references to "JEA" refer to JEA, its affiliates, assigns, subsidiaries and successors.

THIS INVITATION BOOKLET DOES NOT PROVIDE LEGAL, FINANCIAL OR TAX ADVICE. JEA STRONGLY ADVISES YOU TO SEEK THE ADVICE OF A QUALIFIED LEGAL, FINANCIAL AND/OR TAX ADVISER REGARDING YOUR PARTICIPATION IN THE PLAN.

GENERAL PLAN PROVISIONS

Q1: What is the purpose of the Plan?

A1: The purpose of the Plan is to provide a means by which employees of JEA may be given incentives to remain with JEA and share in the financial [health][5] of JEA.

Q2: Who is eligible to participate in the Plan?

A2: Any full-time employee of JEA (including any full-time OGC attorney) who has been employed by JEA for at least three months prior to the Purchase Date (as described in Q&A 3) is eligible to participate in the Plan. Part-time and temporary employees of JEA are not eligible to participate in the Plan.

Any exceptions to the above eligibility requirements must be recommended by JEA's Chief Executive Officer (the "**CEO**") and approved by the Chair of the Compensation Committee (the "**Committee Chair**") of the Board of Directors of JEA (the "**Board**").

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[4] JEA to confirm whether all the references to "performance units" should be changed to "PUPs." This was not reflected in the hand mark-up received from JEA.

[5] JEA to confirm whether this should instead refer to "success."

Q3: How does the Plan work?

A3: Each eligible employee may purchase a specified number of performance units (the "**Performance Units**") as set forth in the employee's Long-Term Performance Unit Agreement from JEA on January 15 of each year (the "**Purchase Date**")[6] by electing to defer a portion of the employee's pay equal to the aggregate purchase price (the "**Purchase Price**") for the Performance Units that the employee wishes to purchase.

The Purchase Date for the Performance Units that are allocated to you now will be January 15, 2020.

Q4: Who administers the Plan?

A4: The Committee Chair administers the Plan. The Committee Chair has the full authority and discretion to take any actions the Committee Chair deems necessary or advisable for the administration of the Plan. All decisions, interpretations, and other actions of the Committee Chair will be final and binding.

Q5: How many Performance Units are reserved under the Plan?

A5: JEA has reserved an aggregate of 100,000 Performance Units for purchase by eligible employees under the Plan. However, only 30,000 Performance Units will be available for purchase by eligible employees on the Purchase Date.

ALLOCATION OF PERFORMANCE UNITS

Q6: What is a Performance Unit?

A6: Each Performance Unit represents a right to receive a cash payment equal to the Redemption Price (as described in Q&A 14) in exchange for such Performance Unit. A Performance Unit is not, and does not represent an equity or security interest in JEA.

Q7: How are Performance Units allocated under the Plan?

A7: Under the Plan, the Committee Chair has complete discretion to determine when and to whom Performance Units will be allocated and the number of Performance Units that may be allocated. The terms and conditions of Performance Units will be set forth in your Long-Term Performance Unit Agreement.

The Committee Chair may delegate the Committee Chair's authority under the Plan to determine the number of Performance Units that may be allocated to eligible employees

[6] To discuss the Purchase Date with JEA, including whether the Purchase Date should occur over multiple pay periods. Section 2(q) of the Plan specifies that the first Purchase Date will occur January 15, 2020.

(other than to the CEO) under the Plan to the CEO. The Committee Chair retains the authority to determine the number of Performance Units that may be allocated to the CEO.

Q8: How many Performance Units must I purchase to participate in the Plan?

A8: You may purchase up to the maximum number of Performance Units allocated to you. However, you may purchase less than all of the Performance Units that you have been allocated.

If you purchase none of the Performance Units allocated to you, you will not participate in the Plan and you will not be eligible to receive the Redemption Price in exchange for your Performance Units.

Q9: How is the Purchase Price determined?

A9: Under the Plan, the Purchase Price will be no less than $10.00 per Performance Unit. JEA has set the Purchase Price as $10.00 per Performance Unit.

Q10: Will I be required to pay the Purchase Price for my Performance Units?

A10: Yes, to purchase Performance Units under the Plan, you must pay the aggregate Purchase Price for the Performance Units you wish to purchase. The aggregate Purchase Price is equal to $10.00 multiplied by the number of Performance Units that you wish to purchase.

Example: If JEA allocates you five Performance Units and you wish to purchase four Performance Units, the aggregate Purchase Agreement will be equal to $40.00 ($10.00 x four Performance Units).

Q11: How do I pay the Purchase Price for my Performance Units?

A11: To pay the Purchase Price for the Performance Units that you wish to purchase, you must elect to defer a portion of your pay equal to the aggregate Purchase Price for the Performance Units you wish to purchase. You may elect to defer your pay in a lump sum or equal installments during certain payroll periods as selected by you.

To purchase Performance Units on January 15, 2020, you must elect to defer your pay by no later than December 31, 2019. If you do not make this election by December 31, 2019, you will not be eligible to purchase Performance Units on January 15, 2020.

Q12: Under what circumstances will I forfeit the Purchase Price that I pay for my Performance Units?

A12: If prior to the Vesting Date (as described in Q&A 13) your employment with JEA is terminated for cause (as described in Q&A 20) or you voluntarily terminate your employment with JEA for any reason, you will forfeit the entire amount of the Purchase

Price that you paid for the Performance Units that have not vested as of the date of your termination or voluntary termination, as applicable, of employment.

Q13: When will I receive the Redemption Price for my Performance Units?

A13: The Performance Units will vest on the earlier to occur of (a) the last day of the three-year performance period (as described in Q&A 14) and (ii) the date on which a Recapitalization Event (as described in Q&A 23) occurs (the "**Vesting Date**"). Except as otherwise described in Q&A 18, you must be employed with JEA on the Vesting Date for the Performance Units to vest. You will only receive the Redemption Price for vested Performance Units.

JEA will pay the Redemption Price to you for your vested Performance Units no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 14. The amount of the Redemption Price will be reduced by applicable withholding taxes.

Q14: How is the Redemption Price calculated?

A14: The Redemption Price is calculated as set forth below based on a three-year performance period (if a Recapitalization Event occurs, the performance period will be shortened, and the performance period will end on the closing date of such Recapitalization Event) (the "**Performance Period**").

The Performance Period will begin on January 15, 2020 and will end on January 15, 2023 (the "**2020/2023 Performance Period**"), unless a Recapitalization Event occurs before such date in which case the performance period will end on the date on which the closing of the Recapitalization Event occurs.

The 2020/2023 Performance Period will be based on the following performance metrics:

The Redemption Price will increase by $100.00 per Performance Unit for each "Value Change Percentage" increase of 1% in excess of the "Challenge Value Target" and will decrease by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target, but the Redemption Price will not be less than $0.00 per Performance Unit (the "**Redemption Price**").

- For the 2020/2023 Performance Period, the "Challenge Value Target" will be 110% and the "Threshold Value Target" will be 90%.
- The "Value Change Percentage" means a percentage equal to the "Current Year Value" divided by the "Base Year Value."
- "Current Year Value" means, with respect to the Performance Period, the sum of (a) JEA's Net Position, as shown on JEA's audited financial statements for the Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the closing date

of the Recapitalization Event), (b) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the 12-month period prior to the end of the performance period, and (c) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to JEA's customers during the 12-month period prior to the end of the Performance Period. Any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event will be taken into account for purposes of calculating the amounts in (a) – (c).

- For the 2020/2023 Performance Period, "Base Year Value" is the amount equal to the Current Year Value for fiscal year 2019 as reflected on JEA's audited financial statements when available.

The Redemption Price that you receive for your vested Performance Units will include the Purchase Price that you paid for each Performance Unit.[7]

Example: [To come][8]

Q15: Is it possible that I may not receive any Redemption Price for my Performance Units?

A15: Yes, as described in Q&A 14, the Redemption Price will be decreased by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target up to $0.00 per Performance Unit. However, the Redemption Price will not be less than $0.00 per Performance Unit.

Q16: Who will calculate the Redemption Price?

A16: JEA's Chief Financial Officer will calculate the Redemption Price per Performance Unit. The Committee Chair will certify the Redemption Price as soon as practicable following the completion of JEA's audit for the applicable Performance Period, but in no event later than 30 days following the end of the Performance Period.

Q17: Are there any conditions to my receipt of the Redemption Price?

A17: Yes, you need to satisfy certain conditions in order to receive the Redemption Price for your vested Performance Units. These conditions include as follows:

(a) you must execute your Long-Term Performance Unit Agreement enclosed with this invitation booklet on Tab F and return it to JEA by following the instructions included in Tab D;

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[7] To discuss with JEA whether the Purchase Price will be refunded to a participant even if the performance metrics are not attained. There is a substantial risk of forfeiture on a termination for cause or a voluntary termination of employment.

[8] JEA to provide.

(b) except as described in Q&A 18, you must be continuously employed with JEA;

(c) you must execute and not revoke a release of claims in favor of JEA and the City of Jacksonville (JEA will notify you when it is time for you to execute the release); and

(d) you must comply with the covenants set forth in your Long-Term Performance Unit Agreement (the "**Agreement**").

Q18: What happens to my Performance Units and the Purchase Price that I paid upon an involuntary termination of employment with JEA?

A18: If you experience an involuntary termination of employment prior to the applicable Vesting Date for your Performance Units, you will still be paid the Redemption Price for all of your Performance Units. Any Redemption Price payable to you as a terminated employee for your Performance Units will be paid to you at the same time as the amounts would have been paid had you not experienced an involuntary termination of employment.

An involuntary termination of employment means a termination of employment by JEA without cause (as described in Q&A 20) or due to your death or disability (as defined in the Plan).[9]

Q19: What happens to my Performance Units and the Purchase Price that I paid upon a termination of employment with JEA for cause or a voluntary termination of employment?

A19: If you experience a termination of employment for cause (as described in Q&A 20) or you voluntarily terminate your employment with JEA for any reason, in each case, prior to the applicable Vesting Date for your Performance Units, you will forfeit both the Performance Units to the extent unvested and the Purchase Price that you paid for such unvested Performance Units.

Q20: What is a termination of employment for "cause"?

A20: Under the Plan, "cause" generally means:

(a) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement, or

(b) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import): (i) you have been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, any felony under applicable law or any crime involving dishonesty or moral

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[9] JEA to clarify what is meant by the request to include a "geographic trigger."

turpitude; (ii) you have engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence that would reasonably be expected to result in a material injury to JEA; (iii) you willfully fail to perform your duties to JEA and/or willfully fail to comply with lawful directives of the Board; (iv) you materially breach any term of any contract to which you and JEA is a party; or (v) you materially breach any term of the Plan and/or your Long-Term Performance Unit Agreement.

With respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of "cause" is curable, JEA will provide written notice to you of the event within 30 days of JEA learning of the occurrence of such event, and such cause event must remain uncured 15 days after JEA has provided such written notice and any termination of your employment for "cause" with respect to clause (iii), (iv) or (v) must occur no later than 30 days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "**Civil Service Rules**"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, will control.

Q21: What happens if I am retirement eligible and retire before the applicable Vesting Date?

A21: If you become a retirement eligible employee (as described below) and retire, in each case, prior to the applicable Vesting Date for your Performance Units, your Performance Units will vest on the applicable Vesting Date.

You are retirement eligible if you have attained one of the retirement milestones as described in the General Employees Retirement Plan.

Q22: What happens if my designation changes from appointed to civil service?

A22: If at any time from when you are notified by JEA of your eligibility to participate in the Plan and ending on the last day of the Performance Period, your designation changes from appointed to civil service (whether or not such change is voluntary), the level at which you participate in the Plan will be adjusted to reflect such change.

If such change occurs (a) at any time prior to the Purchase Date, the number of Performance Units that you will be eligible to purchase will be reduced to a number of Performance Units that is equal to the number of Performance Units you would have been eligible to purchase had you been civil service on the date on which you were notified of your eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, you will forfeit a number of Performance Units such that you will have purchased a number of Performance Units that is equal to the maximum number of Performance Units you would have been eligible to purchase had you been civil service on the Purchase Date (it being understood that such number of forfeited

Performance Units may be zero) and JEA will refund to you the aggregate Purchase Price for such forfeited Performance Units.

RECAPITALIZATION EVENT

Q23: What is a Recapitalization Event?

A23: A "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other applicable law that results in either (a) unencumbered cash proceeds to the City of Jacksonville of at least $3,000,000,000 or (b) at least 50% of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

Q24: What happens to my Performance Units upon a Recapitalization Event?

A24: On the closing date of a Recapitalization Event, your Performance Units will vest and you will receive the applicable Redemption Price for your Performance Units. The Redemption Price will be paid in cash no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 16.

AMENDMENTS OF THE PLAN

Q25: May the Board amend the Plan?

A25: Yes, the Board may amend the Plan at any time. However, no amendment to the Plan may impair the rights of participants in the Plan without such participants' written consent. You will be provided any details of any amendment that would affect you as soon as reasonably practicable.

MISCELLANEOUS

Q26: Has the Plan been collectively bargained?[10]

A26: Yes, the Plan has been collectively bargained with the applicable union representatives.

Q27: How should I respond if someone asks about my Plan benefits or JEA's financial status?

A27: All inquiries from persons other than your legal, financial and/or tax advisors relating to the value of your Performance Units, the Plan or JEA's financial status (including questions from the press, prospective JEA investors, JEA customers or vendors, prospective JEA

[10] Foley to confirm whether this Q&A can be deleted.

hires and current co-workers) should be directed to the JEA's Chief Financial Officer via email at wannrf@jea.com.

TAB B

RISK FACTORS TO BE CONSIDERED BEFORE PURCHASING THE PERFORMANCE UNITS UNDER THE JEA LONG-TERM PERFORMANCE UNIT PLAN

The occurrence of any of the following risks could materially and adversely affect JEA's business, operating results and financial condition. In addition, risks and uncertainties that are not presently known to us or that we currently believe are immaterial may also impair JEA's business and operations. If any of these risks occur, the value of your Performance Units could decline and you may lose all or part of your Purchase Price.

The list of risk factors below does not purport to be a complete enumeration or explanation of the risks involved in purchasing the Performance Units under the Plan. You should carefully evaluate all of the information in this invitation booklet, the Plan and your Long-Term Performance Unit Agreement and consult with your own legal, tax and/or financial advisers before deciding whether to purchase Performance Units and pay the Purchase Price under the Plan.

There are a number of factors that may impact JEA's business and financial conditions.

The Redemption Price of the Performance Units will be subject to the future performance of JEA and, accordingly, before purchasing the Performance Units, you should carefully consider the risk factors described in JEA's Electric System and Water & Sewer System Annual Disclosure Reports (the "**Annual Reports**") filed with the Municipal Securities Rulemaking Board on its EMMA website and on www.jea.com under the "Financial Reports" section (About > Investor Relations > Financial Reports > Annual Disclosure Reports), which are incorporated by reference into this invitation booklet, together with the other information incorporated by reference herein or provided in this invitation booklet (including the risks set forth below).

The issues and associated risks and uncertainties discussed in the Annual Disclosure Reports that are incorporated herein by reference are not the only ones JEA may face. Additional issues may arise or become material as the energy, water and wastewater industries evolve. The risks and uncertainties associated with those additional issues could impair JEA's businesses in the future.

The Redemption Price of the Performance Units in the future may be higher or lower than the Purchase Price that you paid for the Performance Units due to changes in JEA's operating performance or prospects and other factors, including broad market fluctuations. Some specific factors that may have a significant effect on the Redemption Price of your Performance Units include:

- JEA has a history of losses, and may not achieve or maintain profitability in the future;
- climate change, or legal, regulatory or market measures to address climate change, may negatively affect JEA's business, operations and/or financial performance;

- natural disasters, including, but not limited to, hurricanes and/or fires, could destroy JEA's facilities and equipment;
- actual or anticipated fluctuations in JEA's operating results or future prospectus;
- factors outside of JEA's control, including modifications to JEA's book value;
- strategic actions by other industry participants, such as acquisitions or restructurings;
- new laws or regulations or new interpretations of existing laws or regulations applicable to JEA's business;
- JEA may be subject to legal proceedings and litigation, which are costly and may subject JEA to significant liability and increased costs of doing business;
- changes in accounting standards, policies, guidance, interpretations or principles; and
- adverse conditions in the financial markets or general economic conditions, including but not limited to, those resulting from war, incidents of terrorism and responses to such events.

There is no duty to update this invitation booklet.

JEA has no obligation to update the information contained in this invitation booklet. Accordingly, you should bear in mind that there may have been material changes in the affairs of JEA since the date of this invitation booklet, and it is up to you to review JEA's publicly available reports and information.

The information and expressions of opinion set forth herein or included herein by specific reference are subject to change without notice, and neither the delivery of this invitation booklet, nor the Plan nor your Long-Term Performance Unit Agreement shall, under any circumstances, create the implication that there has been no change in the affairs of JEA since the date hereof and thereof.

The Performance Units are not transferable and there is no market available for sale of the Performance Units.

You may not transfer, sell, pledge or otherwise dispose of your Performance Units (other than by will or the laws of descent or distribution) and there is no market to sell the Performance Units.

* * *

THE PERFORMANCE UNITS ARE NOT EQUITY OR SECURITIES OF JEA, NOR ARE THEY INTENDED TO BE TREATED AS SUCH AND ANY REPRESENTATION BY JEA OR ITS AGENTS TO THE CONTRARY SHOULD NOT BE RELIED UPON.

TAB C

FINANCIAL STATEMENTS

You can access and view JEA's financial statements, including the unaudited Quarterly Analysis of Financial Performance for the quarter ended June 30, 2019, through this link:[11]

https://www.jea.com/About/Investor_Relations/Financial_Reports/

Please contact [NAME], [TITLE] at [EMAIL ADDRESS] if you have trouble viewing or accessing the financial statements.[12]

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[11] To be updated prior to distribution to participants, as necessary.

[12] JEA to provide the name, title and email address of the JEA representative.

TAB D

INSTRUCTIONS FOR PARTICIPATING IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

To purchase Performance Units and participate in the Plan:

- You must sign and return your Long-Term Performance Unit Agreement enclosed with this invitation booklet; and

- You must complete, sign and return the Purchase of Performance Units and Deferral Election attached as Schedule I to your Long-Term Performance Unit Agreement.

The documents listed above must be returned to [NAME], [TITLE], at [Foley/Pillsbury],[13] at [ADDRESS], or at [EMAIL ADDRESS].

All required forms and materials must be postmarked by no later [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase Performance Units and participate in the Plan.[14]

[13] JEA to confirm whether Foley or Pillsbury will receive the documents.

[14] JEA to provide the postmark date.

TAB E

JEA LONG-TERM PERFORMANCE UNIT PLAN

[To be attached]

TAB F

JEA LONG-TERM PERFORMANCE UNIT AGREEMENT

[To be attached]

DRAFT ~~09-10-2019~~09-26-2019
CONFIDENTIAL

[INSERT JEA LOGO]

INVITATION TO PARTICIPATE IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

Dear [NAME],

~~We~~As a new benefit to JEA employees, we are delighted to let you know that you are eligible to participate in the JEA Long-Term Performance Unit Plan (the "**Plan**"). The Plan ~~is a new program that~~ was approved by JEA's Board of Directors as part of the long-term compensation framework ~~authorized by the Board of Directors at its meeting on June 27, 2019.[1]~~ and is available starting in 2020.

How the Plan Works

The Plan allows you to purchase ~~up to a specified number of~~ performance units~~, as set forth in your Long-Term Performance Unit Agreement,~~ from JEA ~~at a~~referred to as "PUPs." The purchase price of each PUP is $10.00 ~~per unit. The purchase price~~and is paid ~~by you~~ by deferring a portion of your pay earned in 2020 equal to the aggregate purchase price of the ~~performance units~~PUPs you wish to purchase. The number of PUPs available to you to purchase is set forth in the cover letter to the Plan and your Long-Term Performance Unit Agreement provided to you.[1] For example, if JEA allocates you five ~~performance units~~PUPs and you wish to purchase all five ~~performance units~~PUPs, the aggregate purchase price to be deferred from your pay earned would be equal to $50.00 ($10.00 x five ~~performance units~~PUPs). When the ~~performance units~~PUPs vest, subject to the satisfaction of certain conditions, you are eligible to receive a cash payment in consideration for the ~~performance units~~PUPs you purchased. The amount of the cash payment is calculated based on the attainment of specified corporate performance metrics and includes the aggregate purchase price you paid for your ~~performance units. Enclosed with this invitation booklet is a copy of the Plan and your Long-Term Performance Unit Agreement~~PUPs. For additional information on how the Plan works, please refer to the frequently asked questions on Tab A of this invitation booklet.

Risks Associated with Participating in the Plan

As described above, in order to purchase ~~performance units~~PUPs under the Plan, you must pay a purchase price of $10.00 per ~~unit~~PUP. As it is possible that you may forfeit the entire amount of the purchase price under certain circumstances (for example, if your employment with JEA is terminated for cause), you should carefully consider whether to purchase the ~~performance units~~PUPs. In considering whether to purchase the ~~performance units~~PUPs, you should review the risks described on Tab B of this invitation booklet and the financial information contained in Tab C of this invitation booklet.

Instructions and Additional Information

~~[1] JEA to confirm date.~~

[1] JEA to confirm whether there will be a separate cover letter to the Plan and Long-Term Performance Unit Agreement.

If you wish to participate in the Plan and purchase the ~~performance units~~PUPs, please review this invitation booklet carefully and follow the instructions set forth on Tab D of this invitation booklet. All required forms and materials must be postmarked by no later than [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase ~~performance units~~PUPs and participate in the Plan.[2]

For further information concerning the Plan, please contact [NAME], [TITLE] at JEA, via email at [EMAIL ADDRESS].[3]

This is an exciting time for JEA!

Sincerely,

Aaron Zahn
Managing Director & Chief Executive Officer

[2] JEA to provide the postmark date.

[3] JEA to provide the name, title and email address of the JEA representative.

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TAB A

QUESTIONS AND ANSWERS ABOUT THE JEA LONG-TERM PERFORMANCE UNIT PLAN

INTRODUCTION[4]

Below are a number of frequently asked questions ("**FAQs**") regarding the principal features of the Plan. The Plan was adopted by the Board at its meeting on July 23, 2019.

This document is only intended to be a summary. Some provisions are described in abbreviated form and others are not mentioned at all. If there is any ambiguity in these FAQs or if there is a conflict between these FAQs and the official text of the Plan or your Long-Term Performance Unit Agreement, then the official text of the Plan or your Long-Term Performance Unit Agreement, as applicable, will govern.

Where the context so requires, references to "JEA" refer to JEA, its affiliates, assigns, subsidiaries and successors.

THIS INVITATION BOOKLET DOES NOT PROVIDE LEGAL, FINANCIAL OR TAX ADVICE. JEA STRONGLY ADVISES YOU TO SEEK THE ADVICE OF A QUALIFIED LEGAL, FINANCIAL AND/OR TAX ADVISER REGARDING YOUR PARTICIPATION IN THE PLAN.

GENERAL PLAN PROVISIONS

Q1: What is the purpose of the Plan?

A1: The purpose of the Plan is to provide a means by which employees of JEA may be given incentives to remain with JEA~~, drive value for customers, drive value for the community of North East Florida, drive environmental value and drive financial value for JEA and the City of Jacksonville~~ and share in the financial [health][5] of JEA.

Q2: Who is eligible to participate in the Plan?

A2: Any full-time employee of JEA~~, its affiliates, assigns, subsidiaries and successors, (collectively, the "**JEA Group**"~~ (including any full-time OGC attorney) who has been employed by ~~any member of the~~ JEA ~~Group~~ for at least three months prior to the Purchase Date (as described in Q&A 3) ~~and any full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at~~

4 JEA to confirm whether all the references to "performance units" should be changed to "PUPs." This was not reflected in the hand mark-up received from JEA.

5 JEA to confirm whether this should instead refer to "success."

~~least three months prior to the Purchase Date~~ is eligible to participate in the Plan. Part-time and temporary employees of JEA are not eligible to participate in the Plan.

Any exceptions to the above eligibility requirements must be recommended by JEA's Chief Executive Officer (the "**CEO**") and approved by the Chair of the Compensation Committee (the "**Committee Chair**") of the Board of Directors of JEA (the "**Board**").

Q3: How does the Plan work?

A3: Each eligible employee may purchase a specified number of performance units (the "**Performance Units**") as set forth in ~~such~~the employee's Long-Term Performance Unit Agreement from JEA on January 15 of each year (the "**Purchase Date**")[6] by electing to defer a portion of ~~such~~the employee's pay equal to the aggregate purchase price (the "**Purchase Price**") for the Performance Units that ~~such~~the employee wishes to purchase.

The Purchase Date for the Performance Units that are allocated to you now will be January 15, 2020.

Q4: Who administers the Plan?

A4: The Committee Chair administers the Plan. The Committee Chair has the full authority and discretion to take any actions ~~it~~the Committee Chair deems necessary or advisable for the administration of the Plan. All decisions, interpretations, and other actions of the Committee Chair will be final and binding.

Q5: How many Performance Units are reserved under the Plan?

A5: JEA has reserved an aggregate of 100,000 Performance Units for purchase by eligible employees under the Plan. However, only 30,000 Performance Units will be available for purchase by eligible employees on the Purchase Date.

ALLOCATION OF PERFORMANCE UNITS

Q6: What is a Performance Unit?

A6: Each Performance Unit ~~is a phantom or notional unit that~~ represents a right to receive a cash payment equal to the Redemption Price (as described in Q&A 14) in exchange for such Performance Unit. A Performance Unit is not, and does not represent an equity or security interest in JEA.

Q7: How are Performance Units allocated under the Plan?

[6] To discuss the Purchase Date with JEA, including whether the Purchase Date should occur over multiple pay periods. Section 2(q) of the Plan specifies that the first Purchase Date will occur January 15, 2020.

A7: Under the Plan, the Committee Chair has complete discretion to determine when and to whom Performance Units will be allocated and the number of Performance Units that may be allocated. The terms and conditions of Performance Units will be set forth in your Long-Term Performance Unit Agreement ~~evidencing the Performance Units~~.

The Committee Chair ~~has delegated its~~may delegate the Committee Chair's authority under the Plan to determine the number of Performance Units that may be allocated to eligible employees (other than to the CEO) under the Plan to the CEO. The Committee Chair retains the authority to determine the number of Performance Units that may be allocated to the CEO.

Q8: How many Performance Units must I purchase to participate in the Plan?

A8: You may purchase up to the maximum number of Performance Units allocated to you. However, you may purchase less than all of the Performance Units that you have been allocated ~~to you~~.

If you purchase none of the Performance Units allocated to you, you will not participate in the Plan and you will not be eligible to receive the Redemption Price in exchange for your Performance Units.

Q9: How is the Purchase Price determined?

A9: Under the Plan, the Purchase Price will be no less than $10.00 per Performance Unit. JEA has set the Purchase Price as $10.00 per Performance Unit.

Q10: Will I be required to pay the Purchase Price for my Performance Units?

A10: Yes, to purchase Performance Units under the Plan, you must pay the aggregate Purchase Price for the Performance Units you wish to purchase. The aggregate Purchase Price is equal to $10.00 multiplied by the number of Performance Units that you wish to purchase.

Example: If JEA allocates you five Performance Units and you wish to purchase four Performance Units, the aggregate Purchase Agreement will be equal to $40.00 ($10.00 x four Performance Units).

Q11: How do I pay the Purchase Price for my Performance Units?

A11: To pay the Purchase Price for the Performance Units that you wish to purchase, you must elect to defer a portion of your pay equal to the aggregate Purchase Price for the Performance Units you wish to purchase. You may elect to defer your pay in a lump sum or equal installments during certain payroll periods as selected by you. ~~You must elect to defer your pay in the calendar year prior to the calendar year in which the compensation is earned and you purchase the Performance Units.~~

To purchase Performance Units on January 15, 2020, you must elect to defer your pay by no later than December 31, 2019~~ (or an earlier date as selected by the Committee Chair)~~. If you do not make this election by December 31, 2019~~ (or the earlier date as selected by the Committee Chair)~~, you will not be eligible to purchase Performance Units on January 15, 2020.

Q12: ~~Will~~Under what circumstances will I forfeit the Purchase Price that I pay for my Performance Units?

A12: ~~Yes, if~~If prior to the Vesting Date (as described in Q&A 13) your employment with ~~any member of the~~ JEA ~~Group~~ is terminated for cause (as described in Q&A 20) or you voluntarily ~~resign~~terminate your employment with ~~any member of the~~ JEA ~~Group~~ for any reason, you will forfeit the entire amount of the Purchase Price that you paid for the Performance Units that have not vested as of the date of your termination or ~~resignation~~voluntary termination, as applicable, of employment.

Q13: When will I receive the Redemption Price for my Performance Units?

A13: The Performance Units will vest on the earlier to occur of (a) the last day of the three-year performance period (as described in Q&A 14) and (ii) the date on which a Recapitalization Event (as described in Q&A 23) occurs (the "**Vesting Date**"). Except as otherwise described in Q&A 18, you must be employed with ~~a member of the~~ JEA ~~Group~~ on the Vesting Date for the Performance Units to vest. You will only receive the Redemption Price ~~in respect of~~for vested Performance Units.

~~A member of the~~ JEA ~~Group~~ will pay the Redemption Price to you ~~in respect of~~for your vested Performance Units no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 14. The amount of the Redemption Price will be reduced by applicable withholding taxes.

Q14: How is the Redemption Price calculated?

A14: The Redemption Price is calculated as set forth below based on a three-year performance period (if a Recapitalization Event occurs, the performance period will be shortened, and the performance period will end on the closing date of such Recapitalization Event) (the "**Performance Period**").

The Performance Period will begin on January 15, 2020 and will end on January 15, 2023 (the "**2020/2023 Performance Period**"), unless a Recapitalization Event occurs before such date in which case the performance period will end on the date on which the closing of the Recapitalization Event occurs.

The 2020/2023 Performance Period will be based on the following performance metrics:

The Redemption Price will increase by $100.00 per Performance Unit for each "Value Change Percentage" increase of 1% in excess of the "Challenge Value Target" and will decrease by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target, but the Redemption Price will not be less than $0.00 per Performance Unit (the "**Redemption Price**").

- For the 2020/2023 Performance Period, the "Challenge Value Target" will be 110% and the "Threshold Value Target" will be 90%.
- The "Value Change Percentage" means a percentage equal to the "Current Year Value" divided by the "Base Year Value."
- "Current Year Value" means, with respect to the Performance Period, the sum of (a) JEA's Net Position, as shown on JEA's audited financial statements for the Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the closing date of the Recapitalization Event), (b) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the 12-month period prior to the end of the performance period, and (c) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to JEA's customers during the 12-month period prior to the end of the Performance Period. Any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event will be taken into account for purposes of calculating the amounts in (a) – (c).
- For the 2020/2023 Performance Period, "Base Year Value" is the amount equal to the Current Year Value for fiscal year 2019 as reflected on JEA's audited financial statements when available.

The Redemption Price that you receive for your vested Performance Units will include the Purchase Price that you paid for each Performance Unit.[27]

Example: [To come][38]

Q15: Is it possible that I may not receive any Redemption Price for my Performance Units?

[27] To discuss with JEA ~~to confirm that~~whether the Purchase Price will be refunded to a participant even if the performance metrics are not attained. There is a substantial risk of forfeiture on a termination for cause or a voluntary termination of employment.

[38] JEA to provide.

A15: Yes, as described in Q&A 14, the Redemption Price will be decreased by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target up to $0.00 per Performance Unit. However, the Redemption Price will not be less than $0.00 per Performance Unit.

Q16: Who will calculate the Redemption Price?

A16: JEA's Chief Financial Officer will calculate the Redemption Price per Performance Unit. The Committee Chair will certify the Redemption Price as soon as practicable following the completion of JEA's audit for the applicable Performance Period, but in no event later than 30 days following the end of the Performance Period.

Q17: Are there any conditions to my receipt of the Redemption Price?

A17: Yes, you need to satisfy certain conditions in order to receive the Redemption Price for your vested Performance Units. These conditions ~~are~~include as follows:

(a) you must execute your Long-Term Performance Unit Agreement enclosed with this invitation booklet on Tab F and return it to JEA by following the instructions included in Tab D;

(b) except as described in Q&A 18, you must be continuously employed with JEA;

(c) you must execute and not revoke a release of claims in favor of JEA and the City of Jacksonville (JEA will notify you when it is time for you to execute the release); and

(d) you must comply with the covenants set forth in your Long-Term Performance Unit Agreement (the "**Agreement**")~~; and~~.

~~(e) the conditions in Section 215.425(3), Florida Statutes must be satisfied.[4]~~

~~With respect to the conditions in (e), [insert description].[5]~~

Q18: What happens to my Performance Units and the Purchase Price that I paid upon an involuntary termination of employment with ~~the~~ JEA ~~Group~~?

~~[4] JEA to consider whether to provide.~~

~~[5] JEA to provide.~~

A18: If you experience an involuntary termination of employment prior to the applicable Vesting Date for your Performance Units, you will still be paid the Redemption Price ~~in respect of~~for all of your Performance Units. Any Redemption Price payable to you as a terminated employee ~~in respect of~~for your Performance Units will be paid to you at the same time as the amounts would have been paid had you not experienced an involuntary termination of employment.

An involuntary termination of employment means a termination of employment by JEA without cause (as described in Q&A 20) or due to your death or disability (as defined in the Plan).[9]

Q19: What happens to my Performance Units and the Purchase Price that I paid upon a termination of employment with ~~the~~ JEA ~~Group~~ for cause or a ~~resignation~~voluntary termination of employment?

A19: If you experience a termination of employment for cause (as described in Q&A 20) or you ~~resign~~voluntarily terminate your employment with JEA for any reason, in each case, prior to the applicable Vesting Date for your Performance Units, you will forfeit both the Performance Units to the extent unvested and the Purchase Price that you paid for such unvested Performance Units.

Q20: What is a termination of employment for "cause"?

A20: Under the Plan, "cause" generally means:

(a) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement, or

(b) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import): (i) you have been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, any felony under applicable law or any crime involving dishonesty or moral turpitude; (ii) you have engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence that would reasonably be expected to result in a material injury to ~~any member of the~~ JEA ~~Group~~; (iii) you willfully fail to perform your duties to ~~any member of the~~ JEA ~~Group~~ and/or willfully fail to comply with lawful directives of the Board; (iv) you materially breach any term of any contract to which you and ~~any member of the~~ JEA ~~Group~~ is a party; or (v) you materially breach any term of the Plan and/or your Long-Term Performance Unit Agreement.

[9] JEA to clarify what is meant by the request to include a "geographic trigger."

With respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of "cause" is curable, JEA will provide written notice to you of the event within 30 days of JEA learning of the occurrence of such event, and such cause event must remain uncured 15 days after JEA has provided such written notice and any termination of your employment for "cause" with respect to clause (iii), (iv) or (v) must occur no later than 30 days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "**Civil Service Rules**"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, will control.

Q21: What happens if I am retirement eligible and retire before the applicable Vesting Date?

A21: If you become a retirement eligible employee (as described below) and retire, in each case, prior to the applicable Vesting Date for your Performance Units, your Performance Units will vest on the applicable Vesting Date.

You are retirement eligible if you have attained one of the retirement milestones as described in the General Employees Retirement Plan.

Q22: What happens if my designation changes from appointed to civil service?

A22: If at any time ~~during the period commencing on the date on which~~from when you are notified by JEA of your eligibility to participate in the Plan and ending on the last day of the Performance Period, your designation changes from appointed to civil service (whether or not such change is voluntary), the level at which you participate in the Plan will be adjusted to reflect such change.

If such change occurs (a) at any time prior to the Purchase Date, the number of Performance Units that you will be eligible to purchase will be reduced to a number of Performance Units that is equal to the number of Performance Units you would have been eligible to purchase had you been civil service on the date on which you were notified of your eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, you will forfeit a number of Performance Units such that you will have purchased a number of Performance Units that is equal to the maximum number of Performance Units you would have been eligible to purchase had you been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA will refund to you the aggregate Purchase Price ~~in respect of~~for such forfeited Performance Units.

RECAPITALIZATION EVENT

Q23: What is a Recapitalization Event?

A23: A "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other applicable law that results in either (a) unencumbered cash proceeds to the City of Jacksonville of at least $3,000,000,000 or (b) at least 50% of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

Q24: What happens to my Performance Units upon a Recapitalization Event?

A24: On the closing date of a Recapitalization Event, your Performance Units will vest and you will receive the applicable Redemption Price for your Performance Units. The Redemption Price will be paid in cash no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 16.

AMENDMENTS OF THE PLAN

Q25: May the Board amend the Plan?

A25: Yes, the Board may amend the Plan at any time. However, no amendment to the Plan may impair the rights of participants in the Plan without such participants' written consent. You will be provided any details of any amendment that would affect you as soon as reasonably practicable.

MISCELLANEOUS

Q26: Has the Plan been collectively bargained?[10]

A26: Yes, the Plan has been collectively bargained with the applicable union representatives.[6]

Q27: How should I respond if someone asks about my Plan benefits or JEA's financial status?

10 Foley to confirm whether this Q&A can be deleted

6 ~~JEA to update as applicable.~~

A27: All inquiries from persons other than your legal, financial and/or tax advisors relating to the value of your Performance Units ~~or JEA generally~~, the Plan or JEA's financial status (including questions from the press, prospective JEA investors, JEA customers or vendors, prospective JEA hires and current co-workers) should be directed to the JEA's ~~[TITLE].~~[7] Chief Financial Officer via email at wannrf@jea.com.

[7] ~~JEA to confirm that this is acceptable.~~

TAB B

RISK FACTORS TO BE CONSIDERED BEFORE PURCHASING THE PERFORMANCE UNITS UNDER THE JEA LONG-TERM PERFORMANCE UNIT PLAN

The occurrence of any of the following risks could materially and adversely affect JEA's business, operating results and financial condition. In addition, risks and uncertainties that are not presently known to us or that we currently believe are immaterial may also impair JEA's business and operations. If any of these risks occur, the value of your Performance Units could decline and you may lose all or part of your Purchase Price.

The list of risk factors below does not purport to be a complete enumeration or explanation of the risks involved in purchasing the Performance Units under the Plan. You should carefully evaluate all of the information in this invitation booklet, the Plan and your Long-Term Performance Unit Agreement and consult with your own legal, tax and/or financial advisers before deciding whether to purchase Performance Units and pay the Purchase Price under the Plan.

There are a number of factors that may impact JEA's business and financial conditions.

The Redemption Price of the Performance Units will be subject to the future performance of JEA and, accordingly, before purchasing the Performance Units, you should carefully consider the risk factors described in JEA's Electric System and Water & Sewer System Annual Disclosure Reports (the "**Annual Reports**") filed with the Municipal Securities Rulemaking Board on its EMMA website and on www.jea.com under the "Financial Reports" section (About > Investor Relations > Financial Reports > Annual Disclosure Reports), which are incorporated by reference into this invitation booklet, together with the other information incorporated by reference herein or provided in this invitation booklet (including the risks set forth below).

The issues and associated risks and uncertainties discussed in the Annual Disclosure Reports that are incorporated herein by reference are not the only ones JEA may face. Additional issues may arise or become material as the energy, water and wastewater industries evolve. The risks and uncertainties associated with those additional issues could impair JEA's businesses in the future.

The Redemption Price of the Performance Units in the future may be higher or lower than the Purchase Price that you paid for the Performance Units due to changes in JEA's operating performance or prospects and other factors, including broad market fluctuations. Some specific factors that may have a significant effect on the Redemption Price of your Performance Units include:[8]

- JEA has a history of losses, and may not achieve or maintain profitability in the future;

[8] ~~JEA to confirm.~~

- climate change, or legal, regulatory or market measures to address climate change, may negatively affect JEA's business, operations and/or financial performance;
- natural disasters, including, but not limited to, hurricanes and/or fires, could destroy JEA's facilities and equipment;
- actual or anticipated fluctuations in JEA's operating results or future prospectus;
- factors outside of JEA's control, including modifications to JEA's book value;
- strategic actions by other industry participants, such as acquisitions or restructurings;
- new laws or regulations or new interpretations of existing laws or regulations applicable to JEA's business;
- JEA may be subject to legal proceedings and litigation, which are costly and may subject JEA to significant liability and increased costs of doing business;
- changes in accounting standards, policies, guidance, interpretations or principles; and
- adverse conditions in the financial markets or general economic conditions, including but not limited to, those resulting from war, incidents of terrorism and responses to such events.

There is no duty to update this invitation booklet.

JEA has no obligation to update the information contained in this invitation booklet. Accordingly, you should bear in mind that there may have been material changes in the affairs of JEA since the date of this invitation booklet, and it is up to you to review JEA's publicly available reports and information.

The information and expressions of opinion set forth herein or included herein by specific reference are subject to change without notice, and neither the delivery of this invitation booklet, nor the Plan nor your Long-Term Performance Unit Agreement shall, under any circumstances, create the implication that there has been no change in the affairs of JEA since the date hereof and thereof.

The Performance Units are not transferable and there is no market available for sale of the Performance Units.

You may not transfer, sell, pledge or otherwise dispose of your Performance Units (other than by will or the laws of descent or distribution) and there is no market to sell the Performance Units.

* * *

THE PERFORMANCE UNITS ARE NOT EQUITY OR SECURITIES OF JEA, NOR ARE THEY INTENDED TO BE TREATED AS SUCH AND ANY REPRESENTATION BY JEA OR ITS AGENTS TO THE CONTRARY SHOULD NOT BE RELIED UPON.

TAB C

FINANCIAL STATEMENTS

You can access and view JEA's financial statements, including the unaudited Quarterly Analysis of Financial Performance for the quarter ended June 30, 2019, through this link:[911]

https://www.jea.com/About/Investor_Relations/Financial_Reports/

Please contact [NAME], [TITLE] at [EMAIL ADDRESS] if you have trouble viewing or accessing the financial statements.[12]

[911] To be updated prior to distribution to participants, as necessary.

[12] JEA to provide the name, title and email address of the JEA representative.

TAB D

INSTRUCTIONS FOR PARTICIPATING IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

To purchase Performance Units and participate in the Plan:

- You must sign and return your Long-Term Performance Unit Agreement enclosed with this invitation booklet; and

- You must complete, sign and return the Purchase of Performance Units and Deferral Election attached as Schedule I to your Long-Term Performance Unit Agreement~~; [and]~~.

~~• [Any other requirements?][10]~~

The documents listed above must be returned to [NAME], [TITLE], at ~~JEA,~~[Foley/Pillsbury],[13] at [ADDRESS], or at [EMAIL ADDRESS].

All required forms and materials must be postmarked by no later [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase Performance Units and participate in the Plan.[14]

~~10 JEA to confirm.~~

13 JEA to confirm whether Foley or Pillsbury will receive the documents.

14 JEA to provide the postmark date.

TAB E

JEA LONG-TERM PERFORMANCE UNIT PLAN

[To be attached]

TAB F

JEA LONG-TERM PERFORMANCE UNIT AGREEMENT

[To be attached]

Summary report: Litera® Change-Pro for Word 10.5.0.0 Document comparison done on 9/26/2019 11:51:54 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: JEA - Long-Term Performance Unit Plan - Invitation Booklet.docx	
Modified filename: JEA - Long-Term Performance Unit Plan - Invitation Booklet(1).docx	
Changes:	
Add	90
~~Delete~~	105
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	195

Rhode, Lynne C. (City of Jacksonville)

From: Rhode, Lynne C. (City of Jacksonville)
Sent: Wednesday, October 16, 2019 9:11 AM
To: 'Lutrin, Jessica'; Dykes, Melissa H. - President/COO; KHyde@foley.com
Cc: Hunt, Peter J.; Krawitz, Justin; Bradley, Danielle
Subject: RE: Out of the Office

Ok, thank you Jessica. We will circulate to Kevin, you, Peter, Justin, and Danielle today pay for performance documents for review.

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

From: Lutrin, Jessica <jessica.lutrin@pillsburylaw.com>
Sent: Tuesday, October 15, 2019 7:32 PM
To: Dykes, Melissa H. - President/COO <dykemh@jea.com>; Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>; KHyde@foley.com
Cc: Hunt, Peter J. <peter.hunt@pillsburylaw.com>; Krawitz, Justin <justin.krawitz@pillsburylaw.com>; Bradley, Danielle <danielle.bradley@pillsburylaw.com>
Subject: Out of the Office

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Dear Melissa, Lynne and Kevin –

I will be out of the office starting tomorrow for a couple of days. Peter Hunt, Justin Krawitz and Danielle Bradley (copied) who have all been working on Project Scampi will be available to assist in my absence and their contact details are below. If you could please continue to copy me on emails while I am out, that would be much appreciated.

Best,
Jessica

Peter J. Hunt | Partner
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From: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>

Sent: Monday, December 9, 2019, 3:56 PM

To: "Luster, Jill R. - Executive Staff Assistant" <lustjr@jea.com>

Subject: Fwd: Discussion re Administration of a new JEA Performance Unit Plan 61373

Attachments: image003.jpg; ATT00001.htm; JEA - Long-Term Performance Unit Plan AS REVISED (FINAL).pdf; ATT00002.htm; JEA - Form of Long-Term Performance Unit Agreement AS REVISED (FINAL).pdf; ATT00003.htm

---

Begin forwarded message:

> **From:** "Kendrick, Jonathan A. - VP & Chief Human Resources Officer" <kendja@jea.com>
> **Date:** December 9, 2019 at 10:31:23 AM EST
> **To:** "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>
> **Subject: FW: Discussion re Administration of a new JEA Performance Unit Plan 61373**
>
> Lynne,
>
> This was initial correspondence to Mass Mutual to discuss administration of the PUP's. Pat sat in on a call that I wasn't able to make, but it never proceeded as the decision was made to suspend the program. I'll send a few more emails.
>
> Thanks.
>
> Jon
>
> **From:** Kendrick, Jonathan A. - VP & Chief Human Resources Officer
> **Sent:** Friday, October 25, 2019 12:19 PM
> **To:** 'DiGrande, Silvio' <sdigrande@massmutual.com>; Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>; Scheetz, Michael <mscheetz@massmutual.com>
> **Subject:** RE: Discussion re Administration of a new JEA Performance Unit Plan 61373
>
> Hi Silvio,
>
> I've attached the documents relating to the plan. Looking forward to the call.
>
> Thanks.
>
> Jon

Jon Kendrick
Vice President & Chief Human Resources Officer
Direct: (904) 665-4747
Mobile: (904) 466-8517

From: DiGrande, Silvio <sdigrande@massmutual.com>
Sent: Friday, October 25, 2019 9:42 AM
To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>; Scheetz, Michael <mscheetz@massmutual.com>
Cc: Kendrick, Jonathan A. - VP & Chief Human Resources Officer <kendja@jea.com>
Subject: RE: Discussion re Administration of a new JEA Performance Unit Plan 61373

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Pat,

Our Retirement Advisory Services dept. just reached out to me. It does not look like they will have someone available for the call on Monday. Think this may need to be moved to Tuesday. In the meantime they are requesting a copy of the Long Term Incentive Plan Document so they can review it before the call.

Thank you,

Silvio

From: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Sent: Thursday, October 24, 2019 10:53 AM
To: Scheetz, Michael <mscheetz@massmutual.com>
Cc: DiGrande, Silvio <sdigrande@massmutual.com>; Kendrick, Jonathan A. - VP & Chief Human Resources Officer <kendja@jea.com>
Subject: [EXTERNAL]RE: Discussion re Administration of a new JEA Performance Unit Plan 61373

Let's go with 10:00 AM Monday. I'll send out a meeting invite with a conference number.

From: Scheetz, Michael <mscheetz@massmutual.com>
Sent: Thursday, October 24, 2019 9:09 AM
To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>; DiGrande, Silvio <sdigrande@massmutual.com>
Subject: RE: Discussion re Administration of a new JEA Performance Unit Plan 61373

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Pat:

I am available on Monday from 10:00 to 1:00 and Tuesday I am available all day.

Michael M. Scheetz

Client Engagement Manager | Government Markets

Workplace Solutions

MassMutual

100 Bright Meadow Boulevard | Enfield, CT 06082

C:(813) 244-0059

MassMutual.com [massmutual.com] | RetireSmart [retiresmart.com] | Facebook [facebook.com] | Twitter [twitter.com] | LinkedIn [linkedin.com]

From: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Sent: Thursday, October 24, 2019 7:52 AM
To: DiGrande, Silvio <sdigrande@massmutual.com>
Cc: Scheetz, Michael <mscheetz@massmutual.com>
Subject: [EXTERNAL]Re: Discussion re Administration of a new JEA Performance Unit Plan 61373

Mike, let me know some times on either day that are good.

Pat

Sent from my iPhone

On Oct 23, 2019, at 4:05 PM, DiGrande, Silvio <sdigrande@massmutual.com> wrote:

> [External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]
>
> Hi Pat,
>
> We are looking into seeing if there is a retirement advisory specialist that can be on the call . If we can find someone, I can try to be on the call with them. I think it may be best to try to schedule something Monday or Tuesday when Mike may be able to join.
>
> Silvio
>
> **From:** Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
> **Sent:** Wednesday, October 23, 2019 3:34 PM
> **To:** Scheetz, Michael <mscheetz@massmutual.com>
> **Cc:** DiGrande, Silvio <sdigrande@massmutual.com>
> **Subject:** [EXTERNAL]RE: Discussion re Administration of a new JEA Performance Unit Plan

Would Silvio be able to participate in a call tomorrow at 10:00 with Jon and I?

Otherwise, Monday and Tuesday, Jon was off, but he can call in. Any availability Monday or Tuesday?

From: Scheetz, Michael <mscheetz@massmutual.com>
Sent: Wednesday, October 23, 2019 3:06 PM
To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Subject: RE: Discussion re Administration of a new JEA Performance Unit Plan

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Pat:

This is to confirm receipt of your e-mail. Currently traveling on business in Louisiana on client meetings and benefit fairs. In regards to the times you proposed I will be in the air tomorrow and on Friday I have grandparent duties with the grandkids and have the day off.

I have forwarded your e-mail onto Silvio so that we can get your inquiry into the que with our internal consulting group for comment on what JEA is looking to accomplish.

I will try to give you a buzz when I get another break this afternoon.

Regards,

Michael M. Scheetz

Client Engagement Manager | Government Markets

Workplace Solutions

MassMutual

100 Bright Meadow Boulevard | Enfield, CT 06082

C:(813) 244-0059

MassMutual.com [massmutual.com] | RetireSmart [retiresmart.com] | Facebook [facebook.com] | Twitter [twitter.com] | LinkedIn [linkedin.com]

From: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Sent: Wednesday, October 23, 2019 1:04 PM
To: Scheetz, Michael <mscheetz@massmutual.com>
Subject: [EXTERNAL]Discussion re Administration of a new JEA Performance Unit Plan

Hi Mike,

Left you a voice mail regarding this. Would like to schedule a call with you and possibly the team within Mass Mutual that can administer a performance unit plan. JEA is getting ready to have an open enrollment period for a long-term incentive plan being offered to all employees of JEA. Employees will be able to elect during an enrollment period a number of units. The units are valued at purchase at $10.00 per unit. The purchase will be over a few pay periods in 2020.

Would like to talk to Mass Mutual about the administration of a plan of this nature and if they have the capability. The units may not be invested. The value and growth of the units are based on financial performance factors of JEA. So I am envisioning that JEA Finance would have to provide information on a quarterly basis to show the increase or decrease in value. The election is irrevocable and there is risk of forfeiture if the employee leaves before the units vest.

Jon Kendrick and I are very eager to talk about the plan and would like to see if you may be available tomorrow morning. Both of us are available from 10:00 – 11:00 AM or Friday after 3:00 PM.

Pat Maillis

Director, Employee Services

Direct: (904-665-4132)

Cell : (904-703-3453)

<image007.jpg> <image009.jpg> <image011.jpg> <image013.jpg> <image015.jpg>

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JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chair of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chair of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Participant willfully fails to perform the Participant's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(v) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination

of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, shall control.

(f) "Closing Date" means the date on which the Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any (i) full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date and (ii) full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier to occur of the third anniversary of the Purchase Date and the Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 15th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 15th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 15, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. The Redemption Price shall include the Purchase Price per Performance Unit.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the last day of the Performance Period.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants. The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan and the applicable Agreement.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. On or before the Recapitalization Event, upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis. Following the Recapitalization Event, no Performance Units may be purchased.

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment for any reason shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Civil Service Reversion. If at any time during the period commencing on the date on which an Employee is notified by JEA of his or her eligibility to participate in the Plan and ending on the last day of the Performance Period, such Employee's designation changes from

appointed to civil service (whether or not such change is voluntary), the level at which such Employee participates in the Plan shall be adjusted to reflect such change. If such change occurs (i) at any time prior to the Purchase Date, the number of Performance Units that such Employee shall be eligible to purchase shall be reduced to a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the date on which such Employee was notified of his or her eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, the Employee shall forfeit a number of Performance Units such that the Employee shall have purchased a number of Performance Units that is equal to the maximum number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA shall refund to the Employee the aggregate Purchase Price in respect of such forfeited Performance Units. Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan.

(h) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To purchase Performance Units under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments shall be made to the Participants no later than thirty (30) days following the date on which performance is certified pursuant to Section 3(c).

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the

Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes. Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units.

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan following a Recapitalization Event.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreements are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A

and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns.

(i) This Plan and any Agreements shall be binding on and shall inure to the benefit of JEA and its successors (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreements shall mean and include any such successors or assigns. This Plan and any Agreements shall be assigned to and assumed by any successor of JEA (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and this Plan and any applicable Agreements may be assigned in part to and assumed by any successor of a substantial portion of the assets and business of JEA as determined by the Administrator in its sole discretion, which such determination shall be final and binding on JEA, the Participants (and their respective beneficiaries) and any such successor. Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any applicable Agreements shall become the rights and obligations of such successor. Further, JEA shall require any successor to assume expressly and agree to perform this Plan and any applicable Agreements in the same manner and to the same extent that JEA would be required to perform this Plan and any such Agreements if no such succession had taken place. This Plan and any Agreements shall be administered in a manner which best reflects the spirit and purpose of this Section 9(e)(i), and the Board may amend or clarify this Plan and/or any Agreements to reflect the spirit and purpose of this Section 9(e)(i) in accordance with the amendment procedures set forth in Section 8(a).

(ii) Neither this Plan nor any Agreements nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment

Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties. Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

(o) Savings Account. The aggregate Purchase Price paid by the Participants in respect of the Performance Units shall be deposited by JEA into a FDIC-insured savings account. JEA shall be entitled to any interest on the amount deposited into the savings account.

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SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the Closing Date), (ii) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

---

[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. Certain Definitions; Incorporation by Reference. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. Deferral Election. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that the Participant defers hereunder are unfunded and unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax

advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to the Participant the aggregate Purchase Price of such forfeited Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group and (iii) take no action that would be considered contrary to the best interests of the JEA Group..

(b) Confidentiality.

(i) *Protection of Information*. The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the

Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the

parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____
Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [NUMBER] pay periods commencing with the payroll period on [DATE]	_____

_____	_____	_____
NAME	SIGNATURE	DATE

The contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender or the Pillsbury Winthrop Shaw Pittman Help Desk at Tel: 800-477-0770, Option 1, immediately by telephone or by return E-mail and delete this message, along with any attachments, from your computer. Thank you.

From: "Lutrin, Jessica" <jessica.lutrin@pillsburylaw.com>

Sent: Tuesday, September 10, 2019, 11:17 AM

To: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>

Subject: PUP

Attachments: JEA - Long-Term Performance Unit Plan - Invitation Booklet 4816-7518-1216 v.7.docx; JEA - Long-Term Performance Unit Plan 4819-6312-2076 v.11.docx; JEA - Form of Long-Term Performance Unit Agreement 4812-4130-8572 v.10.docx; Redline - JEA - Long-Term Performance Unit Plan.pdf; Redline - JEA - Form of Long-Term Performance Unit Agreement.pdf

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[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Hi Lynne,

As requested, I reviewed the PUP plan document and form of agreement and attached are revised drafts (clean and redlines) reflecting my comments. I've also attached a draft of the invitation booklet we discussed yesterday. You'll see that I've flagged a couple of items for your consideration in the footnotes to the booklet.

Please let me know if you have any questions.

Best,
Jessica

Jessica Lutrin | Partner
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SILICON VALLEY TAIPEI TOKYO WASHINGTON, DC

pillsbury [pillsburylaw.com]

DRAFT 09-10-2019
CONFIDENTIAL

[INSERT JEA LOGO]

INVITATION TO PARTICIPATE IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

Dear [NAME],

We are delighted to let you know that you are eligible to participate in the JEA Long-Term Performance Unit Plan (the "**Plan**"). The Plan is a new program that was approved by JEA's Board of Directors as part of the long-term compensation framework authorized by the Board of Directors at its meeting on June 27, 2019.[1]

How the Plan Works

The Plan allows you to purchase up to a specified number of performance units, as set forth in your Long-Term Performance Unit Agreement, from JEA at a purchase price of $10.00 per unit. The purchase price is paid by you by deferring a portion of your pay earned in 2020 equal to the aggregate purchase price of the performance units you wish to purchase. For example, if JEA allocates you five performance units and you wish to purchase all five performance units, the aggregate purchase price to be deferred from your pay earned would be equal to $50.00 ($10.00 x five performance units). When the performance units vest, subject to the satisfaction of certain conditions, you are eligible to receive a cash payment in consideration for the performance units you purchased. The amount of the cash payment is calculated based on the attainment of specified corporate performance metrics and includes the aggregate purchase price you paid for your performance units. Enclosed with this invitation booklet is a copy of the Plan and your Long-Term Performance Unit Agreement. For additional information on how the Plan works, please refer to the frequently asked questions on Tab A of this invitation booklet.

Risks Associated with Participating in the Plan

As described above, in order to purchase performance units under the Plan, you must pay a purchase price of $10.00 per unit. As it is possible that you may forfeit the entire amount of the purchase price under certain circumstances (for example, if your employment with JEA is terminated for cause), you should carefully consider whether to purchase the performance units. In considering whether to purchase the performance units, you should review the risks described on Tab B of this invitation booklet and the financial information contained in Tab C of this invitation booklet.

Instructions and Additional Information

If you wish to participate in the Plan and purchase the performance units, please review this invitation booklet carefully and follow the instructions set forth on Tab D of this invitation booklet. All required forms and materials must be postmarked by no later [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase performance units and participate in the Plan.

---

[1] JEA to confirm date.

For further information concerning the Plan, please contact [NAME], [TITLE] at JEA, via email at [EMAIL ADDRESS].

This is an exciting time for JEA!

Sincerely,

Aaron Zahn
Managing Director & Chief Executive Officer

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TAB A

QUESTIONS AND ANSWERS ABOUT THE JEA LONG-TERM PERFORMANCE UNIT PLAN

INTRODUCTION

Below are a number of frequently asked questions ("**FAQs**") regarding the principal features of the Plan. The Plan was adopted by the Board at its meeting on July 23, 2019.

This document is only intended to be a summary. Some provisions are described in abbreviated form and others are not mentioned at all. If there is any ambiguity in these FAQs or if there is a conflict between these FAQs and the official text of the Plan or your Long-Term Performance Unit Agreement, then the official text of the Plan or your Long-Term Performance Unit Agreement, as applicable, will govern.

THIS INVITATION BOOKLET DOES NOT PROVIDE LEGAL, FINANCIAL OR TAX ADVICE. JEA STRONGLY ADVISES YOU TO SEEK THE ADVICE OF A QUALIFIED LEGAL, FINANCIAL AND/OR TAX ADVISER REGARDING YOUR PARTICIPATION IN THE PLAN.

GENERAL PLAN PROVISIONS

Q1: What is the purpose of the Plan?

A1: The purpose of the Plan is to provide a means by which employees of JEA may be given incentives to remain with JEA, drive value for customers, drive value for the community of North East Florida, drive environmental value and drive financial value for JEA and the City of Jacksonville.

Q2: Who is eligible to participate in the Plan?

A2: Any full-time employee of JEA, its affiliates, assigns, subsidiaries and successors, (collectively, the "**JEA Group**") who has been employed by any member of the JEA Group for at least three months prior to the Purchase Date (as described in Q&A 3) and any full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three months prior to the Purchase Date is eligible to participate in the Plan. Part-time and temporary employees of JEA are not eligible to participate in the Plan.

Any exceptions to the above eligibility requirements must be recommended by JEA's Chief Executive Officer (the "**CEO**") and approved by the Chair of the Compensation Committee (the "**Committee Chair**") of the Board of Directors of JEA (the "**Board**").

Q3: How does the Plan work?

A3: Each eligible employee may purchase a specified number of performance units (the "**Performance Units**") as set forth in such employee's Long-Term Performance Unit Agreement from JEA on January 15 of each year (the "**Purchase Date**") by electing to defer a portion of such employee's pay equal to the aggregate purchase price (the "**Purchase Price**") for the Performance Units that such employee wishes to purchase.

The Purchase Date for the Performance Units that are allocated to you now will be January 15, 2020.

Q4: Who administers the Plan?

A4: The Committee Chair administers the Plan. The Committee Chair has the full authority and discretion to take any actions it deems necessary or advisable for the administration of the Plan. All decisions, interpretations and other actions of the Committee Chair will be final and binding.

Q5: How many Performance Units are reserved under the Plan?

A5: JEA has reserved an aggregate of 100,000 Performance Units for purchase by eligible employees under the Plan.

ALLOCATION OF PERFORMANCE UNITS

Q6: What is a Performance Unit?

A6: Each Performance Unit is a phantom or notional unit that represents a right to receive a cash payment equal to the Redemption Price (as described in Q&A 14) in exchange for such Performance Unit. A Performance Unit is not, and does not represent an equity or security interest in JEA.

Q7: How are Performance Units allocated under the Plan?

A7: Under the Plan, the Committee Chair has complete discretion to determine when and to whom Performance Units will be allocated and the number of Performance Units that may be allocated. The terms and conditions of Performance Units will be set forth in your Long-Term Performance Unit Agreement evidencing the Performance Units.

The Committee Chair has delegated its authority under the Plan to determine the number of Performance Units that may be allocated to eligible employees (other than to the CEO) under the Plan to the CEO. The Committee Chair retains the authority to determine the number of Performance Units that may be allocated to the CEO.

Q8: How many Performance Units must I purchase to participate in the Plan?

A8: You may purchase up to the maximum number of Performance Units allocated to you. However, you may purchase less than all of the Performance Units that you have been allocated to you.

If you purchase none of the Performance Units allocated to you, you will not participate in the Plan and you will not be eligible to receive the Redemption Price in exchange for your Performance Units.

Q9: How is the Purchase Price determined?

A9: Under the Plan, the Purchase Price will be no less than $10.00 per Performance Unit. JEA has set the Purchase Price as $10.00 per Performance Unit.

Q10: Will I be required to pay the Purchase Price for my Performance Units?

A10: Yes, to purchase Performance Units under the Plan, you must pay the aggregate Purchase Price for the Performance Units you wish to purchase. The aggregate Purchase Price is equal to $10.00 multiplied by the number of Performance Units that you wish to purchase.

Example: If JEA allocates you five Performance Units and you wish to purchase four Performance Units, the aggregate Purchase Agreement will be equal to $40.00 ($10.00 x four Performance Units).

Q11: How do I pay the Purchase Price for my Performance Units?

A11: To pay the Purchase Price for the Performance Units that you wish to purchase, you must elect to defer a portion of your pay equal to the aggregate Purchase Price for the Performance Units you wish to purchase. You may elect to defer your pay in a lump sum or equal installments during certain payroll periods as selected by you. You must elect to defer your pay in the calendar year prior to the calendar year in which the compensation is earned and you purchase the Performance Units.

To purchase Performance Units on January 15, 2020, you must elect to defer your pay by no later than December 31, 2019 (or an earlier date as selected by the Committee Chair). If you do not make this election by December 31, 2019 (or the earlier date as selected by the Committee Chair), you will not be eligible to purchase Performance Units on January 15, 2020.

Q12: Will I forfeit the Purchase Price that I pay for my Performance Units?

A12: Yes, if prior to the Vesting Date (as described in Q&A 13) your employment with any member of the JEA Group is terminated for cause (as described in Q&A 20) or you voluntarily resign your employment with any member of the JEA Group for any reason, you will forfeit the entire amount of the Purchase Price that you paid for the Performance

Units that have not vested as of the date of your termination or resignation, as applicable, of employment.

Q13: When will I receive the Redemption Price for my Performance Units?

A13: The Performance Units will vest on the earlier to occur of (a) the last day of the three-year performance period (as described in Q&A 14) and (ii) the date on which a Recapitalization Event (as described in Q&A 23) occurs (the "**Vesting Date**"). Except as otherwise described in Q&A 18, you must be employed with a member of the JEA Group on the Vesting Date for the Performance Units to vest. You will only receive the Redemption Price in respect of vested Performance Units.

A member of the JEA Group will pay the Redemption Price to you in respect of your vested Performance Units no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 14. The amount of the Redemption Price will be reduced by applicable withholding taxes.

Q14: How is the Redemption Price calculated?

A14: The Redemption Price is calculated as set forth below based on a three-year performance period (if a Recapitalization Event occurs, the performance period will be shortened, and the performance period will end on the closing date of such Recapitalization Event) (the "**Performance Period**").

The Performance Period will begin on January 15, 2020 and will end on January 15, 2023 (the "**2020/2023 Performance Period**"), unless a Recapitalization Event occurs before such date in which case the performance period will end on the date on which the closing of the Recapitalization Event occurs.

The 2020/2023 Performance Period will be based on the following performance metrics:

The Redemption Price will increase by $100.00 per Performance Unit for each "Value Change Percentage" increase of 1% in excess of the "Challenge Value Target" and will decrease by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target, but the Redemption Price will not be less than $0.00 per Performance Unit (the "**Redemption Price**").

- For the 2020/2023 Performance Period, the "Challenge Value Target" will be 110% and the "Threshold Value Target" will be 90%.
- The "Value Change Percentage" means a percentage equal to the "Current Year Value" divided by the "Base Year Value."
- "Current Year Value" means, with respect to the Performance Period, the sum of (a) JEA's Net Position, as shown on JEA's audited financial statements for the Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the closing date

of the Recapitalization Event), (b) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the 12-month period prior to the end of the performance period, and (c) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to JEA's customers during the 12-month period prior to the end of the Performance Period. Any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event will be taken into account for purposes of calculating the amounts in (a) – (c).

- For the 2020/2023 Performance Period, "Base Year Value" is the amount equal to the Current Year Value for fiscal year 2019 as reflected on JEA's audited financial statements when available.

The Redemption Price that you receive for your vested Performance Units will include the Purchase Price that you paid for each Performance Unit.[2]

Example: [To come][3]

Q15: Is it possible that I may not receive any Redemption Price for my Performance Units?

A15: Yes, as described in Q&A 14, the Redemption Price will be decreased by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target up to $0.00 per Performance Unit. However, the Redemption Price will not be less than $0.00 per Performance Unit.

Q16: Who will calculate the Redemption Price?

A16: JEA's Chief Financial Officer will calculate the Redemption Price per Performance Unit. The Committee Chair will certify the Redemption Price as soon as practicable following the completion of JEA's audit for the applicable Performance Period, but in no event later than 30 days following the end of the Performance Period.

Q17: Are there any conditions to my receipt of the Redemption Price?

A17: Yes, you need to satisfy certain conditions in order to receive the Redemption Price for your vested Performance Units. These conditions are as follows:

(a) you must execute your Long-Term Performance Unit Agreement enclosed with this invitation booklet on Tab F and return it to JEA by following the instructions included in Tab D;

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2 JEA to confirm that the Purchase Price will be refunded to a participant even if the performance metrics are not attained.

3 JEA to provide.

(b) except as described in Q&A 18, you must be continuously employed with JEA;

(c) you must execute and not revoke a release of claims in favor of JEA and the City of Jacksonville (JEA will notify you when it is time for you to execute the release);

(d) you must comply with the covenants set forth in your Long-Term Performance Unit Agreement (the "**Agreement**"); and

(e) the conditions in Section 215.425(3), Florida Statutes must be satisfied.[4]

With respect to the conditions in (e), [insert description].[5]

Q18: What happens to my Performance Units and the Purchase Price that I paid upon an involuntary termination of employment with the JEA Group?

A18: If you experience an involuntary termination of employment prior to the applicable Vesting Date for your Performance Units, you will be paid the Redemption Price in respect of all of your Performance Units. Any Redemption Price payable to you as a terminated employee in respect of your Performance Units will be paid to you at the same time as the amounts would have been paid had you not experienced an involuntary termination of employment.

An involuntary termination of employment means a termination of employment by JEA without cause (as described in Q&A 20) or due to your death or disability (as defined in the Plan).

Q19: What happens to my Performance Units and the Purchase Price that I paid upon a termination of employment with the JEA Group for cause or a resignation of employment?

A19: If you experience a termination of employment for cause (as described in Q&A 20) or you resign your employment with JEA for any reason, in each case, prior to the applicable Vesting Date for your Performance Units, you will forfeit both the Performance Units to the extent unvested and the Purchase Price that you paid for such unvested Performance Units.

Q20: What is a termination of employment for "cause"?

A20: Under the Plan, "cause" generally means:

(a) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement, or

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[4] JEA to consider whether to provide.

[5] JEA to provide.

(b) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import): (i) you have been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, any felony under applicable law or any crime involving dishonesty or moral turpitude; (ii) you have engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence that would reasonably be expected to result in a material injury to any member of the JEA Group; (iii) you willfully fail to perform your duties to any member of the JEA Group and/or willfully fail to comply with lawful directives of the Board; (iv) you materially breach any term of any contract to which you and any member of the JEA Group is a party; or (v) you materially breach any term of the Plan and/or your Long-Term Performance Unit Agreement.

With respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of "cause" is curable, JEA will provide written notice to you of the event within 30 days of JEA learning of the occurrence of such event, and such cause event must remain uncured 15 days after JEA has provided such written notice and any termination of your employment for "cause" with respect to clause (iii), (iv) or (v) must occur no later than 30 days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "**Civil Service Rules**"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, will control.

Q21: What happens if I am retirement eligible and retire before the applicable Vesting Date?

A21: If you become a retirement eligible employee (as described below) and retire, in each case, prior to the applicable Vesting Date for your Performance Units, your Performance Units will vest on the applicable Vesting Date.

You are retirement eligible if you have attained one of the retirement milestones as described in the General Employees Retirement Plan.

Q22: What happens if my designation changes from appointed to civil service?

A22: If at any time during the period commencing on the date on which you are notified by JEA of your eligibility to participate in the Plan and ending on the last day of the Performance Period, your designation changes from appointed to civil service (whether or not such change is voluntary), the level at which you participate in the Plan will be adjusted to reflect such change.

If such change occurs (a) at any time prior to the Purchase Date, the number of Performance Units that you will be eligible to purchase will be reduced to a number of Performance

Units that is equal to the number of Performance Units you would have been eligible to purchase had you been civil service on the date on which you were notified of your eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, you will forfeit a number of Performance Units such that you will have purchased a number of Performance Units that is equal to the maximum number of Performance Units you would have been eligible to purchase had you been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA will refund to you the aggregate Purchase Price in respect of such forfeited Performance Units.

RECAPITALIZATION EVENT

Q23: What is a Recapitalization Event?

A23: A "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other applicable law that results in either (a) unencumbered cash proceeds to the City of Jacksonville of at least $3,000,000,000 or (b) at least 50% of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

Q24: What happens to my Performance Units upon a Recapitalization Event?

A24: On the closing date of a Recapitalization Event, your Performance Units will vest and you will receive the applicable Redemption Price for your Performance Units. The Redemption Price will be paid in cash no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 16.

AMENDMENTS OF THE PLAN

Q25: May the Board amend the Plan?

A25: Yes, the Board may amend the Plan at any time. However, no amendment to the Plan may impair the rights of participants in the Plan without such participants' written consent. You will be provided any details of any amendment that would affect you as soon as reasonably practicable.

MISCELLANEOUS

Q26: Has the Plan been collectively bargained?

A26: Yes, the Plan has been collectively bargained with the applicable union representatives.[6]

[6] JEA to update as applicable.

Q27: How should I respond if someone asks about my Plan benefits or JEA's financial status?

A27: All inquiries from persons other than your legal, financial and/or tax advisors relating to the value of your Performance Units or JEA generally (including questions from the press, prospective JEA investors, JEA customers or vendors, prospective JEA hires and current co-workers) should be directed to the JEA's [TITLE].[7]

[7] JEA to confirm that this is acceptable.

TAB B

RISK FACTORS TO BE CONSIDERED BEFORE PURCHASING THE PERFORMANCE UNITS UNDER THE JEA LONG-TERM PERFORMANCE UNIT PLAN

The occurrence of any of the following risks could materially and adversely affect JEA's business, operating results and financial condition. In addition, risks and uncertainties that are not presently known to us or that we currently believe are immaterial may also impair JEA's business and operations. If any of these risks occur, the value of your Performance Units could decline and you may lose all or part of your Purchase Price.

The list of risk factors below does not purport to be a complete enumeration or explanation of the risks involved in purchasing the Performance Units under the Plan. You should carefully evaluate all of the information in this invitation booklet, the Plan and your Long-Term Performance Unit Agreement and consult with your own legal, tax and/or financial advisers before deciding whether to purchase Performance Units and pay the Purchase Price under the Plan.

There are a number of factors that may impact JEA's business and financial conditions.

The Redemption Price of the Performance Units will be subject to the future performance of JEA and, accordingly, before purchasing the Performance Units, you should carefully consider the risk factors described in JEA's Electric System and Water & Sewer System Annual Disclosure Reports (the "**Annual Reports**") filed with the Municipal Securities Rulemaking Board on its EMMA website and on www.jea.com under the "Financial Reports" section (About > Investor Relations > Financial Reports > Annual Disclosure Reports), which are incorporated by reference into this invitation booklet, together with the other information incorporated by reference herein or provided in this invitation booklet (including the risks set forth below).

The issues and associated risks and uncertainties discussed in the Annual Disclosure Reports that are incorporated herein by reference are not the only ones JEA may face. Additional issues may arise or become material as the energy, water and wastewater industries evolve. The risks and uncertainties associated with those additional issues could impair JEA's businesses in the future.

The Redemption Price of the Performance Units in the future may be higher or lower than the Purchase Price that you paid for the Performance Units due to changes in JEA's operating performance or prospects and other factors, including broad market fluctuations. Some specific factors that may have a significant effect on the Redemption Price of your Performance Units include:[8]

- JEA has a history of losses, and may not achieve or maintain profitability in the future;

[8] JEA to confirm.

- climate change, or legal, regulatory or market measures to address climate change, may negatively affect JEA's business, operations and/or financial performance;
- natural disasters, including, but not limited to, hurricanes and/or fires, could destroy JEA's facilities and equipment;
- actual or anticipated fluctuations in JEA's operating results or future prospectus;
- factors outside of JEA's control, including modifications to JEA's book value;
- strategic actions by other industry participants, such as acquisitions or restructurings;
- new laws or regulations or new interpretations of existing laws or regulations applicable to JEA's business;
- JEA may be subject to legal proceedings and litigation, which are costly and may subject JEA to significant liability and increased costs of doing business;
- changes in accounting standards, policies, guidance, interpretations or principles; and
- adverse conditions in the financial markets or general economic conditions, including but not limited to, those resulting from war, incidents of terrorism and responses to such events.

There is no duty to update this invitation booklet.

JEA has no obligation to update the information contained in this invitation booklet Accordingly, you should bear in mind that there may have been material changes in the affairs of JEA since the date of this invitation booklet, and it is up to you to review JEA's publicly available reports and information.

The information and expressions of opinion set forth herein or included herein by specific reference are subject to change without notice, and neither the delivery of this invitation booklet, nor the Plan nor your Long-Term Performance Unit Agreement shall, under any circumstances, create the implication that there has been no change in the affairs of JEA since the date hereof and thereof.

The Performance Units are not transferable and there is no market available for sale of the Performance Units.

You may not transfer, sell, pledge or otherwise dispose of your Performance Units (other than by will or the laws of descent or distribution) and there is no market to sell the Performance Units.

* * *

THE PERFORMANCE UNITS ARE NOT SECURITIES OF JEA, NOR ARE THEY INTENDED TO BE TREATED AS SUCH AND ANY REPRESENTATION BY JEA OR ITS AGENTS TO THE CONTRARY SHOULD NOT BE RELIED UPON.

TAB C

FINANCIAL STATEMENTS

You can access and view JEA's financial statements, including the unaudited Quarterly Analysis of Financial Performance for the quarter ended June 30, 2019, through this link:[9]

https://www.jea.com/About/Investor_Relations/Financial_Reports/

Please contact [NAME] at [EMAIL ADDRESS] if you have trouble viewing or accessing the financial statements.

[9] To be updated prior to distribution to participants, as necessary.

TAB D

INSTRUCTIONS FOR PARTICIPATING IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

To purchase Performance Units and participate in the Plan:

- You must sign and return your Long-Term Performance Unit Agreement enclosed with this invitation booklet;
- You must complete, sign and return the Purchase of Performance Units and Deferral Election attached as Schedule I to your Long-Term Performance Unit Agreement; [and]
- [Any other requirements?][10]

The documents listed above must be returned to [NAME], [TITLE], at JEA, at [ADDRESS], or at [EMAIL ADDRESS].

All required forms and materials must be postmarked by no later [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase Performance Units and participate in the Plan.

[10] JEA to confirm.

TAB E

JEA LONG-TERM PERFORMANCE UNIT PLAN

[To be attached]

TAB F

JEA LONG-TERM PERFORMANCE UNIT AGREEMENT

[To be attached]

JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chair of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chair of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Participant willfully fails to perform the Participant's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(v) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination

of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, shall control.

(f) "Closing Date" means the date on which the Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any (i) full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date and (ii) full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier to occur of the third anniversary of the Purchase Date and the Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 15th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 15th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 15, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. The Redemption Price shall include the Purchase Price per Performance Unit.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the last day of the Performance Period.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants. The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan and the applicable Agreement.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. On or before the Recapitalization Event, upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis. Following the Recapitalization Event, no Performance Units may be purchased.

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment for any reason shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Civil Service Reversion. If at any time during the period commencing on the date on which an Employee is notified by JEA of his or her eligibility to participate in the Plan and ending on the last day of the Performance Period, such Employee's designation changes from

appointed to civil service (whether or not such change is voluntary), the level at which such Employee participates in the Plan shall be adjusted to reflect such change. If such change occurs (i) at any time prior to the Purchase Date, the number of Performance Units that such Employee shall be eligible to purchase shall be reduced to a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the date on which such Employee was notified of his or her eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, the Employee shall forfeit a number of Performance Units such that the Employee shall have purchased a number of Performance Units that is equal to the maximum number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA shall refund to the Employee the aggregate Purchase Price in respect of such forfeited Performance Units. Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan.

(h) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To purchase Performance Units under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments shall be made to the Participants no later than thirty (30) days following the date on which performance is certified pursuant to Section 3(c).

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the

Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes. Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units.

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan following a Recapitalization Event.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreements are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A

and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns.

(i) This Plan and any Agreements shall be binding on and shall inure to the benefit of JEA and its successors (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreements shall mean and include any such successors or assigns. This Plan and any Agreements shall be assigned to and assumed by any successor of JEA (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and this Plan and any applicable Agreements may be assigned in part to and assumed by any successor of a substantial portion of the assets and business of JEA as determined by the Administrator in its sole discretion, which such determination shall be final and binding on JEA, the Participants (and their respective beneficiaries) and any such successor. Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any applicable Agreements shall become the rights and obligations of such successor. Further, JEA shall require any successor to assume expressly and agree to perform this Plan and any applicable Agreements in the same manner and to the same extent that JEA would be required to perform this Plan and any such Agreements if no such succession had taken place. This Plan and any Agreements shall be administered in a manner which best reflects the spirit and purpose of this Section 9(e)(i), and the Board may amend or clarify this Plan and/or any Agreements to reflect the spirit and purpose of this Section 9(e)(i) in accordance with the amendment procedures set forth in Section 8(a).

(ii) Neither this Plan nor any Agreements nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment

Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties. Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

(o) Savings Account. The aggregate Purchase Price paid by the Participants in respect of the Performance Units shall be deposited by JEA into a FDIC-insured savings account. JEA shall be entitled to any interest on the amount deposited into the savings account.

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SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the Closing Date), (ii) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

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[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. Certain Definitions; Incorporation by Reference. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. Deferral Election. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that the Participant defers hereunder are unfunded and unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax

advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to the Participant the aggregate Purchase Price of such forfeited Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant; (ii) provide full support and cooperation in the best interests of the JEA Group; and (iii) take no action that would be considered contrary to the best interests of the JEA Group.

(b) Confidentiality.

(i) *Protection of Information.* The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the

Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among

the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [NUMBER] pay periods commencing with the payroll period on [DATE]	_____

NAME	SIGNATURE	DATE

JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chair of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chair of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(ii) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(iii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iv) the Participant willfully fails to perform the Participant's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(v) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(vi) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any

termination of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, shall control.

(f) "Closing Date" means the date on which the Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan, payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any (i) full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date ~~or any~~and (ii) full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier to occur of the third anniversary of the Purchase Date ~~or~~and the Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 15th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 15th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 15, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. The Redemption Price shall include the Purchase Price per Performance Unit.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the ~~earlier to occur of (i) the first anniversary of the~~ last day of the Performance Period ~~and (ii) the date on which a Recapitalization Event occurs~~.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants. The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan and the applicable Agreement.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. On or before the Recapitalization Event, upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis. Following the Recapitalization Event, no Performance Units may be purchased.

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment for any reason shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent

unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Civil Service Reversion. If at any time during the period commencing on the date on which an Employee is notified by JEA of his or her eligibility to participate in the Plan and ending on the last day of the Performance Period, such Employee's designation changes from appointed to civil service (whether or not such change is voluntary), the level at which such Employee participates in the Plan shall be adjusted to reflect such change. If such change occurs (i) at any time prior to the Purchase Date, the number of Performance Units that such Employee shall be eligible to purchase shall be reduced to a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the date on which such Employee was notified of his or her eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, the Employee shall forfeit a number of Performance Units such that the Employee shall have purchased a number of Performance Units that is equal to the maximum number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA shall refund to the Employee the aggregate Purchase Price in respect of such forfeited Performance Units. Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan.

(h) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To ~~receive a Purchase Price~~purchase Performance Units under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments

shall be made to the Participants no later than thirty (30) days following the date on which performance is certified pursuant to Section 3(c).

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes. Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units ~~(it being understood that a Participant shall only be required to execute one Release prior to the first payment date for payments outside of a Recapitalization Event)~~.

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan following a Recapitalization Event.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the

Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any ~~Agreement~~Agreements are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and 457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns.

(i) This Plan and any Agreements shall be binding on and shall inure to the benefit of JEA and its successors (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreements shall mean and include any such successors or assigns. This Plan and any Agreements shall be assigned to and assumed by any successor of JEA (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and this Plan and any applicable Agreements may be assigned in part to and assumed by any successor of a substantial portion of the assets and business of JEA as determined by the Administrator in its sole discretion, which such determination shall be final and binding on JEA, the Participants (and their respective beneficiaries) and any such successor. Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any applicable Agreements shall become the rights and obligations of such successor. Further, JEA shall require any successor to assume expressly and agree to perform this Plan and any applicable Agreements in the same manner and to the same extent that JEA would be required to perform this Plan and any such Agreements if no such succession had taken place. This Plan and any Agreements shall be administered in a manner which best reflects the spirit and purpose of this Section 9(e)(i), and the Board may amend or clarify this Plan and/or any Agreements to reflect the spirit and purpose of this Section 9(e)(i) in accordance with the amendment procedures set forth in Section 8(a).

(ii) Neither this Plan nor any Agreements nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of

Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties. Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the

JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

(o) Savings Account. The aggregate Purchase Price paid by the Participants in respect of the Performance Units shall be deposited by JEA into a FDIC-insured savings account. JEA shall be entitled to any interest on the amount deposited into the savings account.

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SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the Closing Date), (ii) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

Summary report: Litera® Change-Pro for Word 10.5.0.0 Document comparison done on 9/10/2019 11:06:22 AM	
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Intelligent Table Comparison: Active	
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Modified filename: JEA - Long-Term Performance Unit Plan(1).docx	
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~~Delete~~	8
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	21

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. Certain Definitions; Incorporation by Reference. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. Deferral Election. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence ~~and the Participant's pay for performance pay shall be deferred at the time such pay would have otherwise been paid but for the Deferral Election~~. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that the Participant defers hereunder are unfunded

and unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to the Participant the aggregate Purchase Price of such forfeited Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant;; (ii) provide full support and cooperation in the best interests of the JEA Group; and (iii) take no action that would be considered contrary to the best interests of the JEA Group.

(b) Confidentiality.

(i) *Protection of Information*. The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has

expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [~~TWO~~NUMBER] pay periods commencing with the payroll period on [DATE]	_____

_____	_____	_____
NAME	SIGNATURE	DATE

Summary report: Litera® Change-Pro for Word 10.5.0.0 Document comparison done on 9/10/2019 11:14:09 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: JEA - Form of Long-Term Performance Unit Agreement.docx	
Modified filename: JEA - Form of Long-Term Performance Unit Agreement(1).docx	
Changes:	
Add	6
~~Delete~~	3
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	9

From: "Vinyard, Herschel T. - Chief Administrative Officer" <vinyht@jea.com>

Sent: Tuesday, November 5, 2019, 8:13 AM

To: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>

Subject: Fwd: PUP Meeting

Attachments: Additional Questions and Inital Concerns on the PUP.docx; ATT00001.htm

---

Begin forwarded message:

> **From:** "Reber, Heather" <HReber@coj.net>
> **Date:** October 31, 2019 at 3:12:47 PM EDT
> **To:** "wannrf@jea.com" <wannrf@jea.com>, "Hall, Sherry" <HallSL2@jea.com>, "vinyht@jea.com" <vinyht@jea.com>
> **Cc:** "Billy, Kyle" <KBilly@coj.net>, "Taylor, Kim" <KTAYLOR@coj.net>, "Peterson, Phillip" <PhillipP@coj.net>, "Rodda, Jeffrey" <JRodda@coj.net>, "Parks, Brian" <BParks@coj.net>
> **Subject: PUP Meeting**
>
> [External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]
>
> Ryan, Sherry and Herschel,
>
> Thank you all for coming over to meet with us today to discuss the Performance Unit Plan. Attached are our additional questions. Also included on the attachment are our initial concerns regarding the Performance Unit Plan.
>
> Thank you,
> Heather Reber, C.P.A.
> Council Auditor's Office
> P: 255-5486

Council Auditor's Office
Questions and Concerns on the Performance Unit Plan

Additional Questions:

1. Please provide updated copies of the Plan and Agreement.
2. Please provide a legal opinion from the Office of General Counsel on whether the Performance Unit Plan only requires the approval of the JEA Board and does not require City Council approval.
3. Please provide a legal opinion from the Office of General Counsel on whether the Performance Unit Plan is required to be collectively bargained. If not, what distinguishes the PUP from other compensation or benefits?
4. Please provide what constitutes the 2018 "Cost to be recovered from future revenues" amount of $808,096,000 on page 15 of the audited financial statements.
5. Have any exceptions to what is considered an eligible employee been recommended by the CEO and approved by the Administrator? If so, who and what is the reason for the exception?
6. Please provide the Towers Watson study and any materials the compensation committee reviewed which lead to the approval of the Performance Unit Plan.
7. Please provide the updated three year forecast that was mentioned in the meeting.
8. Please provide documentation regarding Florida Statute Section 215.425(3) on whether or not it applies to the plan. If it does, have the requirements been met?
9. Please provide your calculation of the cost estimates for the Performance Unit Plan.
10. How will the revenue (i.e. the $10 from the employee) and the expense (the payout after performance period) be reflected in the financial statements and impact net position?
11. Once determined, please provide the allocation approved by the Administrator on how many units can be purchased by an employee.
12. On Schedule A of the Plan, what is the intent of the last paragraph? (regarding payment in a form other than cash)
13. Does an increase or decrease in the fuel rate/fuel revenues impact the value of a Performance Unit? Do additions or withdrawals from the fuel rate stabilization fund impact the value of a Performance Unit?
14. Does an increase or decrease in other rates charged by JEA (i.e. environmental charge, conservation etc.) impact the value of a Performance Unit?
15. During the meeting you had mentioned that you would look into the following:
    a. Will the "In-kind" contributions be included in any of the redemption price schedule calculations?
    b. What is the reason for including a provision that would have JEA pay any excise tax, interest or penalties for employees?
    c. What will happen to forfeited Performance Units?
    d. What happens if the OGC attorneys that are currently dedicated to JEA are reassigned?

Council Auditor's Office
Questions and Concerns on the Performance Unit Plan

Concerns:

1. There is no cap to the value of a Performance Unit.
2. The value of a Performance Unit can be significantly impacted by a recapitalization event, base rate changes, accounting changes, etc., which are generally not tied to employee performance.
3. There is no prohibition in the Plan to selling Performance Units after an award has been made for a recapitalization event and the value of JEA and the Performance Unit is known.
4. The Administrator has the ability to delegate all or any responsibilities to any member of JEA's senior executive management.
5. Exceptions to eligible employees are currently unlimited because the CEO can recommend and the Administrator can approve participants that are not employees. We understand that you were going to look into this further to clarify the intent.
6. The CFO who is eligible to participate in the Plan is the one who is solely responsible for calculating the Redemption Price. We understand that you were going to possibly have the external auditors verify the calculation.
7. The Performance Period is tied to a timeframe that is different from the period by which performance would be measured.
8. Select Office of General Counsel employees are allowed to participate in the Plan.

From: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>
Sent: Monday, November 4, 2019, 12:28 PM
To: "'Hodges, Lawsikia'" <LHodges@coj.net>
Cc: "Rondinelli, Mellissa" <MRondinelli@coj.net>
Subject: RE: docs needed for tomorrow's meeting
Attachments: JEA - Form of Long-Term Performance Unit Agreement AS REVISED (FINAL).docx; JEA - Long-Term Performance Unit Plan AS REVISED (FINAL).docx

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Hi Lawsikia,
Attached are the current versions of the PUP and PUA.
Best,
Lynne

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

Building Community

From: Hodges, Lawsikia <LHodges@coj.net>
Sent: Monday, November 4, 2019 11:08 AM
To: Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>
Subject: FW: docs needed for tomorrow's meeting

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Lynne, I do not believe I ever received the final PUP from you; can you please send me this document.

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. Certain Definitions; Incorporation by Reference. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. Deferral Election. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that the Participant defers hereunder are unfunded and unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax

advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to the Participant the aggregate Purchase Price of such forfeited Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group and (iii) take no action that would be considered contrary to the best interests of the JEA Group..

(b) Confidentiality.

(i) *Protection of Information.* The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the

Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the

parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [NUMBER] pay periods commencing with the payroll period on [DATE]	_____

_____	_____	_____
NAME	SIGNATURE	DATE

JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chairperson of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chairperson of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Participant willfully fails to perform the Participant's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(v) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination

of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, shall control.

(f) "Closing Date" means the date on which a Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any (i) full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date and (ii) full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier to occur of the third anniversary of the Purchase Date and the Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 27th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 27th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 27, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. For the avoidance of doubt, (i) the Redemption Price shall include the Purchase Price per Performance Unit and the Purchase Price may be reduced to $0 in accordance with the Redemption Price Schedule and (ii) if performance results in a percentage between the Challenge Value Target and the Threshold Value Target, then a Participant shall only be eligible to receive an amount equal to the Purchase Price paid by such Participant for his or her Performance Units.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the last day of the Performance Period.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants. The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan and the applicable Agreement.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. Upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis (provided, however, that all the Performance Units have not previously been purchased by Participants).

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment for any reason shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Civil Service Reversion. If at any time during the period commencing on the date on which an Employee is notified by JEA of his or her eligibility to participate in the Plan and ending on the last day of the Performance Period, such Employee's designation changes from appointed to civil service (whether or not such change is voluntary), the level at which such Employee participates in the Plan shall be adjusted to reflect such change. If such change occurs (i) at any time prior to the Purchase Date, the number of Performance Units that such Employee shall be eligible to purchase shall be reduced to a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the date on which such Employee was notified of his or her eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, the Employee shall forfeit a number of Performance Units such that the Employee shall have purchased a number of Performance Units that is equal to the maximum number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA shall refund to the Employee the aggregate Purchase Price in respect of such forfeited Performance Units. Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan.

(h) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To purchase Performance Units under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments shall be made to the Participants no later than March 15th of the calendar year following the calendar year in which the applicable Performance Period ends.

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes (if applicable). Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units.

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreements are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and

457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns.

(i) This Plan and any Agreements shall be binding on and shall inure to the benefit of JEA and its successors (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreements shall mean and include any such successors or assigns. This Plan and any Agreements shall be assigned to and assumed by any successor of JEA (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and this Plan and any applicable Agreements may be assigned in part to and assumed by any successor of a substantial portion of the assets and business of JEA as determined by the Administrator in its sole discretion, which such determination shall be final and binding on JEA, the Participants (and their respective beneficiaries) and any such successor. Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any applicable Agreements shall become the rights and obligations of such successor. Further, JEA shall require any successor to assume expressly and agree to perform this Plan and any applicable Agreements in the same manner and to the same extent that JEA would be required to perform this Plan and any such Agreements if no such succession had taken place. This Plan and any Agreements shall be administered in a manner which best reflects the spirit and purpose of this Section 9(e)(i), and the Board may amend or clarify this Plan and/or any Agreements to reflect the spirit and purpose of this Section 9(e)(i) in accordance with the amendment procedures set forth in Section 8(a).

(ii) Neither this Plan nor any Agreements nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding

arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties. Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

(o) Savings Account. The aggregate Purchase Price paid by the Participants in respect of the Performance Units shall be deposited by JEA into a FDIC-insured savings account. JEA shall be entitled to any interest on the amount deposited into the savings account.

[*Remainder of Page Intentionally Left Blank*]

SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the Closing Date), (ii) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

---

[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

Luster, Jill R. - Executive Staff Assistant

From: Rhode, Lynne C. (City of Jacksonville)
Sent: Monday, December 9, 2019 3:57 PM
To: Luster, Jill R. - Executive Staff Assistant
Subject: Fwd: JEA - Performance Unit Plan - Enrollment Material

Begin forwarded message:

> **From:** "Kendrick, Jonathan A. - VP & Chief Human Resources Officer" <kendja@jea.com>
> **Date:** December 9, 2019 at 10:31:42 AM EST
> **To:** "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>
> **Subject: FW: JEA - Performance Unit Plan - Enrollment Material**
>
> FYI
>
> **From:** Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
> **Sent:** Monday, November 4, 2019 3:28 PM
> **To:** Kendrick, Jonathan A. - VP & Chief Human Resources Officer <kendja@jea.com>
> **Subject:** FW: JEA - Performance Unit Plan - Enrollment Material
> **Importance:** High
>
> Jon,
>
> See below. Mass Mutual cannot pull this off in 4-6 weeks.
>
> Would you still like for us to proceed to the plan for administration as discussed last week with Mass Mutual RetireSmart online access as go-live in March 2020? We will commence work with them now and if we can start the implementation project sooner, we will do this.
>
> I am also awaiting the proposed contract for the work associated with the administration.
>
> Pat
>
> **From:** Scheetz, Michael <mscheetz@massmutual.com>
> **Sent:** Monday, November 4, 2019 2:11 PM
> **To:** Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
> **Subject:** JEA - Performance Unit Plan - Enrollment Material
> **Importance:** High
>
> [External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]
>
> Pat:

Following our conversation on Friday, I made a number of internal inquiries regarding the preparation of enrollment materials for the new plan. Since the enrollment materials are all generated based on how a plan is setup and established on our recordkeeping we will be unable to have the necessary material in four weeks as it takes 60 to 90 days to establish new plans on the system.

I tried but was not successful in pushing for an exception.

I am heading out for meetings the rest of the day. I will be around most of the day tomorrow.

Regards,

Michael M. Scheetz
Client Engagement Manager | Government Markets
Workplace Solutions
MassMutual
100 Bright Meadow Boulevard | Enfield, CT 06082
C:(813) 244 0059

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Registered Representative of MML Investors Services, LLC, Member SIPC and a MassMutual subsidiary.

Rhode, Lynne C. (City of Jacksonville)

From: Rhode, Lynne C. (City of Jacksonville)
Sent: Monday, November 4, 2019 12:29 PM
To: 'Hodges, Lawsikia'
Cc: Rondinelli, Mellissa
Subject: RE: docs needed for tomorrow's meeting
Attachments: JEA - Form of Long-Term Performance Unit Agreement AS REVISED (FINAL).docx; JEA - Long-Term Performance Unit Plan AS REVISED (FINAL).docx

Hi Lawsikia,
Attached are the current versions of the PUP and PUA.
Best,
Lynne

Lynne C. Rhode
Vice President and Chief Legal Officer
21 West Church Street Jacksonville, FL 32202
Office: (904) 665-4115
Email: rhodlc@jea.com

From: Hodges, Lawsikia <LHodges@coj.net>
Sent: Monday, November 4, 2019 11:08 AM
To: Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>
Subject: FW: docs needed for tomorrow's meeting

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Lynne, I do not believe I ever received the final PUP from you; can you please send me this document.

Rhode, Lynne C. (City of Jacksonville)

From: Vinyard, Herschel T. - Chief Administrative Officer
Sent: Tuesday, November 5, 2019 8:13 AM
To: Rhode, Lynne C. (City of Jacksonville)
Subject: Fwd: PUP Meeting
Attachments: Additional Questions and Inital Concerns on the PUP.docx; ATT00001.htm

Begin forwarded message:

From: "Reber, Heather" <HReber@coj.net>
Date: October 31, 2019 at 3:12:47 PM EDT
To: "wannrf@jea.com" <wannrf@jea.com>, "Hall, Sherry" <HallSL2@jea.com>, "vinyht@jea.com" <vinyht@jea.com>
Cc: "Billy, Kyle" <KBilly@coj.net>, "Taylor, Kim" <KTAYLOR@coj.net>, "Peterson, Phillip" <PhillipP@coj.net>, "Rodda, Jeffrey" <JRodda@coj.net>, "Parks, Brian" <BParks@coj.net>
Subject: PUP Meeting

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Ryan, Sherry and Herschel,

Thank you all for coming over to meet with us today to discuss the Performance Unit Plan. Attached are our additional questions. Also included on the attachment are our initial concerns regarding the Performance Unit Plan.

Thank you,
Heather Reber, C.P.A.
Council Auditor's Office
P: 255-5486

Council Auditor's Office
Questions and Concerns on the Performance Unit Plan

Additional Questions:

1. Please provide updated copies of the Plan and Agreement.
2. Please provide a legal opinion from the Office of General Counsel on whether the Performance Unit Plan only requires the approval of the JEA Board and does not require City Council approval.
3. Please provide a legal opinion from the Office of General Counsel on whether the Performance Unit Plan is required to be collectively bargained. If not, what distinguishes the PUP from other compensation or benefits?
4. Please provide what constitutes the 2018 "Cost to be recovered from future revenues" amount of $808,096,000 on page 15 of the audited financial statements.
5. Have any exceptions to what is considered an eligible employee been recommended by the CEO and approved by the Administrator? If so, who and what is the reason for the exception?
6. Please provide the Towers Watson study and any materials the compensation committee reviewed which lead to the approval of the Performance Unit Plan.
7. Please provide the updated three year forecast that was mentioned in the meeting.
8. Please provide documentation regarding Florida Statute Section 215.425(3) on whether or not it applies to the plan. If it does, have the requirements been met?
9. Please provide your calculation of the cost estimates for the Performance Unit Plan.
10. How will the revenue (i.e. the $10 from the employee) and the expense (the payout after performance period) be reflected in the financial statements and impact net position?
11. Once determined, please provide the allocation approved by the Administrator on how many units can be purchased by an employee.
12. On Schedule A of the Plan, what is the intent of the last paragraph? (regarding payment in a form other than cash)
13. Does an increase or decrease in the fuel rate/fuel revenues impact the value of a Performance Unit? Do additions or withdrawals from the fuel rate stabilization fund impact the value of a Performance Unit?
14. Does an increase or decrease in other rates charged by JEA (i.e. environmental charge, conservation etc.) impact the value of a Performance Unit?
15. During the meeting you had mentioned that you would look into the following:
    a. Will the "In-kind" contributions be included in any of the redemption price schedule calculations?
    b. What is the reason for including a provision that would have JEA pay any excise tax, interest or penalties for employees?
    c. What will happen to forfeited Performance Units?
    d. What happens if the OGC attorneys that are currently dedicated to JEA are reassigned?

Council Auditor's Office
Questions and Concerns on the Performance Unit Plan

Concerns:

1. There is no cap to the value of a Performance Unit.
2. The value of a Performance Unit can be significantly impacted by a recapitalization event, base rate changes, accounting changes, etc., which are generally not tied to employee performance.
3. There is no prohibition in the Plan to selling Performance Units after an award has been made for a recapitalization event and the value of JEA and the Performance Unit is known.
4. The Administrator has the ability to delegate all or any responsibilities to any member of JEA's senior executive management.
5. Exceptions to eligible employees are currently unlimited because the CEO can recommend and the Administrator can approve participants that are not employees. We understand that you were going to look into this further to clarify the intent.
6. The CFO who is eligible to participate in the Plan is the one who is solely responsible for calculating the Redemption Price. We understand that you were going to possibly have the external auditors verify the calculation.
7. The Performance Period is tied to a timeframe that is different from the period by which performance would be measured.
8. Select Office of General Counsel employees are allowed to participate in the Plan.

From: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>

Sent: Monday, December 9, 2019, 3:56 PM

To: "Luster, Jill R. - Executive Staff Assistant" <lustjr@jea.com>

Subject: Fwd: A Proposal for JEA Non-Qualified Plan

Attachments: image001.gif; ATT00001.htm; image003.png; ATT00002.htm; image001.gif; ATT00003.htm; image004.gif; ATT00004.htm; image004.gif; ATT00005.htm; image004.gif; ATT00006.htm; image004.gif; ATT00007.htm; image004.gif; ATT00008.htm; image004.gif; ATT00009.htm; image005.png; ATT00010.htm; image006.png; ATT00011.htm; image008.png; ATT00012.htm; image009.png; ATT00013.htm; image004.gif; ATT00014.htm; MassMutual Pricing Proposal for JEA Non-Qualified Plan.pdf; ATT00015.htm

---

Begin forwarded message:

> **From:** "Kendrick, Jonathan A. - VP & Chief Human Resources Officer" <kendja@jea.com>
> **Date:** December 9, 2019 at 10:32:11 AM EST
> **To:** "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>
> **Subject: FW: A Proposal for JEA Non-Qualified Plan**
>
> FYI
>
> **From:** Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
> **Sent:** Monday, November 18, 2019 8:21 AM
> **To:** Kendrick, Jonathan A. - VP & Chief Human Resources Officer <kendja@jea.com>
> **Subject:** FW: A Proposal for JEA Non-Qualified Plan
>
> Jon,
>
> If there is an intent to roll this plan out in the future, e.g., 2021, we would prefer 6 mos get contract signed and set-up automated enrollment and administration.
>
> NOTE: assuming we no longer need this at this time.
>
> Pat
>
> **From:** Scheetz, Michael <mscheetz@massmutual.com>
> **Sent:** Friday, November 8, 2019 10:36 AM

To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Subject: FW: A Proposal for JEA Non-Qualified Plan

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Pat:

I am forwarding to your attention the proposal for the annual recordkeeping for the Non-Qualified Performance Unit Plan. Since we do not know the number of participants that will participate in the plan, we had to make some assumptions. We extracted from the database a list of employees with compensation over $150,000 with the assumption this group of employees are the most likely to contribute. Based on that extraction we arrived at 37 participants for pricing purposes.

Let me know if you have any follow up questions.

Regards,

Michael M. Scheetz
Client Engagement Manager | Government Markets
Workplace Solutions
MassMutual
100 Bright Meadow Boulevard | Enfield, CT 06082
C:(813) 244-0059

MassMutual.com [massmutual.com] | RetireSmart [retiresmart.com] | Facebook [facebook.com] | Twitter [twitter.com] | LinkedIn [linkedin.com]

From: Girard, Chad <CGirard@MassMutual.com>
Sent: Friday, November 08, 2019 10:19 AM
To: Scheetz, Michael <mscheetz@massmutual.com>
Subject: FW: A Proposal for JEA Non-Qualified Plan

Please let me know if you need anything else.

Chad Girard
Sales Consultant
Workplace Solutions & Strategic Distribution

MassMutual
C: (413) 386-5658
100 Bright Meadows Blvd
Enfield, CT 06082

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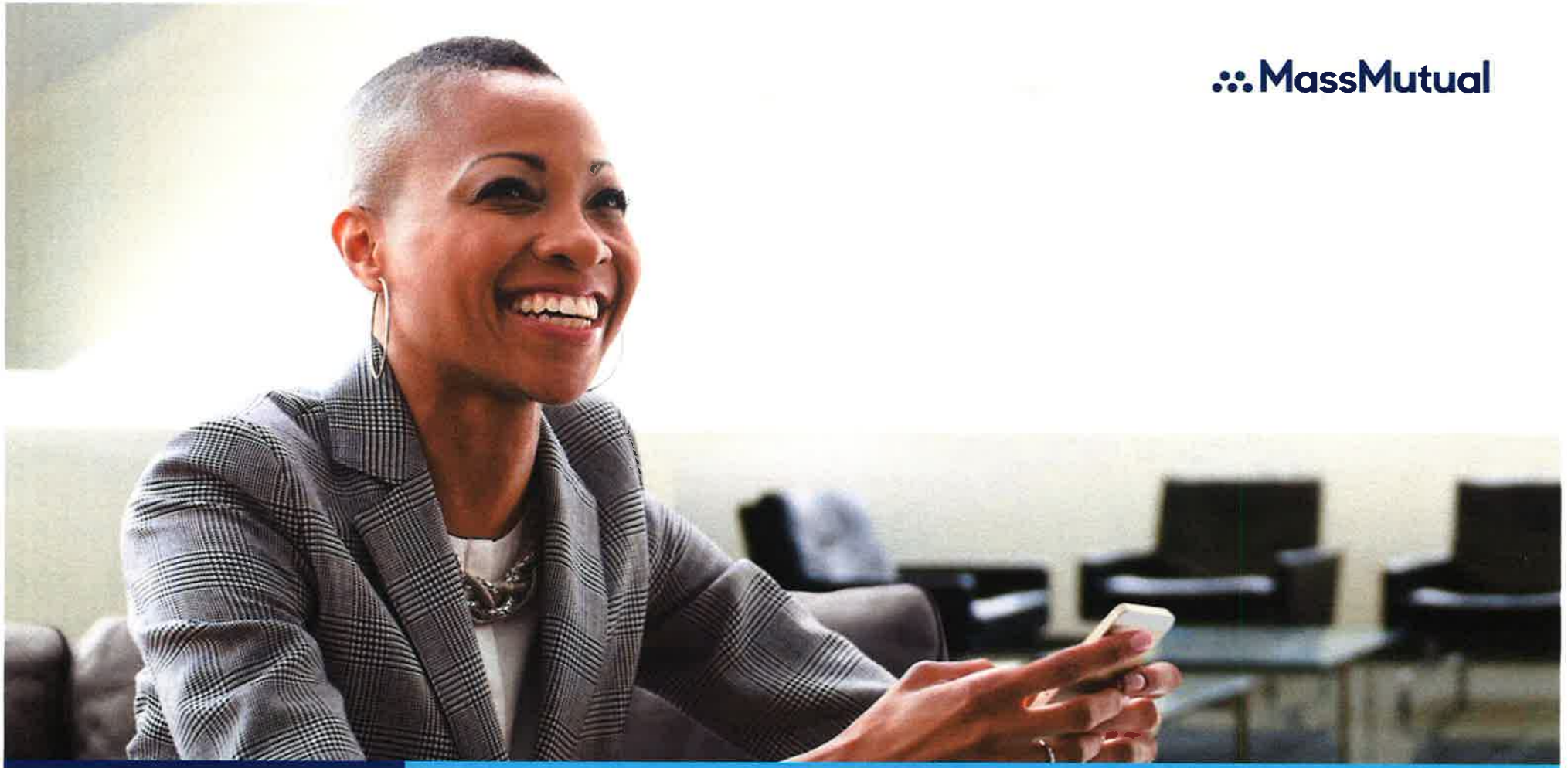
MassMutual is a Mutual Company (MassMutual), Springfield, MA 01111-0001
and its affiliated insurance companies



MassMutual

MassMutual@WORK

JEA Non-Qualified Plan

Experience the MassMutual® difference

Nonqualified Deferred Compensation solution

Thank you for considering MassMutual for your retirement plan needs.

Our goal is to provide flexible retirement solutions so that you can offer a competitive benefits package.

A nonqualified deferred compensation (NQDC) plan is an integral part of that package when it comes to attracting, rewarding and retaining key employees. It can help highly compensated employees (HCEs) bridge the gap between pre- and post-retirement incomes on a pre-tax basis.

Converging factors create today's reality@work

Demographic shifts in the workforce

Rising health care costs

Shifting roles – employer as benefits funder to facilitator

Fragmented employee benefits selection experience

Defined contribution limitations for HCEs

Need to maximize benefits dollars

Changing regulations

Demand for simple, holistic solutions

Retirement income gap for highly compensated employees

Making it easy@work

Our team of highly knowledgeable professionals will consult with you to design a NQDC plan that meets your needs – whether you are not-for-profit or for-profit – and provides your employees with the best overall retirement plan package.

MassMutual's unique approach offers all the components you need to offer an attractive NQDC plan that complements your existing retirement benefits program, including:

Dedicated service team and resources to help ease administrative burden

Comprehensive plan design and consulting services

Complete plan documentation

Full recordkeeping and administration services

Quarterly management reports

Participant education and enrollment

Web access and quarterly participant statements

Investment solutions tailored to meet financial goals

Professional trust services

FOR EMPLOYER USE ONLY.

An integrated team approach

MassMutual, together with MyDeferral Executive Benefits and Reliance Trust Company, provides the resources you need to attract, reward, and retain top talent, and as a result, help your organization succeed. You will benefit from the combined experience of these three retirement plan specialists with expertise in their respective fields.

MYDEFERRAL

MyDeferral Executive Benefits

We work closely with MyDeferral Executive Benefits, a leading national executive benefits firm specializing in nonqualified plan services, to provide administrative and recordkeeping services.

MyDeferral Executive Benefits currently provides services to more than 1,200 corporate clients in 49 states and 65 countries with over $11 billion in assets under administration. They are ranked as a "Top 5 NQDC Provider" by PLANSPONSOR magazine.

RELIANCE TRUST
An FIS Company

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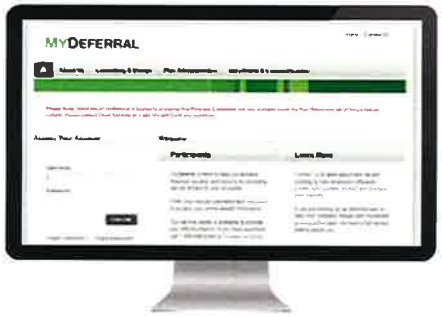

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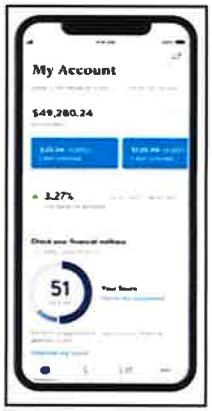
as rated by 2.94K RetireSmart app users[1]



Participant call centers

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[1] Apple® App Store® rating as of July 1, 2019. Apple® and App Store® are trademarks of Apple Inc.
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The MassMutual difference

A strong mutual company with the right, experienced people

1851
YEAR FOUNDED

70+
YEARS
servicing retirement plans

2.6M
participating employees[1]

$185.3B
assets under management[2]

93%
client retention[3]

Among the highest financial strength ratings[4] of any company in any industry

A.M. Best	A++
Fitch Ratings	AA+
Moody's Investors Service	Aa3
Standard & Poor's	AA+

MassMutual has paid dividends[5] to eligible participating policy owners every year since 1869.

Award-winning success

Ranked as **34th on the *FORTUNE*® 500** list in 2019[6]

Recognized as a **2019 World's Most Ethical Company** by Ethisphere Institute for the sixth consecutive year

Named a **2018 Top-Performing Call Center** by ContactCenterWorld for the eleventh consecutive year

Earned **39 Plan Sponsor Council of America "Signature Awards"** since 2013

[1] Data for MassMutual's Workplace and Institutional Solution, as of December 31, 2018.

[2] Financial strength ratings are as of July 1, 2019. Ratings are for MassMutual (Springfield, MA 01111) and its subsidiaries, C.M. Life Insurance Co. and MML Bay State Life Insurance Co. (Enfield, CT 06082). Ratings are subject to change.

[3] Dividends are not guaranteed.

[4] *FORTUNE*® and "*FORTUNE*® 500" are registered trademarks of Time, Inc. and are used under license. *FORTUNE*® and Time, Inc. are not affiliated with and do not endorse products or services of MassMutual.

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Experience the MassMutual difference

Financial wellness solutions for your employees and your bottom line

Capabilities to drive better outcomes

Resources to make it easy for you to do business with us

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For more information, call your financial professional
or local MassMutual retirement specialist.

NOT A BANK OR CREDIT UNION DEPOSIT OR OBLIGATION • NOT FDIC OR NCUA INSURED • NOT INSURED
BY ANY FEDERAL GOVERNMENT AGENCY • NOT GUARANTEED BY ANY BANK OR CREDIT UNION

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RS8744 819

C: RS-43789-02

MassMutual

NQDC Cost and Disclosure

JEA Non-Qualified Plan - Plan Pricing

Annual Applicable Fee **$5,550**

Assumptions About Your Plan

Plan Type	For Profit/Top Hat
Total Number of Plans	1
Transferred assets	$0
Estimated annual cash flow	$370,000
Total Participants with Balances	37
Total Eligibles	37

The fees and assumptions included are subject to the plan design stated in this proposal and are in effect for 90 days from the date of the proposal. If the parameters are changed, we reserve the right to revise the fee estimates to better reflect the design and administrative needs of your organization s nonqualified plan. All services and fees are finalized by execution of a service agreement with MassMutual. Any additional services will be quoted upon request.

MassMutual

NQDC Cost and Disclosure

Proposal Assumptions

Platform / Funding Type	Mutual Fund
Share class package	S
Trustee Services	Included
Up to 10 accounts for each participant including one account for 457(b) and up to 10 accounts for 457(f) tied to vesting	Included
Participant deferrals and sponsor contribution sources	Included
Contribution frequency of bi-weekly, semi-monthly, monthly, quarterly, or annually	Included
Rabbi Trust	Included

Compensation to Your Financial Advisor	First Year	Subsequent Years
Flat Dollar Amount	$0	$0
Percentage of Plan Assets	0.00%	0.00%

MassMutual

About your plan expenses and our compensation

This section describes the expenses that you and your plan may incur for investment management and administrative services (found under the MassMutual Smart Architecture℠ Investment Program ("Smart Architecture Report") Appendix 2). This section also identifies the portion of those expenses that we retain as compensation for the services we provide to your plan. It is important to keep in mind that the revenue we retain is a part of, and is not additional to, your plan's total expenses. Your plan's total expenses are impacted by the nature and complexity of your plan, the investment options and share classes you select, the services you ask us to provide and the compensation we pay to your financial intermediary. Not all of the expenses described here will apply to your plan and we offer you various alternatives for structuring and paying for the services we provide.

The MassMutual nonqualified program includes a grantor trust, commonly known as a rabbi trust. Under the grantor or rabbi trust, the trust assets remain subject to the claims of the Employer's general creditors but are protected from future management ability to use money deposited in the trust for other corporate purposes.

Under our programs, plan expenses are generally paid in two ways: (1) expenses paid through or in connection with the plan's investment options, and (2) fees paid directly out of corporate assets or, if permitted under your rabbi trust, out of participant accounts. We may be paid for our services, including our investment, administrative and recordkeeping services, in the same way – through the plan's investments indirectly or through the plan sponsor directly.

Expenses paid through or in connection with the plan's investment funds

The expenses paid through the plan's investments (e.g., the investment's "Expense Ratio") cover some or all of the costs of investment management.

Expense ratios and total weighted annual expense ratio:
The Expense Ratio for each of the investments included in our investment program is set forth in the accompanying Smart Architecture Report. The Expense Ratio is expressed as an annualized percentage of the investment options assets and refers to the amount paid from the investment options' assets for investment management and other services and expenses (including any 12b-1 fees). It shows what your plan (and participants) pay, along with all other investors, in connection with the investment option. Because this amount is deducted from the investment options assets, it is reflected in the investment options net investment performance.

An Investment's Expense Ratio may change over time as invested assets and underlying operating expenses increase or decrease. More detailed fee information for mutual funds you've selected is disclosed in each mutual fund's prospectus.

The Total Weighted Annual Expense Ratio (assuming a sample investment mapping has been prepared) is the sum of the Expense Ratios for each of the investments weighted for the assumed percentage of plan assets invested in each. For example, if a plan invests 60% of its assets in Fund A, which has a total annual Expense Ratio of 100bp, and 40% of its assets in Fund B, which has a total annual Expense Ratio of 50bp, then the Total Weighted Annual Expense Ratio for the plan is calculated as follows:

TOTAL WEIGHTED ANNUAL EXPENSE RATIO

	Expense Ratio	x	Allocation Percentage	=	Weighted Annual Expense Ratio
Fund A	100bp		60%		60bp
Fund B	50bp		40%		20bp
					Total 80bp

As explained above, we retain a portion of the plan's expenses as compensation for the services we provide. This section describes how we calculate the revenue (i.e., MassMutual's share of the Expense Ratio) that we receive from each investment option. The total weighted MassMutual revenue, assuming a sample investment mapping has been prepared, is the sum of the revenue received from each of the investments (calculated in the manner described below) weighted for the assumed percentage of plan assets invested in each. The accompanying Smart Architecture Report also shows our share of the Expense Ratio of each investment option under the column "Revenue" (expressed as an annualized percentage of invested assets). This information is provided to illustrate both the revenue we anticipate receiving in connection with each investment option in which your plan invests and our relative financial interest in your investment selections. Here's how we arrived at our revenue rates included in the Smart Architecture Report:

- The revenue rates shown for mutual funds advised by unaffiliated advisers or by OppenheimerFunds, Inc. (our subsidiary) equals the gross revenues (commonly referred to as "revenue sharing payments") paid to us by those funds or their investment advisors for making these funds available and/or for providing certain distribution, record keeping and/or other services to those funds.
- For our own mutual funds (MassMutual Premier and Select Funds) our revenue rates shown equal the gross revenues we receive from these investments less certain amounts we pay to others, including fee waivers/reimbursements, sub-advisor fees (which may be paid to affiliated sub-advisers), sub-administrator fees, 12b-1 fees, expenses we incur to establish and maintain these investment options and any other direct expenses of the investment option we are required to pay under our investment management agreements with the funds.

Loads, sales charges, redemption fees and surrender charges: Currently, none of the mutual fund investment options offered as part of our program impose front-end loads, sales charges or redemptions fees on the plan in connection with the purchase or sale of the plan's interest

Fees directly paid by the sponsor to MassMutual

In addition to expenses paid through or in connection with your plan's investments options, plan expenses can be paid out of corporate assets and, if permitted under your rabbi trust, out of participant accounts. These fees may be one-time or recurring and may be for services provided to the plan sponsor as a whole or to individual participants.

Fees for nonqualified plan cannot be cross-subsidized by any qualified plans you sponsor for which MassMutual provides administrative services.

Generally, these fees constitute revenue to us. Exceptions to this general rule include expenses that we collect on behalf of third-party service providers (e.g., vendor expense for administrative services).

The Proposal lists the following direct fees as applicable to your plan:

One-time plan set-up fee: The fee for transitioning your plan from your prior provider and installing it on our systems, if any, is included in the plan pricing.

Ongoing annual fees: Ongoing annual fees applicable to your plan are listed in Appendix 1. These expenses may be expressed as flat dollar amount.

Transactional and optional services fees: The Service and Fee Schedule lists the comprehensive services we provide, including those services that may be requested by you and your participants for which a separate fee may apply.

Financial intermediary compensation: We generally sell our retirement plan services through intermediaries, including our career insurance agents, independent brokers (including insurance brokers, investment advisors, and registered representatives of broker-dealers), third party administrators of retirement plans, and consultants.

When your plan selects one of our products, we (or one of our affiliates) compensates the financial intermediary. The nature and level of services that intermediaries provide to us or plans, plan sponsors, and plan participants can impact the amount of compensation we pay to an intermediary with respect to a specific retirement plan sale. In addition, the form or method for compensating intermediaries varies from sale to sale.

Because we pay intermediary compensation from the revenue we receive on your plan, the level of intermediary compensation may impact our fee proposal for your plan.

Note that these compensation arrangements (and those that your intermediary may have with other providers) may provide an intermediary with a financial incentive to recommend one

product or provider over another. As a fiduciary, you may want to take such compensation arrangements into account when evaluating recommendations from your intermediary. If you have any questions regarding the compensation that may be paid by us or other providers to your intermediary, you should contact the intermediary or his/her organization to determine if they have entered into any such agreements.

The *Appendix 1/Fees/NQDC Proposal Assumptions* Section of the Proposal identifies the proposed advisor compensation that we have specifically taken into account in preparing your proposal. A detailed explanation of the forms of intermediary compensation identified in the NQDC Proposal Assumptions section of the Proposal and other forms of advisor compensation to which your advisor may be entitled is set form below.

Forms of intermediary compensation

Commissions: The most common form of intermediary compensation we pay is a commission. Commissions normally are calculated as a percentage of asset, calculated at an annual rate and computed on the aggregate assets invested by the Plan Sponsor through the Product at the close of the last business day of each calendar month, and paid monthly in arrears.

Commissions may also be paid as a flat percentage, a one-time payment of a percentage of the assets initially invested by the Plan Sponsor through the Product.

Commissions may also be contribution-based in which case a payment of some percentage of contributions made to the plan for a specified time frame is computed on the aggregate contributions through the Product by the Plan Sponsor as of the close of the last business day of each calendar month and said monthly paid in arrears.

Distribution and shareholder service fees: Intermediaries may receive Distribution Fees or Shareholder Service Fees for services provided in connection with investments in our proprietary mutual funds. Distribution fees may be paid for providing services in connection with the distribution and marketing of investments in our proprietary mutual fund shares and for related expenses. Shareholder Service Fees may be paid for providing services to shareholders or maintaining shareholder accounts and for related expenses. Expenditures for Shareholder Servicing Fees may include: providing advice regarding the particular shareholder account options offered by the mutual fund in light of shareholder needs; delivering current prospectuses, reports, notices, and other information, including information about the mutual funds; providing support services, including answering participant inquiries; forwarding communications from the mutual funds to participants; and providing any other shareholder services with respect to the mutual funds which we may request.

Sub-contracting service fees: We may compensate an intermediary for providing plan administrative services to the plan sponsor that we other- wise would provide ourselves.

Such services might include, for example, assistance with enrollment meetings.

Sponsorship payment: We may compensate an intermediary for promotional activities not specific to any particular plan.

For example, we may provide training support, conference support, marketing or other services to promote general awareness of our products or services.

Override payment: If an intermediary is associated with an organization that maintains a sales force (a "selling organization") that sells our products, we may pay the selling organization an "override payment" pursuant to the terms of a written agreement. This payment is designed, in part, to defray a portion of the selling organization's cost of maintaining a sales force. Override Payments are paid as either (i) a flat fee or (ii) a percentage of the compensation paid to the intermediaries that are affiliated with the selling organization.

Career agent cash and non-cash compensation: MassMutual career agents who sell our products may receive, in addition to commissions, productivity bonuses, credits towards their benefit plans, recognition items, and payment of the costs associated with conferences or seminars.

Additional disclosures

Fiduciary responsibility: In making the investments under our products available, we are not acting as a fiduciary of your plan. The Plan Sponsor or its delegate is responsible for selecting the investment options for the Plan, including the investment options to which Plan assets are mapped. When performing our non-discretionary administrative services for the Plan, we act only in the capacity of a service provider and not in any fiduciary capacity. The Plan Sponsor is responsible for appointing an Administrator who has discretionary authority in the administration of the Plan.

MassMutual

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NQFP

C:RS 40939 00

Rhode, Lynne C. (City of Jacksonville)

From: Zahn, Aaron F. - Managing Director/CEO
Sent: Tuesday, November 12, 2019 5:13 PM
To: Jason Gabriel (jgabriel@coj.net)
Cc: Rhode, Lynne C. (City of Jacksonville)
Subject: Letter on Plan
Attachments: 2019-11-12 Plan Letter to OGC - vFINAL.pdf

Jason –
Please see attached letter. Thank you again for all the analysis of OGC.
Regards –
Aaron

Aaron Zahn
Managing Director & Chief Executive Officer
Direct: (904) 665-4395
Mobile: (312) 285-1940
Fax: (904) 665-4236
Email: zahnaf@jea.com

Rhode, Lynne C. (City of Jacksonville)

From: Gabriel, Jason <JGabriel@coj.net>
Sent: Tuesday, November 12, 2019 5:46 PM
To: Zahn, Aaron F. - Managing Director/CEO
Cc: Rhode, Lynne C. (City of Jacksonville)
Subject: RE: Letter on Plan
Attachments: GC-#1320996-v1-Letter_to_Mr__Zahn_re_JEA_PUP.PDF

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Aaron –

Thank you, please see my letter attached. We appreciate the opportunity to work with you in these matters. Don't hesitate to contact me with any questions or concerns.

-Jason G.

From: Zahn, Aaron F. - Managing Director/CEO [mailto:zahnaf@jea.com]
Sent: Tuesday, November 12, 2019 5:13 PM
To: Gabriel, Jason
Cc: Rhode, Lynne C. (City of Jacksonville)
Subject: Letter on Plan

EXTERNAL EMAIL: This email originated from a non-COJ email address. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Jason –
Please see attached letter. Thank you again for all the analysis of OGC.
Regards –
Aaron

Aaron Zahn
Managing Director & Chief Executive Officer
Direct: (904) 665-4396
Mobile: (904) 285-1042
Fax: (904) 665-4298
Email: zahnaf@jea.com

Florida has a very broad Public Records Law. Virtually all written communications to or from State and Local Officials and employees are public records available to the public and media upon request. Any email sent to or from JEA's system may be considered a public record and subject to disclosure under Florida's Public Records

Laws. Any information deemed confidential and exempt from Florida's Public Records Laws should be clearly marked. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact JEA by phone or in writing.

Rhode, Lynne C. (City of Jacksonville)

From: Zahn, Aaron F. - Managing Director/CEO
Sent: Wednesday, November 13, 2019 11:21 AM
To: Rhode, Lynne C. (City of Jacksonville); Jones, Madricka L. - Executive Staff Assistant
Subject: CC to BOD
Attachments: 2019-11-12 Plan Letter to OGC - vFINAL.pdf

Madricka –
Please send the attached letter to each BOD member individually.
Thanks.

Aaron Zahn
Email: zahnaf@jea.com

Luster, Jill R. - Executive Staff Assistant

From:	Rhode, Lynne C. (City of Jacksonville)
Sent:	Monday, December 9, 2019 3:56 PM
To:	Luster, Jill R. - Executive Staff Assistant
Subject:	Fwd: A Proposal for JEA Non-Qualified Plan
Attachments:	image001.gif; ATT00001.htm; image003.png; ATT00002.htm; image001.gif; ATT00003.htm; image004.gif; ATT00004.htm; image004.gif; ATT00005.htm; image004.gif; ATT00006.htm; image004.gif; ATT00007.htm; image004.gif; ATT00008.htm; image004.gif; ATT00009.htm; image005.png; ATT00010.htm; image006.png; ATT00011.htm; image008.png; ATT00012.htm; image009.png; ATT00013.htm; image004.gif; ATT00014.htm; MassMutual Pricing Proposal for JEA Non-Qualified Plan.pdf; ATT00015.htm

1 of 3

Begin forwarded message:

From: "Kendrick, Jonathan A. - VP & Chief Human Resources Officer" <kendja@jea.com>
Date: December 9, 2019 at 10:32:11 AM EST
To: "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>
Subject: FW: A Proposal for JEA Non-Qualified Plan

FYI

From: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Sent: Monday, November 18, 2019 8:21 AM
To: Kendrick, Jonathan A. - VP & Chief Human Resources Officer <kendja@jea.com>
Subject: FW: A Proposal for JEA Non-Qualified Plan

Jon,

If there is an intent to roll this plan out in the future, e.g., 2021, we would prefer 6 mos get contract signed and set-up automated enrollment and administration.

NOTE: assuming we no longer need this at this time.

Pat

From: Scheetz, Michael <mscheetz@massmutual.com>
Sent: Friday, November 8, 2019 10:36 AM
To: Maillis, Patricia L. - Director, Employee Services <mailpl@jea.com>
Subject: FW: A Proposal for JEA Non-Qualified Plan

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Pat:

I am forwarding to your attention the proposal for the annual recordkeeping for the Non-Qualified Performance Unit Plan. Since we do not know the number of participants that will participate in the plan, we had to make some assumptions. We extracted from the database a list of employees with compensation over $150,000 with the assumption this group of employees are the most likely to contribute. Based on that extraction we arrived at 37 participants for pricing purposes.

Let me know if you have any follow up questions.

Regards,

Michael M. Scheetz
Client Engagement Manager | Government Markets
Workplace Solutions
MassMutual
100 Bright Meadow Boulevard | Enfield, CT 06082
C: [redacted]

MassMutual.com [massmutual.com] RetireSmart [retiresmart.com] Facebook [facebook.com] Twitter [twitter.com] LinkedIn [linkedin.com]

From: Girard, Chad <CGirard@MassMutual.com>
Sent: Friday, November 08, 2019 10:19 AM
To: Scheetz, Michael <mscheetz@massmutual.com>
Subject: FW: A Proposal for JEA Non-Qualified Plan

Please let me know if you need anything else.

Chad Girard
Sales Consultant
Workplace Solutions & Strategic Distribution

MassMutual
C: (413) 386 5658
100 Bright Meadows Blvd
Enfield, CT 06082

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as rated by 2.94K RetireSmart app users[1]

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2.6M
participating employees

$185.3B
Assets under management[3]

93%
client retention

Among the highest financial strength ratings[4] of any company in any industry

A.M. Best	A++
Fitch Ratings	AA+
Moody's Investors Service	Aa3
Standard & Poor's	AA-

MassMutual has paid dividends[5] to eligible participating policy owners every year since 1869.

Award-winning success

Ranked as **84th on the *FORTUNE*® 500** list in 2019

Recognized as a **2019 World's Most Ethical Company** by Ethisphere Institute for the sixth consecutive year

Named a **2018 Top-Performing Call Center** by ContactCenterWorld for the eleventh consecutive year

Earned **39 Plan Sponsor Council of America "Signature Awards"** since 2013

Data for MassMutual's Workplace and Institutional Solutions as of December 31, 2018

Financial strength ratings are as of July 1, 2019. Ratings are for MassMutual (Springfield, MA; 0111) and its subsidiaries, C.M. Life Insurance Co. and MML Bay State Life Insurance Co. (Hartford, CT; 065022). Ratings are subject to change.

Dividends are not guaranteed.

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Financial wellness solutions for your employees and your bottom line

Capabilities to drive better outcomes

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For more information, call your financial professional or local MassMutual retirement specialist.

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MassMutual

NQDC Cost and Disclosure

JEA Non-Qualified Plan - Plan Pricing

Annual Applicable Fee **$5,550**

Assumptions About Your Plan

Plan Type	For Profit/Top Hat
Total Number of Plans	1
Investment assets	
Estimated annual cash flow	$370,000
Total Participants with Balances	37

MassMutual

NQDC Cost and Disclosure

Proposal Assumptions

Participant Funding Type	Mutual Fund
Underlying package	[illegible]
Trustee Services	Included
[illegible] 457(f) and to vesting	Included
Participant deferrals and sponsor contribution sources	Included
Contribution frequency of bi-weekly, semi-monthly, monthly, quarterly or annually	Included
Rabbi Trust	Included

Compensation to Your Financial Advisor	First Year	Subsequent Years
Flat Dollar Amount	$0	$0
Percentage of Plan Assets	0%	0%

MassMutual

About your plan expenses and our compensation

This section describes the expenses that you and your plan may incur for investment management and administrative services (found under the MassMutual Smart Architecture℠ Investment Program ("Smart Architecture Report") Appendix 2). This section also identifies the portion of those expenses that we retain as compensation for the services we provide to your plan. It is important to keep in mind that the revenue we retain is a part of, and is not additional to, your plan's total expenses. Your plan's total expenses are impacted by the nature and complexity of your plan, the investment options and share classes you select, the services you ask us to provide and the compensation we pay to your financial intermediary. Not all of the expenses described here will apply to your plan and we offer you various alternatives for structuring and paying for the services we provide.

The MassMutual nonqualified program includes a grantor trust, commonly known as a rabbi trust. Under the grantor or rabbi trust, the trust assets remain subject to the claims of the employer's general creditors but are protected from future management ability to use money deposited in the trust for other corporate purposes.

Under our programs, plan expenses are generally paid in two ways: (1) expenses paid through or in connection with the plan's investment options, and (2) fees paid directly out of corporate assets or, if permitted under your rabbi trust, out of participant accounts. We may be paid for our services, including our investment, administrative and recordkeeping services, in the same way – through the plan's investments indirectly or through the plan sponsor directly.

Expenses paid through or in connection with the plan's investment funds

The expenses paid through the plan's investments (e.g., the investment's "Expense Ratio") cover some or all of the costs of investment management.

Expense ratios and total weighted annual expense ratio: The Expense Ratio for each of the investments included in our investment program is set forth in the accompanying Smart Architecture Report. The Expense Ratio is expressed as an annualized percentage of the investment options assets and refers to the amount paid from the investment options' assets for investment management and other services and expenses (including any 12b-1 fees). It shows what your plan (and participants) pay, along with all other investors, in connection with the investment option. Because this amount is deducted from the investment options assets, it is reflected in the investment options net investment performance.

An investment's Expense Ratio may change over time as invested assets and underlying operating expenses increase or decrease. More detailed fee information for mutual funds you've selected is disclosed in each mutual fund's prospectus.

The Total Weighted Annual Expense Ratio (assuming a sample investment mapping has been prepared) is the sum of the Expense Ratios for each of the investments weighted for the assumed percentage of plan assets invested in each. For example, if a plan invests 60% of its assets in Fund A, which has a total annual Expense Ratio of 100bp, and 40% of its assets in Fund B, which has a total annual Expense Ratio of 50bp, then the Total Weighted Annual Expense Ratio for the plan is calculated as follows:

TOTAL WEIGHTED ANNUAL EXPENSE RATIO

	Expense Ratio	x	Allocation Percentage	=	Weighted Annual Expense Ratio
Fund A	100bp		60%		60bp
Fund B	50bp		40%		20bp
					Total 80bp

As explained above, we retain a portion of the plan's expenses as compensation for the services we provide. This section describes how we calculate the revenue (i.e., MassMutual's share of the Expense Ratio) that we receive from each investment option. The total weighted MassMutual revenue, assuming a sample investment mapping has been prepared, is the sum of the revenue received from each of the investments (calculated in the manner described below) weighted for the assumed percentage of plan assets invested in each. The accompanying Smart Architecture Report also shows our share of the Expense Ratio of each investment option under the column "Revenue" (expressed as an annualized percentage of invested assets). This information is provided to illustrate both the revenue we anticipate receiving in connection with each investment option in which your plan invests and our relative financial interest in your investment selections. Here's how we arrived at our revenue rates included in the Smart Architecture Report:

- The revenue rates shown for mutual funds advised by unaffiliated advisers or by OppenheimerFunds, Inc. (our subsidiary) equals the gross revenues (commonly referred to as "revenue sharing payments") paid to us by those funds or their investment advisors for making these funds available and/or for providing certain distribution, record keeping and/or other services to those funds.
- For our own mutual funds (MassMutual Premier and Select Funds) our revenue rates shown equal the gross revenues we receive from these investments less certain amounts we pay to others, including fee waivers/reimbursements, sub-advisor fees (which may be paid to affiliated sub-advisers), sub-administrator fees, 12b-1 fees, expenses we incur to establish and maintain these investment options and any other direct expenses of the investment option we are required to pay under our investment management agreements with the funds.

Loads, sales charges, redemption fees and surrender charges: Currently, none of the mutual fund investment options offered as part of our program impose front-end loads, sales charges or redemptions fees on the plan in connection with the purchase or sale of the plan's interest

Fees directly paid by the sponsor to MassMutual

In addition to expenses paid through or in connection with your plan's investments options, plan expenses can be paid out of corporate assets and, if permitted under your rabbi trust, out of participant accounts. These fees may be one-time or recurring and may be for services provided to the plan sponsor as a whole or to individual participants.

Fees for nonqualified plan cannot be cross-subsidized by any qualified plans you sponsor for which MassMutual provides administrative services.

Generally, these fees constitute revenue to us. Exceptions to this general rule include expenses that we collect on behalf of third-party service providers (e.g., vendor expense for administrative services).

The Proposal lists the following direct fees as applicable to your plan:

One-time plan set-up fee: The fee for transitioning your plan from your prior provider and installing it on our systems, if any, is included in the plan pricing.

Ongoing annual fees: Ongoing annual fees applicable to your plan are listed in Appendix 1. These expenses may be expressed as flat dollar amount.

Transactional and optional services fees: The Service and Fee Schedule lists the comprehensive services we provide, including those services that may be requested by you and your participants for which a separate fee may apply.

Financial intermediary compensation: We generally sell our retirement plan services through intermediaries, including our career insurance agents, independent brokers (including insurance brokers, investment advisors, and registered representatives of broker-dealers), third party administrators of retirement plans, and consultants.

When your plan selects one of our products, we (or one of our affiliates) compensates the financial intermediary. The nature and level of services that intermediaries provide to us or plans, plan sponsors, and plan participants can impact the amount of compensation we pay to an intermediary with respect to a specific retirement plan sale. In addition, the form or method for compensating intermediaries varies from sale to sale.

Because we pay intermediary compensation from the revenue we receive on your plan, the level of intermediary compensation may impact our fee proposal for your plan.

Note that these compensation arrangements (and those that your intermediary may have with other providers) may provide an intermediary with a financial incentive to recommend one

product or provider over another. As a fiduciary, you may want to take such compensation arrangements into account when evaluating recommendations from your intermediary. If you have any questions regarding the compensation that may be paid by us or other providers to your intermediary, you should contact the intermediary or his/her organization to determine if they have entered into any such agreements.

The *Appendix 1/Fees/NQDC Proposal Assumptions* Section of the Proposal identifies the proposed advisor compensation that we have specifically taken into account in preparing your proposal. A detailed explanation of the forms of intermediary compensation identified in the NQDC Proposal Assumptions section of the Proposal and other forms of advisor compensation to which your advisor may be entitled is set form below.

Forms of intermediary compensation

Commissions: The most common form of intermediary compensation we pay is a commission. Commissions normally are calculated as a percentage of asset, calculated at an annual rate and computed on the aggregate assets invested by the Plan Sponsor through the Product at the close of the last business day of each calendar month, and paid monthly in arrears.

Commissions may also be paid as a flat percentage, a one-time payment of a percentage of the assets initially invested by the Plan Sponsor through the Product.

Commissions may also be contribution-based in which case a payment of some percentage of contributions made to the plan for a specified time frame is computed on the aggregate contributions through the Product by the Plan Sponsor as of the close of the last business day of each calendar month and said monthly paid in arrears.

Distribution and shareholder service fees: Intermediaries may receive Distribution Fees or Shareholder Service Fees for services provided in connection with investments in our proprietary mutual funds. Distribution fees may be paid for providing services in connection with the distribution and marketing of investments in our proprietary mutual fund shares and for related expenses. Shareholder Service Fees may be paid for providing services to shareholders or maintaining shareholder accounts and for related expenses. Expenditures for Shareholder Servicing Fees may include: providing advice regarding the particular shareholder account options offered by the mutual fund in light of shareholder needs; delivering current prospectuses, reports, notices, and other information, including information about the mutual funds; providing support services, including answering participant inquiries; forwarding communications from the mutual funds to participants; and providing any other shareholder services with respect to the mutual funds which we may request.

Sub-contracting service fees: We may compensate an intermediary for providing plan administrative services to the plan sponsor that we other- wise would provide ourselves.

Such services might include, for example, assistance with enrollment meetings.

Sponsorship payment: We may compensate an intermediary for promotional activities not specific to any particular plan.

For example, we may provide training support, conference support, marketing or other services to promote general awareness of our products or services.

Override payment: If an intermediary is associated with an organization that maintains a sales force (a "selling organization") that sells our products, we may pay the selling organization an "override payment" pursuant to the terms of a written agreement. This payment is designed, in part, to defray a portion of the selling organization's cost of maintaining a sales force. Override Payments are paid as either (i) a flat fee or (ii) a percentage of the compensation paid to the intermediaries that are affiliated with the selling organization.

Career agent cash and non-cash compensation: MassMutual career agents who sell our products may receive, in addition to commissions, productivity bonuses, credits towards their benefit plans, recognition items, and payment of the costs associated with conferences or seminars.

Additional disclosures

Fiduciary responsibility: In making the investments under our products available, we are not acting as a fiduciary of your plan. The Plan Sponsor or its delegate is responsible for selecting the investment options for the Plan, including the investment options to which Plan assets are mapped. When performing our non-discretionary administrative services for the Plan, we act only in the capacity of a service provider and not in any fiduciary capacity. The Plan Sponsor is responsible for appointing an Administrator who has discretionary authority in the administration of the Plan.

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RS41161 12/17

C:RS-40939-00

Rhode, Lynne C. (City of Jacksonville)

From: Rondinelli, Mellissa <MRondinelli@coj.net>
Sent: Wednesday, December 4, 2019 4:26 PM
To: Hall, Sherry L.; Rhode, Lynne C. (City of Jacksonville)
Cc: Granat, Sean; Hodges, Lawsikia
Subject: FW: records request #2 12/2/2019 - JEA/OGC
Attachments: GC-#1325603-v1-Memo_re_JEA_PUP_(Supp_Ltr)_11-12-19.PDF; GC-#1320996-v1-Letter_to_Mr__Zahn_re_JEA_PUP.PDF

Importance: High

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Please see the attached.

Thank you,

Mellissa A. Rondinelli
Office Administrator
Executive Assistant to Jason R. Gabriel, General Counsel
Office of General Counsel - City of Jacksonville
117 W. Duval Street, Ste. 480
Jacksonville, FL 32202
904-255-5051
904-255-5119 (facsimile)
mrondinelli@coj.net

From: Rondinelli, Mellissa
Sent: Wednesday, December 04, 2019 12:16 PM
To: Feiser, Craig
Subject: FW: records request #2 12/2/2019 - JEA/OGC
Importance: High

Craig,

Per Chris Hong's request, please see the attached.

Thank you,

Mellissa A. Rondinelli

From: Feiser, Craig
Sent: Monday, December 02, 2019 3:32 PM
To: Gabriel, Jason; Granat, Sean; Kimbleton, Nikki; Burch, Stephanie

Subject: FW: records request #2 12/2/2019 - JEA/OGC
Importance: High

See below for #2. I believe this is the same request I received from Nate Monroe earlier today. Please advise/provide to me. Thanks.

From: Hong, Christopher [mailto:chong@jacksonville.com]
Sent: Monday, December 02, 2019 3:30 PM
To: Feiser, Craig
Subject: records request #2 12/2/2019

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Craig,
Can I please receive copies of the following records:
-Any documents created by the Office of General Counsel related to JEA's Performance Unit Plan.

--
Christopher Hong
Staff Writer
The Florida Times-Union
Office:(904) 359-4272
Cell: (404) 409-6949

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Rhode, Lynne C. (City of Jacksonville)

From: Currents
Sent: Friday, November 15, 2019 9:37 AM
To: !(EVERYONE - JEA)
Subject: Long-Term Performance Unit Plan Postponed

JEA CURRENTS EXECUTIVE

Long-Term Performance Unit Plan Postponed

JEA Team:

As a valued JEA team member, we wanted to give you an update in real time of the developments about the Long-Term Performance Unit Plan (Plan). The Plan was being explored, at the direction of JEA's Board, as a long-term incentive program available to those employees who chose to participate in it.

This week, our managing director & CEO, Aaron Zahn, wrote a letter to the General Counsel for the City of Jacksonville, upon consultation with JEA's Board Chair and JEA leadership, to indefinitely postpone the implementation of the Plan.

This decision was not made lightly. As the details of the Plan were developed, it was determined that now is not the right time to implement the Plan based on the long-term nature of it and the potential short-term implications it could have on JEA's strategic planning process.

It is important to point out that this decision concerning the Long-Term Performance Unit Plan has no effect on the retention agreements for all JEA employees, should a recapitalization event occur. As previously stated and agreed to, retention agreements will be available to all full-time JEA employees. Retention agreements for JEA employees represented by unions are within the Collective Bargaining Agreements that are currently pending approval by the City

Council. This decision also has no effect on any other incentive program you may be eligible for over the course of your employment.

Should you have any questions or concerns, as always, please contact your supervisor or JEA's Human Resources.

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From: "Rondinelli, Mellissa" <MRondinelli@coj.net>

Sent: Wednesday, December 4, 2019, 4:26 PM

To: "Hall, Sherry L." <hallsl2@jea.com>; "Rhode, Lynne C. (City of Jacksonville)" <rhodlc@jea.com>

Cc: "Granat, Sean" <SGranat@coj.net>; "Hodges, Lawsikia" <LHodges@coj.net>

Subject: FW: records request #2 12/2/2019 - JEA/OGC

Attachments: GC-#1325603-v1-Memo_re_JEA_PUP_(Supp_Ltr)_11-12-19.PDF; GC-#1320996-v1-Letter_to_Mr__Zahn_re_JEA_PUP.PDF

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Executive Assistant to Jason R. Gabriel, General Counsel
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Jacksonville, FL 32202
904-255-5051
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mrondinelli@coj.net

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Subject: FW: records request #2 12/2/2019 - JEA/OGC
Importance: High

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Sent: Monday, December 02, 2019 3:30 PM
To: Feiser, Craig
Subject: records request #2 12/2/2019

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Craig,
Can I please receive copies of the following records:
-Any documents created by the Office of General Counsel related to JEA's Performance Unit Plan.

--
Christopher Hong
Staff Writer
The Florida Times-Union
Office:(904) 359-4272
Cell: (404) 409-6949

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OFFICE OF GENERAL COUNSEL
CITY OF JACKSONVILLE
117 WEST DUVAL STREET
SUITE 480
JACKSONVILLE, FL 32202
PHONE: (904) 255-5050

MEMORANDUM

TO: JEA FILE

FROM: Jason R. Gabriel, General Counsel JRG

RE: JEA Long Term Performance Unit Plan (the "PUP")

DATE: November 12, 2019

The JEA Long Term Performance Unit Plan, approved by the JEA Board on July 23, 2019 (the "PUP"), was proposed by JEA as a voluntary employee benefit program designed as a deferred compensation plan that would have allowed full-time JEA employees to personally invest in the growth of JEA in the next three years. It was developed by JEA in consultation with and reliance on outside special legal counsel (Foley & Lardner and Pillsbury Winthrop Shaw & Pittman).

At the time of Board approval on July 23, 2019, the PUP was understood by OGC in general, conceptual terms as an employee incentive program. Since enrollment in the PUP would not take place until December 2019 with possible subsequent implementation of the plan in January 2020, OGC was assured by JEA that it had the few months from the time of the Board meeting on July 23, 2019 to the enrollment date to learn of the details of the plan, review outside counsel's findings as to the validity and legality of the plan, and to independently research and provide OGC's position on the plan at the conclusion of that process.

Because of how unique this suggestion was to the government sector, it was important to OGC to conduct its own research with respect to the validity and legality of the plan under federal, state, and local law, with a special emphasis on what is permitted, required, or prohibited under the Charter. Through the course of several conferences and meetings between outside counsel for JEA, OGC attorneys, and JEA management, OGC researched and conferred on the issues related to the plan.

This internal review resulted in a final determination by OGC and a recommendation to JEA that the proposed PUP, in its current form, would not be authorized under the City Charter, and had outstanding issues and unanswered questions related to state, local, and federal law. In addition, because ultimately it is City funds that are in question, *at a minimum*, Council approval would be required for the plan to be implemented. I expressed this legal position in several conversations with JEA. OGC's review and discussions occurred during the months of September, October and into the beginning of November. OGC's final position as to the PUP prompted the need for a formal meeting with outside counsel and JEA to discuss the outstanding legal issues prior to any further implementation of the plan.

Accordingly, on November 5, 2019, I met with Aaron Zahn and Herschel Vineyard from JEA, Lawsikia Hodges and Lynne Rhode from OGC, Kevin Hyde (special legal counsel with Foley & Lardner), Steve Amdur and Jessica Lutrin by phone (special legal counsel with Pillsbury Winthrop Shaw & Pittman), to discuss OGC's issues with the PUP; to note and categorize the current legal deficiencies with the plan, and to outline minimum requirements necessary to continue with any sort of employee incentive plan or deferred compensation plan. The main purpose of the meeting was to review these ultimate legal concerns regarding the PUP, that though were brought up in some form or another to JEA over the course of the preceding several weeks, needed to be officially dealt with in the appropriate manner.

On that date, the following concerns were brought up by OGC and discussed with JEA: Upon our review, the PUP is seemingly *akin* to an employee stock option plan, and for similar size *private* multi-billion dollar corporations, employee programs like the PUP may be the norm. However, the PUP would be unique to the public sector and founded on the fundamental principle that a governmental entity, such as JEA, may underwrite and offer for sale a portion of JEA's value as an "investment product" pursuant to Section 112.215, *Florida Statutes*. This fundamental PUP principle is not only a novel concept to our Consolidated Government but is also novel to government concepts and principles in general. Further, in addition to the more fundamental issues associated with the PUP, there were other issues cited, including allowing non-JEA employees in the plan and various potential adverse tax consequences.

Accordingly, we advised that the current plan should be officially dissolved. Should JEA insist on pursuing some version of the PUP as currently proposed in the future, the following <u>minimum</u> prerequisites must be met:

1) City Council review and approval (via legislation) authorizing JEA to sell a portion of JEA's value as an "investment product" under Section 112.215, Florida Statutes;
2) An opinion in accordance with Section 112.215, Florida Statutes from an appropriate federal agency or agencies (i.e., Internal Revenue Service (IRS)) stating that any compensation deferred under the PUP would not be included in a participating employee's taxable income under federal or state law until it is actually received;
3) An opinion from the IRS indicating that JEA, as a governmental entity, will incur no negative or adverse tax consequences or penalties under the PUP;
4) Removal of any PUP requirement that directly or indirectly obligates JEA to pay any excise tax, interest or penalties under the IRS Code incurred by a participating employee under the PUP;
5) Removal of any non-JEA employees as participants in the PUP; and
6) Any other applicable requirements under state and federal law necessary to implement and administer the PUP.

Based on this advice from our office, I was informed that JEA would not proceed with the PUP.

On November 12, 2019, the JEA CEO sent a letter to me informing me officially that JEA was "postponing indefinitely" the PUP. On that same date I, in turn, sent JEA a letter reiterating that there were outstanding legal issues with the plan as currently structured.

GC-#1325603 (pdf)

OFFICE OF GENERAL COUNSEL
CITY OF JACKSONVILLE

JASON R. GABRIEL*
GENERAL COUNSEL

KAREN M. CHASTAIN
DERREL Q. CHATMON
ARIEL P. COOK
JULIA B. DAVIS
STEPHEN M. DURDEN
SHANNON K. ELLER
CRAIG D. FEISER
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CHRISTOPHER GARRETT
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BRETT G. MERENESS
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KORT PARDE
JACOB J. PAYNE
TIFFINY DOUGLAS PINKSTAFF
JON R. PHILLIPS
CHERRY SHAW POLLOCK
STEPHEN J. POWELL
LYNNE C. RHODE
ASHLEY B. RUTHERFORD
JOHN C. SAWYER, JR.
MARGARET M. SIDMAN
JASON R. TEAL
ADINA TEODORESCU
KEALEY WEST
STANLEY M. WESTON
GABY YOUNG

*BOARD CERTIFIED CITY, COUNTY AND LOCAL GOVERNMENT LAW

November 12, 2019

Aaron F. Zahn
Managing Director & CEO
JEA
21 W. Church Street, 19th Floor
Jacksonville, FL 32202

RE: JEA Long Term Performance Unit Plan (the "PUP")

Dear Aaron:

I greatly appreciate you meeting with our office last week and providing us with additional information and insight regarding the JEA Long Term Performance Unit Plan approved by the JEA Board on July 23, 2019 (the "PUP"). As you indicated, the PUP was proposed as a voluntary employee benefit program akin to a deferred compensation plan under Florida law that would have allowed full-time JEA employees to personally invest in the enterprise growth of JEA in the next three years. In theory, under the PUP, employees would have been encouraged to have "skin in the game" by deferring their compensation to purchase a performance unit and later redeeming such performance unit for an amount based on JEA's current year value (i.e., the redemption price). At the employee's investment risk, the redemption price for a performance unit at the end of the PUP performance period could have been zero, or more than ten times the employee's initial investment amount. You also advised that the primary purpose of the PUP was to incentivize employees to drive and increase JEA's customer, community and environmental value.

First, I laud you, the JEA senior leadership team, and the JEA Board for your efforts to find outside-the-box ways to increase JEA's value and motivate JEA employees to do their best work for JEA. I also appreciate the extensive time and effort that specialized outside counsel has dedicated to analyzing the PUP in order to achieve the Board's directive. The plan would be a novel approach to accomplishing the Board's goals in the public sector, but as currently structured contains outstanding issues under the City Charter and other law. That is not to say that

an appropriate plan under Section 215.425, Florida Statutes could not be designed and implemented. It is unnecessary, however, to go into any suggested restructure or outstanding issues at this time due to my understanding that JEA leadership, in consultation with the Chair and our office, has decided to postpone indefinitely the implementation of the PUP.

We appreciate the opportunity to have performed a detailed review of the plan and its documents. Our office continues to stand ready to assist you, JEA leadership and JEA Board should it decide in the future to move forward with an employee incentive plan.

Sincerely,

Jason R. Gabriel
General Counsel

cc: Herschel Vinyard, Chief Administrative Officer
Lynne C. Rhode, Chief Legal Officer

GC-1319864 (.doc)
GC-1320996 (.pdf)

Vinyard, Herschel T. - Chief Administrative Officer

From: Stewart, Kerri - VP & Chief Customer Officer
Sent: Friday, December 6, 2019 10:53 AM
To: Zahn, Aaron F. - Managing Director/CEO; Vinyard, Herschel T. - Chief Administrative Officer; Dykes, Melissa H. - President/COO; Rhode, Lynne C. (City of Jacksonville); Wannemacher, Ryan F. - Chief Financial Officer; Hall, Sherry L.
Subject: Memo to April Green from Jason Gabriel re: PUPs

FYI

From: Rondinelli, Mellissa <MRondinelli@coj.net>
Sent: Friday, December 6, 2019 10:06 AM
To: Stewart, Kerri - VP & Chief Customer Officer <stewk@jea.com>
Subject: FW: JEA re Preliminary Approval of PUP

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

From: Gabriel, Jason
Sent: Friday, December 06, 2019 10:01 AM
To: April Green (agreen@mebusinesssolutions.com)
Subject: JEA re Preliminary Approval of PUP

Dear April –

Per our conversation earlier this morning, it has come to my attention that a certain implication has been made that JEA did something legally wrong with regard to the preliminary adoption of the Performance Unit Plan (PUP) at the July 23, 2019 meeting. I write to address this unfortunate suggestion.

Following the Board meeting, JEA gave OGC requisite time to research and review the specifics of the plan prior to its implementation. This was a collaborative process between OGC and JEA of due diligence and analysis that included an inquiry to the Florida Attorney General. In preliminarily approving the PUP, the JEA Board did not act outside of their legal authority.

OGC ultimately concluded that the PUP had outstanding legal issues and JEA ultimately concluded that they would no longer pursue the plan. At the next JEA Board meeting, the Board will have the opportunity to vote to formally withdraw the plan. I anticipate that the Board will take appropriate action at that time.

Please do not hesitate to contact me with any questions or concerns.

Thank you,

-Jason G.

Jason R. Gabriel
General Counsel

Office of General Counsel
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****** Please note that under Florida's very broad public records law, email communications to and from city officials are subject to public disclosure. ******

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MEMORANDUM

TO: Honorable Council Member Michael Boylan

CC: Jason R. Gabriel, General Counsel

FROM: Lawsikia J. Hodges, Deputy General Counsel, Government Operations

RE: **JEA Invitation to Negotiate #129-19 for Strategic Alternatives - Notice Requirements in Section 21.04(p) of the City Charter**

DATE: December 5, 2019

I. Background.

On July 23, 2019, the JEA Board approved Resolution 2019-07, which authorized the Chief Administrative Officer and Managing Director (the "JEA CEO") to undertake a competitive solicitation regarding JEA's assets (the "Resolution"). On August 2, 2019, JEA issued Invitation to Negotiate #129-19 for Strategic Alternatives (the "ITN")[1].

II. Question Asked.

Whether the JEA Board was required under Section 21.04(p) of the City Charter to provide the Council Auditor with 30 days advance written notice of the JEA Board's action of approving the Resolution?

III. Short Answer.

No. The JEA Board was not required to provide the Council Auditor with 30 days advance written notice of the JEA Board's action of approving the Resolution because such approval by the JEA Board was not an "activity" pursuant to Section 21.04(p). The term "activity" as used in Section 21.04(p) refers to the specific activities listed therein (and any activities not listed of the same kind)[2] (i) that JEA, operating as a public utility, is permitted to

---

[1] The ITN was issued in accordance with the authority set forth in the Resolution, the JEA Procurement Code, the JEA Procurement Code Operational Procedures (the "Operational Procedures"), and Article 21 of the City Charter (the "City Charter").

[2] See statutory construction principle *ejusdem generis*.

enter into; and (ii) that transfers, sells, finances, leases *or otherwise provides services or products, or by-products* developed or used by JEA *incident to the exercise of the powers conferred in Article 21* of the City Charter. As a public utility, the quintessential power conferred to JEA in Article 21 is the power of JEA to own, manage and *operate* a *utilities system*[3] within and without the City of Jacksonville[4]; all other powers conferred to JEA in Article 21, including the powers referenced in Section 21.04(p), is in support of this foremost power. As such, the activities referenced in Section 21.04(p) must constitute "services, products, or by-products" developed or used by JEA incident to operating a utilities system. As long as an activity meets the requirements of Section 21.04(p) (i.e., constitute services, products, or by-products developed or used by JEA incident to its power to operate a utilities system), JEA must provide the Council Auditor with advance written notice prior to JEA entering into such activity.

Here, the JEA Board's action of approving the Resolution does not constitute an "activity" under Section 21.04(p) because in and of itself such action by the board is not a "service, product or by-product" developed or used by JEA incident to the powers conferred in Article 21. By way of example, the specific activities listed in Section 21.04(p) include services, products or by-products such as energy performance contracting, power marketing services, the supply of stem or other thermal energy, and the testing and maintenance of customer-owned facilities. These activities represent ordinary activities customary to JEA's operation as a public utility, and thus, JEA is conferred authority to enter into such activities so as long as proper advance notice is provided to the Council Auditor. Here, the board's action of approving the Resolution was a procurement authorization and approval of the JEA CEO to explore transferring a significant portion of JEA assets (comprising more than ten percent of the utilities system) to another utility to own, manage and operate for JEA (and the City).[5] Such action by the board was not an activity similar in nature or kind to the activities listed in Section 21.04(p);[6] therefore, the JEA Board's action of approving the Resolution was not subject to the Council Auditor's notice requirement contained in Section 21.04(p).[7]

---

[3] The term "utilities systems" includes the electric utility system, the water and sewer utility system, the natural gas utility system, and any other additional utilities systems *operated* by JEA. See Section 21.02 City Charter.

[4] See Article 21.01 of the City Charter.

[5] Given the exploratory nature, a sale or transfer of JEA assets may or may not result from the procurement process. If the JEA Board ever seeks to consummate a sale or transfer (comprising more than ten percent of the utilities system) to another utility, the JEA Board must obtain City Council approval and a subsequent voter referendum pursuant to Section 21.04(p).

[6] See statutory construction principle *ejusdem generis*.

[7] Although the JEA Board was not required to provide notice to the Council Auditor under Section 21.04(p), the JEA Chief Legal Officer indicated that JEA emailed a link of the July 23, 2019 JEA Board meeting materials on July 22, 2019, to the Council Auditor's office and also delivered a hard copy of the July 23rd board meeting materials to the Council Auditor's office on July 23, 2019.

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MEMORANDUM
PRIVILEGED AND CONFIDENTIAL

TO: Lynne Rhode, Vice President & Chief Legal Officer, JEA

FROM: Kort Parde, Assistant General Counsel, OGC
Sean Granat, Deputy General Counsel, OCG

RE: Compensation Plans

DATE: June 17, 2019

ISSUE:

You have asked whether JEA may create or establish a long-term employee incentive program to pay a bonus or additional amounts to the employees of JEA over a period of years.

ANSWER:

Yes, JEA is authorized to adopt a bonus or incentive program so long as the program complies with the requirements of § 215.425, Florida Statutes. The program must (1) be based on work performance; (2) have pre-determined performance standards and evaluation processes; (3) provide notice of the program to all JEA employees prior its commencement; and (4) be available to all JEA employees. In addition to the requirements of §215.425, Florida Statutes, any bonus or incentive program JEA adopts should provide for objective metrics measured by impartial analysts and not potential program award recipients. Also, the program would have to comply with the specific constraints itemized in Part III of this memo, which include ethics laws, Civil Service Rules, and collective bargaining.

ANALYSIS:

I. General Authority for Incentive Programs by Governmental Agencies

A. Florida Statute

The relevant statutory authority on the awarding of incentives by a unit of government to its employees is found in § 215.425(3), [1] Florida Statutes, which states that:

> **Any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:**
>
> **(a) Base the award of a bonus on work performance;**
>
> **(b) Describe the performance standards and evaluation process by which a bonus will be awarded;**
>
> **(c) Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and**
>
> **(d) Consider all employees for the bonus.**

Section 215.425 also contains a prohibition on providing "extra compensation...to any officer, agent, employee, or contractor after the service has been rendered or the contract made." §215.425(a), Florida Statutes. The term "extra compensation" " . . . denotes something done or furnished in addition to, or in excess of the requirement of the contract; something not required in the performance of the contract." *Fla. AGO* 91-51 citing *Fla. AGO* 81-98. Therefore, a governmental agency has the authority to provide for bonuses or incentive programs so long as the programs strictly comply with the requirements set out in § 215.425(3), and offer no compensation for any work performed prior to the commencement of the programs.

B. Florida Constitution

Any action of a governmental agency, including providing a bonus program for employees, must be analyzed in light of the Article VII, § 10, Florida Constitution, prohibition against the State and its subdivisions from using their taxing power or pledging public credit to aid any private person or entity. The purpose of this constitutional provision is "to protect public funds and resources from being exploited in assisting or promoting private ventures when the

---

[1] Section 215.425, Florida Statutes, applies broadly to "units of government" without limitation. Fla. Att'y Gen. Op. 2013-09 (2013). As an independent agency of the Consolidated City of Jacksonville, JEA is a unit of government subject to § 215.425, Florida Statutes. See *City Charter* §§ 18.07 and 21.

public would be at most only incidentally benefited." *Fla AGO 2012-26 citing Bannon v. Port of Palm Beach District*, 246 So.2d 737, 741 (Fla. 1971). "If the expenditure primarily or substantially serves a public purpose, however, the fact that the expenditure may also incidentally benefit private individuals does not violate Article VII, § 10. *Id.* citing *State v. Housing Finance Authority of Polk County*, 376 So.2d 1158, 1160 (Fla. 1979). The Legislature "has recognized that lump sum bonus payments for county and municipal employees serve the public interest and represent a progressive innovation in personnel management." *Id.* In the past, Florida Statues expressly authorized counties and municipalities "to adopt extra compensation programs to reward outstanding employees. *See* §§ 125.01 and 166.021, Florida Statutes (2010). These statutes allowed for lump-sum bonus payments, but required that the bonuses not be included in an employee's regular base rate of pay and not be carried forward in subsequent years. *Id.* In 2011, the Florida Legislature revised § 215.425, Florida Statutes, and deleted the express authorization to pay bonuses in §§ 125.01 and 166.021, Florida Statutes. The restriction that a bonus payment not be included in an employee's regular base rate of pay and not be carried forward in subsequent years was also deleted. Instead, the Legislature created §215.425(3), Florida Statutes, which permits any unit of government to establish a bonus or incentive program as long the program strictly complies with § 215.425(3)(a)-(d), described in section 1(a) above.

II. General Authority for Incentive Programs by JEA

Article 21 of the Consolidated City of Jacksonville's Charter[2] "created and established a body politic and corporate to be known as JEA." *City Charter*, §21.01. Under § 21.01 the City delegated to JEA "all powers with respect to electric, water, sewer, natural gas and such other utilities which are now, in the future could be, or could have been but for this article, exercised by the City of Jacksonville". *Id.* Section 21.04 explicitly prescribes the powers of JEA to include the right to contract, and the more broad authority "to do all acts and deeds necessary, convenient or desirable, incidental to the exercise and performance of the power and duties granted to JEA in this article." *City Charter,* §§21.04(e) and (t).

---

[2] See *Jacksonville, Fla., City Charter*, §3.01(a), providing that the Consolidated City of Jacksonville:

> Shall have and may exercise any and all powers which counties and municipalities are or may hereafter be authorized or required to exercise under the Constitution and the general laws of the State of Florida, including, but not limited to, all powers of local self-government and home rule not inconsistent with general law conferred upon counties operating under county charters by s. 1(g) of Article VIII of the State Constitution; conferred upon municipalities by s. 2(b) of Article VIII of the State Constitution; conferred upon consolidated governments of counties and municipalities by section 3 of Article VIII of the State Constitution; conferred upon counties by ss. 125.85 and 125.86, Florida Statutes; and conferred upon municipalities by ss. 166.021, 166.031, and 166.042, Florida Statutes; all as fully and completely as though the powers were specifically enumerated herein.

Most relevant to the issue of whether JEA has the authority to create a bonus or incentive program is § 21.08 of the Charter, which prescribes JEA's powers with respect to its employees. Under § 21.08, the City delegated to JEA the following authority:

> JEA shall have full and independent authority to hire, transfer, promote, discipline, terminate and evaluate employees engaged to provide any and all of the utilities services for which it is responsible and accordingly, consistent with the provisions of article 17, JEA may establish employment policies relating to hiring, promotion, discipline and termination, and other terms and conditions of employment, and enter into negotiations with employee organizations with respect to wages, hours and terms and conditions of employment and take such other employment related action as needed to assure effective and efficient administration and operation of the utilities system. In order to effectively implement the foregoing, JEA shall perform all functions with regard to its own employees that are performed by the City department or division which oversees city employees in regard to personnel matters.

Id. at §21.08. Section 21.08 gives JEA the express authority to establish employment policies and the implied authority to establish bonus or incentive programs under the authority to establish "other term and conditions of employment, and enter into negotiations with employee organizations with respect to wages, hours and terms and conditions of employment." *Id.*

III. Specific Constraints on the Contemplated Incentive Program

JEA may establish a bonus program, subject to several constraints. First, as explained above, a bonus or incentive program policy must be strictly implemented under the requirements of §215.425(3), Florida Statutes, in that it must base the award of the bonus on work performance, provide for performance standards and an evaluation process, notify all employees of the policy before the beginning of the evaluation period, and consider all employees for the bonus. Further, the program must comply with state and local ethics laws. Lastly, bonus plans must comply with the City's Civil Service Personnel Rules and Regulations and collective bargaining requirements.

A. Constraints Under State and Local Ethics Law

Under state and local ethics laws, an otherwise proper JEA long-term incentive program benefiting both management and non-management employees is permissible within the following key parameters designed to prevent the misuse of public funds:

Article II, § 8 of the Florida Constitution (Ethics in Government) requires financial disclosure by public officials and generally prohibits public officials from acting in a manner in breach of the public trust. This general prescription has been codified by Florida Statute, namely

Chapter 112 Part III (Code of Ethics for Public Officers and Employees), and further enumerated for Jacksonville officials and employees within the Jacksonville Ethics Code (Chapter 602 of the Jacksonville Ordinance Code).

Within the state ethics code, which generally applies to all public officials and employees within the state, § 112.313, Florida Statutes, is the primary provision that should be considered when analyzing an incentive program adopted by an independent agency of the City. Section 112.313 (Standards of conduct) subsection (6) (Misuse of public position) states, in relevant part and with emphasis added, that "no public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. ...". Pursuant to subsection (6), an independent agency employee may not corruptly use his position or perform his official duties in order to secure for himself or other individuals a unique benefit.

Similar to § 112.313(6), Florida Statutes, the city ethics code (which expressly at §602.631, Ordinance Code, applies to officers and employees of independent agencies) at §602.401 (Misuse of position, information, resources etc.) subsection (a) prohibits an employee of an independent agency from intentionally using his position or otherwise acting in a manner inconsistent with his official duties in order to obtain a special privilege, financial or otherwise.

Both § 112.313(6), Florida Statutes, and Jacksonville, Florida, Municipal Code §602.401(a) contain intent and uniqueness components. An incentive program developed and implemented by managers generally responsible for developing and implementing compensation measures, that fully comports with all § 215.425, Florida Statutes, and JEA Charter strictures, under which all JEA employees are considered for the bonus in a transparent, impartial manner, and which is based upon objective financial metrics measured by an independent party generally would not run afoul of either the state or city ethics codes.

B. Constraints Under Civil Service Rules and Collective Bargaining Agreements

JEA is constrained in the type of award it may issue to the extent that it is bound by the City's Civil Service Personnel Rules and Regulations. Those JEA employees covered by the Civil Service Personnel Rules and Regulations are subject to pay plans and salary schedules. Civil Service Personnel Rules and Regulations 2.01, 2.11, 10.01 and 10.02 serve to limit JEA to the award of lump sum bonuses, as JEA employees' base salary may not exceed their pay bands.

Additionally, many of JEA's employees are members of collective bargaining units. Florida Law requires that changes to wages and terms and conditions of employment are collectively bargained prior to being implemented. Thus, any bonus or incentive plan would have to be collectively bargained prior to implementation. *See Hamilton County Education Association v. Hamilton County School District*, 30 FPER ¶ 180(2004)(Unfair labor practice to unilaterally implement a bonus plan without negotiating its terms).

JEA

Total Market Compensation Strategy

Compensation Committee
June 2018

JEA

GUIDING PRINCIPLES

ACCELERATING UTILITY INNOVATION

Core Competencies

The things we need to be exceptionally and uniquely good at in order to yield better and better results of our Corporate Measures which drive our Mission to demonstrate our Vision

→ **Work together to elevate the entire team**

Core competencies accelerate results

ELEVATE THE ENTIRE TEAM

1. Ensure JEA's corporate compensation philosophy is aligned with JEA's Guiding Principles
2. Encourage long-term culture of value creation
3. Establish formal compensation policy to align behavior to 4 Corporate Measures of Value and market based compensation
4. Ensure policy promotes collaboration to drive Vision and Mission

Employee incentives should drive "value" & "teamwork"

Compensation Efforts to Date

January	February - June
Board Approval of: • Guiding Principles • Development of a Compensation Framework • Extending CEO contract through 7/31/19 • Change to Board Policy Manual	developed and presented to the Board Framework developed with the assistance of Willis Towers Watson CEO Contract prepared

50th %

JEA's total compensation structure should both compete with the market for talent & drive results aligned with "guiding principles"

JEA'S COMPENSATION PHILOSOPHY

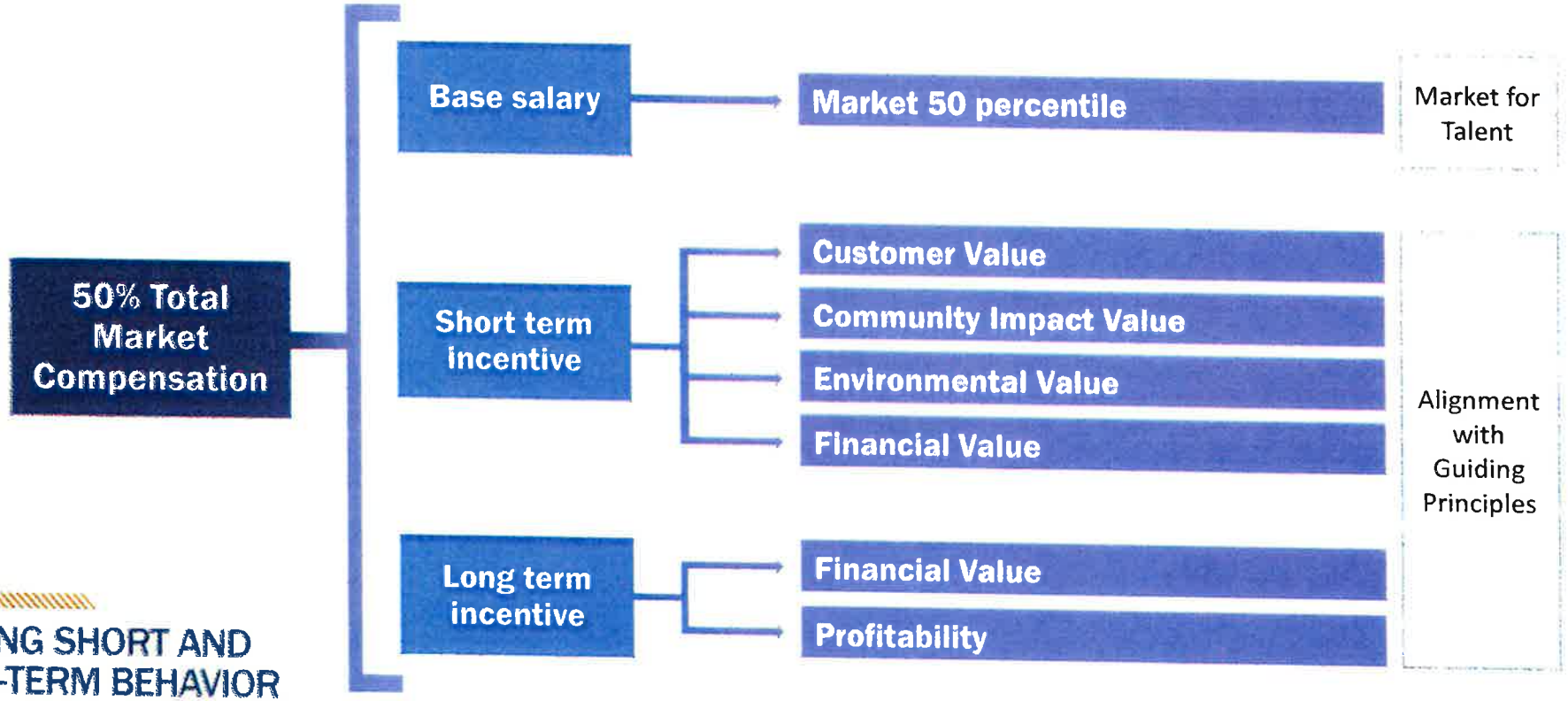
JEA Board Policy Manual

(Revision to Policy 2.7 adopted by JEA Board on June 17, 2014)

"With respect to employment, compensation, and benefits to employees, consultants, and contract workers, the CEO shall promote a compensation philosophy that encompasses salary/wages, retirement benefits, incentives and health and welfare benefits that align with and drive JEA's Corporate Measures of value: 1) Customer; 2) Financial; 3) Environmental; and 4) Community Impact.

Total compensation will meet the market (50% percentile), which is where the majority of companies in the industry and geographical area reside. Total compensation will include Base Salary, Short Term Incentives and Long Term Incentives. The 50th percentile pays competitively for behavior that meets expectations. Short term and long term incentives will align to and drive JEA's Corporate Measures of Value. Internal equity will be achieved by evaluating differences in skill, effort, responsibility and working conditions among jobs."

Establish a Formal Compensation Policy to Align with: 1) Talent Market and 2) Guiding Principles



DRIVING SHORT AND LONG-TERM BEHAVIOR

Compensation Benchmarking Summary

Appointed Population vs. Market 50th Percentile Variances By Job Level

- The following exhibits summarize variances comparing incumbent pay data with market data from job weighted perspective for the Appointed population only
- Variances are lower to market for executives and directors at target bonus %, target TCC, and target TDC compared to the other job levels
  - JEA provided performance bonuses to Appointed employees in April to begin closing the gap on base salary – the budget was 2.5%.

Job Weighted:

Level	Average Base Salary Variance	Average Target Bonus % Absolute Variance	Average Target TCC Variance	Average Long-term Incentive % Absolute Variance	Average Target TDC Variance
Executive	-12%	-33%	-28%	--	-42%
Director	-1%	-10%	-8%	--	-13%
Manager	-2%	-5%	-6%	--	-6%
Individual Contributor	-1%	-2%	-1%	--	-1%
Total	**-2%**	**-7%**	**-6%**	--	**-7%**

Short-Term Incentive Plan Practices

Target Incentive Award Opportunities

- Target incentive opportunities typically increase with job level, and are relatively similar in both the Utility and General Industries
- Note that we have recommended STI targets as part of our analysis to "close the gap" between market and JEA's desired competitive positioning

Target Incentive Award Opportunities – By Job Level

Role/Career Level	Target STI Opportunities	
	Utilities	General Industry
Senior Directors	25%	24%
Managers	15%	13%
Supervisors	10%	9%
Senior Level Professionals	13-20%	11-18%
Entry-Mid Level Professionals	7-10%	5-8%
Non-exempt	5%	3-5%

Source: Willis Towers Watson 2018 General Industry and Energy Services MMPS Compensation Survey Reports – U.S.

Long-Term Incentive Plan Design

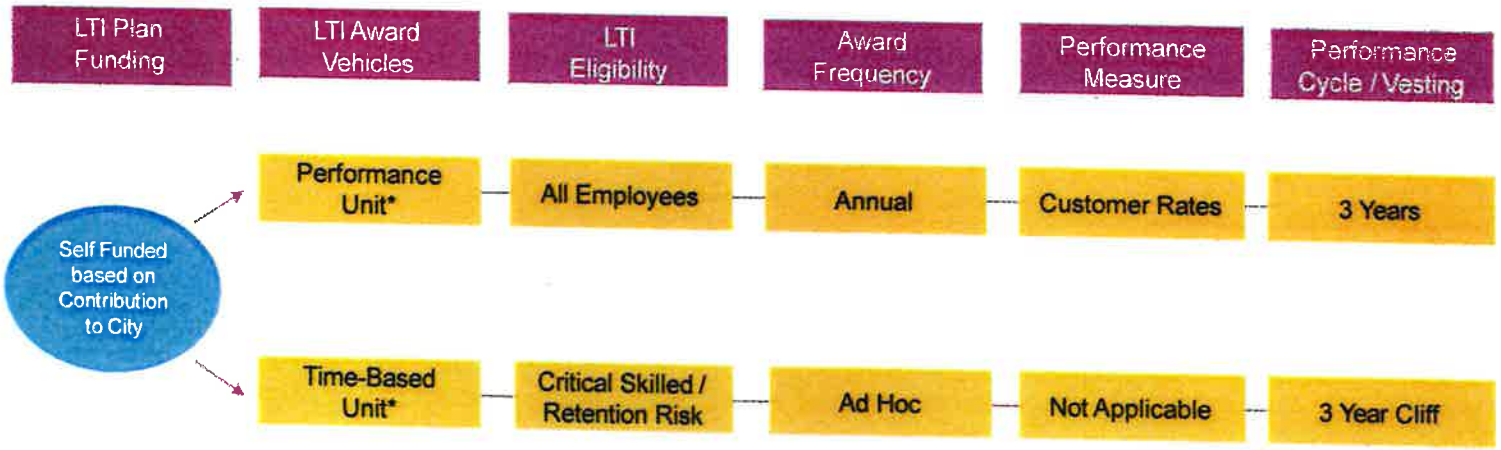
Introduction

Why Companies Have Long-Term Incentive Plans	Factor Driving JEA Inclusion of LTI
Focus on long-term performance and align performance to long-term business strategies	✓
Necessary component of a market competitive compensation program for investor owned utilities	✓
Aligns the interests of employees with stakeholders	✓
Fosters long-term retention	✓
Encourages teamwork and collaboration across groups, functions, businesses, etc.	✓
Rewards for long-term shareholder/stakeholder value creation	✓
Balances focus on short-term results that are driven by annual incentives	✓

Long-Term Incentive Plan Design

Proposed Design

- *Given consideration of the overarching goal to allow all employees the opportunity to share in the long-term success of the company, we propose a multi-pronged LTI design approach below:*



* Value of units tied to JEA Net Book Value.

Long-Term Incentive Plan Design

Proposed Design Details: Performance Unit

Performance Unit

Plan Design Element	Plan Design Details
Award Vehicle	• Performance Unit: value of unit tied to JEA Net Book Value; unit valuation formula to be determined
Eligibility	• All employees would be eligible in order to drive collective focus on JEA long-term performance
Target Award Opportunity (as % of base salary)	• Award opportunities vary based on level in the organization (see page 31 for proposed targets); Management and Board's intent is to close competitive gap to market for LTI in first year of grant and ensure JEA compensation is competitive with market 50th percentile
Award Frequency	• Annual
Circuit Breaker	• Defined level of contribution to the City will be established for each award cycle; intent is for contribution level to ensure LTI plan is self funded
Performance Measures	• Net Book Value: used to determine Performance Unit value • Customer Rates: performance measure used to modify the number of Performance Units earned; performance goal to be determined
Performance Period	• 3-year performance cycle with overlapping cycles due to annual grant frequency
Payout Range	• Threshold: 50% of Target • Maximum: 150% of Target
Estimated Cost	• Estimated cost of annual Performance Unit awards to all employees based on current incumbent base salaries* is $3.4M

*Bargaining Unit costs calculated based on step structure data if incumbent data are not available.

Proposed Compensation Adjustments

Market Positioning Based on Proposed Pay Adjustments

- The following exhibit summarizes the competitive position of JEA pay based on the target bonus % and LTI % adjustments needed to align pay with market median
  - All levels approximate or exceed the market median for target TDC, thereby aligning with the Board's articulated competitive compensation positioning
    - Proposed target bonus % and LTI % for executives bring target TDC to market competitive levels; therefore, material base salary adjustments are not required
    - Bargaining Unit variance exceeds market median target TDC due primarily to variances that are calculated based off of step structure base salaries

Job Weighted:

Level	Average Base Salary/Midpoint Variance (Median)	Average Target Bonus %		Proposed Target TCC Variance (Median)	Average Long-term Incentive %		Proposed Target TDC Variance (Median)
	JEA	JEA Proposed	Market	JEA	JEA Proposed	Market	JEA
Executive	-12%	45%	43%	-6%	40%	40%	-2%
Director	-1%	20%	18%	2%	5%	8%	1%
Manager	-2%	10%	13%	-3%	3%	--	-1%
Individual Contributor	-1%	7%	10%	-1%	3%	--	2%
Bargaining Units	11%	2%	7%	8%	1%	--	9%
Total	**3%**	**8%**	**12%**	**2%**	**3%**	**19%**	**3%**

Note: Market data provided by JEA.

Compensation Plans

June	July	August	September	October
Presentation to the Comp Committee – 6/18 Presentation to the Board – 6/25	Hold Shade Meeting to discuss labor negotiations Develop economic strategy for negotiations	Finalize Comp Plan and begin installing components	Publicize Comp Plan to employees	Full implementation of Comp Plan

Compensation Plan as directed by the Board

Bargaining Unit negotiations and finalize contracts

Compensation Program Appendix for Compensation Committee Meeting

Prepared for JEA

June 18, 2019

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Willis Towers Watson

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Introduction
Summary

- JEA engaged Willis Towers Watson ("WTW") to complete the following:
  - Conduct a competitive market assessment for JEA's entire employee population
  - Provide a summary of market practices related to short-term incentive plan design
  - Conduct a competitive market analysis of long-term incentive ("LTI") plan design practices and develop a proposed design
- This report includes the following:
  - Confirmation of JEA's current compensation philosophy
  - Review of the evolution of JEA's compensation programs
  - Analysis of the compensation variances for JEA's employee population
  - Analysis of the gaps to market for JEA's Appointed population and Bargaining Units
  - Proposed LTI plan design
  - Total rewards market best practices

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Compensation Philosophy Review

JEA's Current Compensation Philosophy

- The following table summarizes JEA's current compensation philosophy, which guided WTW's review of JEA's competitive market assessments:

Compensation Philosophy Element	Details
Alignment of Interest Between Employees, Stakeholders, and Organization	JEA's compensation philosophy should support the overall business and board strategy with the ultimate goal of driving performance of the organization
Market for Talent	JEA's geographic market for talent varies by job level: • Individual Contributors/Managers – local and regional scope • Directors/Executives – national scope
Target Competitiveness	Targets the market 50th %ile for all pay elements (Base Salary, Short-Term Incentive, and Long-Term Incentive)
Pay Mix	JEA's pay mix currently consists of base salary and a short-term incentive award, but JEA is implementing a long-term incentive plan in 2020 to align the interests of employees to JEA's Guiding Principles and four (4) Corporate Measures of Value (Customer, Community, Environmental and Financial)
Industry Perspectives	For functional roles – a 50/50 weighted mix of Utility/General Industry market data For operational roles – only Utility Industry market data

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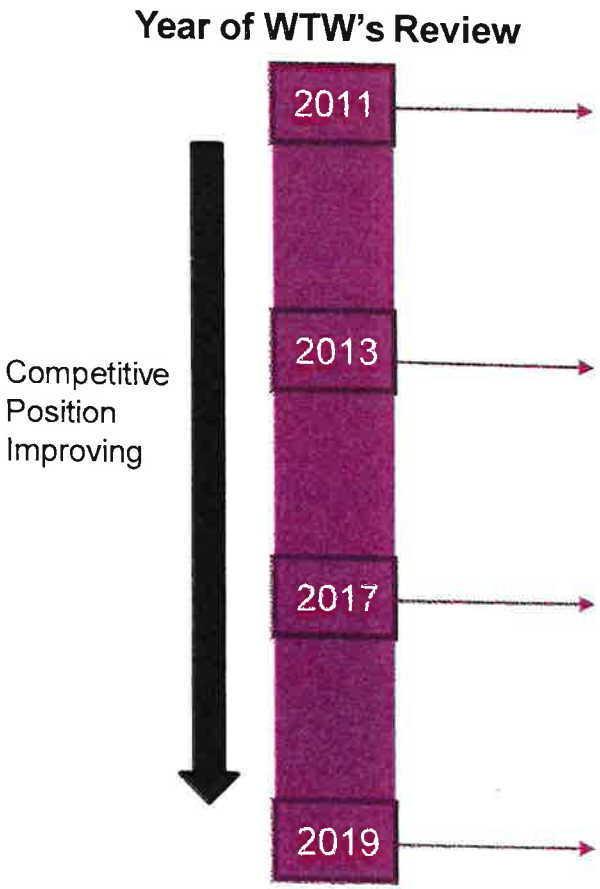
Evolution of JEA's Compensation Program

Timeline of Goals and Major Changes



- Conducted competitive cash compensation analysis for approximately 200 Appointed positions, as well as a benefits assessment
- While total cash compensation levels were generally below market, benefit programs were generally above market (retirement plan significantly above market)
- JEA re-instituted a short-term incentive plan where all employees were eligible to receive an award (re-instated for FY12)
- Conducted competitive market analysis, which showed JEA remained below market but had an improved competitive positioning
- Updated 2013 analysis, which showed that competitive positioning continued to improve
- Effective beginning FY18, the defined benefit plan was closed to new hires. All new hires will participate in the new defined contribution plan
- Competitive market positioning continues to improve JEA value creation
- JEA Board's objective is to create and implement a short-term and long-term incentive plan where all employees are eligible to receive an award based on individual and organization performance

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CEO Competitive Market Pricing
Methodology

- To conduct the competitive market pricing for the CEO position, a peer group was developed reflecting:
  - Investor Owned Utilities ("IOUs") and Public Power Utilities
  - Focus on electric and/or diversified utilities (electric and gas and/or water utilities)
  - Comparably-sized (revenues in a range of ½ to 2x JEA's revenues of $1.79B OR generation capacity in a range of ½ to 2x JEA's generation capacity of 3,330 kWh)
  - Survey source: Willis Towers Watson's *2018 Energy Services Industry Executive Compensation Database*
- Target TDC for the Combined Peer Group perspective is built up by using this formula:
  - Target TCC + (Base Salary * ½ reported LTI opportunity %)
    - Given public power utilities do not typically provide LTI, market data is not shown for the public power peers; therefore, the Combined Peer Group perspective reflects 1/2 of the reported market data because the data are comprised of responses from both public power and IOUs (average of public power and IOUs)

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CEO Competitive Market Pricing

Market Pricing Details

Chief Executive Officer		Competitive Market Data[5]		
Pay Component	Data Perspective	25th %ile	50th %ile	75th %ile
Base ($000s)	Combined Peer Group	$605.0	$800.0	$980.0
	Investor Owned Utility Peers	$730.0	$835.0	$995.0
	Public Power Peers	$475.0	$580.0	$920.0
Target Bonus % [1]	Combined Peer Group	48%	100%	108%
	Investor Owned Utility Peers	100%	100%	110%
	Public Power Peers [3]	---	---	---
Target TCC ($000s)	Combined Peer Group	$760.0	$1,275.0	$1,790.0
	Investor Owned Utility Peers	$1,380.0	$1,725.0	$2,065.0
	Public Power Peers	$515.0	$720.0	$985.0
LTI % [2]	Combined Peer Group	107%	125%	166%
	Investor Owned Utility Peers	213%	249%	331%
	Public Power Peers	---	---	---
Target TDC ($000s)	Combined Peer Group [4]	$1,515.0	$2,270.0	$3,010.0
	Investor Owned Utility Peers	$2,845.0	$3,970.0	$5,110.0
	Public Power Peers	$515.0	$720.0	$985.0

"---"= Data not available.

(1) Target bonus percentages are represented as a percentage of base salary.

(2) Long-term incentive (LTI) percentages are represented as a percentage of base salary. LTI figures are based on ASC 718 (FAS 123R) "accounting values". Given public power utilities do not typically provide LTI, market data is not shown for the public power peers; therefore, the Combined Peer Group perspective reflects 1/2 of the reported market data because the data are comprised of responses from both public power and IOUs (average of public power and IOUs).

(3) Only 4 public power peers report a target bonus opportunity (sample size less than 5 is too small to report data). Responses range from 8-35% with an average of 22%.

(4) Target TDC for the Combined Peer Group perspective is built up by using Base Salary, Target TCC, and LTI % data.

(5) Market data greater than $100,000 rounded to the nearest $5,000.

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Compensation Benchmarking Summary

Methodology

- The following page contains a summary of WTW's review of JEA's competitive market data for its Appointed population (including 13 executives)
- WTW reviewed the most current incumbent and market data provided by JEA
  - Market data for the positions below the Director-level reflect a -5% geographic differential to account for the cost of labor of Jacksonville, FL vs. the US national average
  - Analysis of competitive positioning focused on market data at the 50th percentile

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Compensation Benchmarking Summary

Appointed Population vs. Market 50th Percentile Variances By Job Level

- The following exhibits summarize variances comparing incumbent pay data with market data from job weighted perspective for the Appointed population only
- Variances are lower to market for executives and directors at target bonus %, target TCC, and target TDC compared to the other job levels

Job Weighted:

Level	Average Base Salary Variance	Average Target Bonus % Absolute Variance	Average Target TCC Variance	Average Long-term Incentive % Absolute Variance	Average Target TDC Variance
Executive	-12%	-33%	-28%	--	-42%
Director	-1%	-10%	-8%	--	-13%
Manager	-2%	-5%	-6%	--	-6%
Individual Contributor	-1%	-2%	-1%	--	-1%
Total	**-2%**	**-7%**	**-6%**	--	**-7%**

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Short-Term Incentive Plan Practices
Introduction

- JEA re-instated a broad-based short-term incentive plan several years ago, both to address competitive pay levels, as well as to reinforce specific messages related to performance expectations
- The following pages summarize market practices related to short-term incentive plan design
  - As appropriate, JEA may consider these practices as they continue to evolve their incentive plan design
  - Key design features covered include eligibility, target award opportunities, payout ranges, bonus pool funding, performance measures and performance range
- The market practices information has been summarized from survey research, as well as our consulting experiences

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Short-Term Incentive Plan Practices
Eligibility

- Eligibility for short-term incentive plans is typically broad for both the Utility and General Industries, with prevalence actually higher in the Utility Industry (particularly at the lower job levels)
- Over 60% of organizations in the industry extend eligibility to the lower exempt and non-exempt roles
  - Lower roles may not have an expressed target opportunity, but they may be part of a "sharing program" based on organizational performance
  - In some cases, overall funding and participation at lower levels may be discretionary

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Short-Term Incentive Plan Practices

Target Incentive Award Opportunities

- Target incentive opportunities typically increase with job level, and are relatively similar in both the Utility and General Industries
- Note that we have recommended STI targets as part of our analysis to "close the gap" between market and JEA's desired competitive positioning

Target Incentive Award Opportunities – By Job Level

	Target STI Opportunities	
Role/Career Level	Utilities	General Industry
Senior Directors	25%	24%
Managers	15%	13%
Supervisors	10%	9%
Senior Level Professionals	13-20%	11-18%
Entry-Mid Level Professionals	7-10%	5-8%
Non-exempt	5%	3-5%

Source: Willis Towers Watson 2018 General Industry and Energy Services MMPS Compensation Survey Reports – U.S.

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Short-Term Incentive Plan Practices
Payout Ranges

- Payout ranges reflect the total award opportunity as a percentage of the target award, and represent the minimum award opportunity if threshold performance is achieved, and the maximum opportunity if maximum performance is achieved
- Payout ranges are typically 50% of target at threshold performance and 200% of target at maximum performance
  - In WTW's consulting experience, public power utilities typically have a maximum payout of 150% of target
- In most cases (and based on the specific performance standards), organizations will interpolate actual performance between threshold, target and maximum to provide appropriate incentive to improve performance at every possible increment
- Note that it is important to calibrate the payout range with the performance range to ensure that the awards are aligned with the probability of achievement

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Short-Term Incentive Plan Practices

Bonus Pool Funding

- There are two primary approaches to determine bonus pool funding:
  1. Sum-of-targets: specific target opportunities are defined (typically by role or grade) and the sum of these targets determines the bonus "pool" (the aggregated award which would be generated at target performance)
  2. Financial results-based formula: typically a financially-driven formula (e.g., bonus pool equals 10% of profits above a specific threshold)
- The sum-of-targets approach is typically the most common in both the Utility and General Industries
  - Prevalence for financial results-based formulas increases slightly for broad-based plans that are separate from executive plans because there is often a greater requirement that they be self-funding
- Particularly for sum-of-target plans, circuit breakers are a common design feature
  - A circuit breaker represents a single performance measure (typically a financial measure) that must be reached before any incentive award is paid regardless of performance in other measures
  - In other words, if the circuit breaker financial performance isn't achieved, it shuts down the entire plan regardless of performance on other performance measures
  - Note that a financial circuit breaker may be set at levels below threshold levels for payout
- Another design feature is a modifier, which can be used to adjust the initial funding up or down based on another important measure (e.g. determine pool based on financial performance, and then modify by operational or customer performance measures)

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Short-Term Incentive Plan Practices

Performance Measures

- Performance measures send an important message about what an organization must achieve, and how individual employees can contribute to those objectives
- We consider it a best practice to have a portfolio of performance measures to balance expectations across financial, operational and customer service categories
  - However, in order to ensure appropriate focus, we typically see 4-6 performance measures, with each measure having at least a 10% weight
- It is typical for organizations in both the Utility and General Industries to include at least one profit or income measure, with profit / operating income being the most common in both industries
- For non-financial performance measures, environmental health and safety, as well as operating / strategic measures are the most common in the Utility Industry
- Individual performance measures are also common in the Utility and General Industries
  - These measures help create line-of-sight to broader corporate measures

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Short-Term Incentive Plan Practices

Performance Range

- Performance ranges reflect the minimum acceptable performance as a percentage of target performance, and the maximum performance recognized as a percentage of target performance
- Narrow performance ranges are typically used for measures where results are not expected to vary significantly from target (e.g., revenues)
- Wider performance ranges are typically used for measures where performance can fluctuate significantly year to year (e.g., profitability)
- In the Utility Industry, performance ranges for profitability at minimum is typically set to be 90% of target and for maximum is typically set to be 115% of target
- An important consideration in establishing the performance range is the probability of achievement
  - A best practice is to set threshold performance goals where the probability of achievement is 80-90% to ensure appropriate motivation
  - Similarly, probability of achievement for target performance should be 50-60% and 10-20% for maximum performance
  - As noted earlier, it is important to calibrate the performance range with the payout range

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Long-Term Incentive Plan Design
Introduction

Why Companies Have Long-Term Incentive Plans	Factor Driving JEA Inclusion of LTI
Focus on long-term performance and align performance to long-term business strategies	✓
Necessary component of a market competitive compensation program for investor owned utilities	✓
Aligns the interests of employees with stakeholders	✓
Fosters long-term retention	✓
Encourages teamwork and collaboration across groups, functions, businesses, etc.	✓
Rewards for long-term shareholder/stakeholder value creation	✓
Balances focus on short-term results that are driven by annual incentives	✓

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Long-Term Incentive Plan Design
Market Practices Summary

Design Aspect	Public Power Utilities	Investor Owned Utility (IOU) Peer Group	Broader Utility Industry
Prevalence	LTI plans are used selectively	All 13 IOU peers have an LTI plan	LTI plans are very prevalent with almost all IOUs using an LTI plan
Eligibility	For those Public Power Utilities with an LTI plan, eligibility typically limited to select executives	Typically executives down to director level positions	Typically executives down to director level positions
Target Opportunity (% of Base Salary)	Varies widely based on the organization, but targets will be lower than IOU levels	Median for CEOs: 230% Median for NEOs*: 110% Median for Directors: NA	Median for CEOs: 240% Median for NEOs*: 75% Median for Directors: 15-25%
Award Frequency	Annual awards with overlapping cycles are most common	All 13 peers grant annual awards with overlapping cycles	98.1% of organizations grant annual awards and overlapping cycles are the most common

NEOs* = Named Executive Officers, as disclosed in the IOU's proxy statement.

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Long-Term Incentive Plan Design
Market Practices Summary (continued)

Design Aspect	Public Power Utilities	Investor Owned Utility (IOU) Peer Group	Broader Utility Industry
Award Vehicles	Cash-based performance plans	100% of peers use performance plans 69% use restricted stock No peers use stockoptions	93% of organizations use performance plans 66% use restricted stock 16% use stockoptions
Performance Metrics	Financial and operational	TSR (100%) EPS (38%) Operational (15%)	TSR (64%) EPS (22%) Other operational metrics are also common
Performance Metrics Weights	Operational metrics weighted more heavily than financial metrics	TSR and financial metrics weighted more heavily than operational metrics	Not available
Performance Range	More conservative compared to IOUs	Relative TSR: 28th %ile at threshold, 50th %ile at target, and 90th %ile at maximum	Relative TSR: 25th %ile at threshold, 50th %ile at target, and 90th %ile at maximum
Payout Range	Threshold: 50% of Target Maximum: 150% of Target	Threshold: 0-50% of Target Maximum: 150-200% of Target	Threshold: 50% of Target Maximum: 200% of Target

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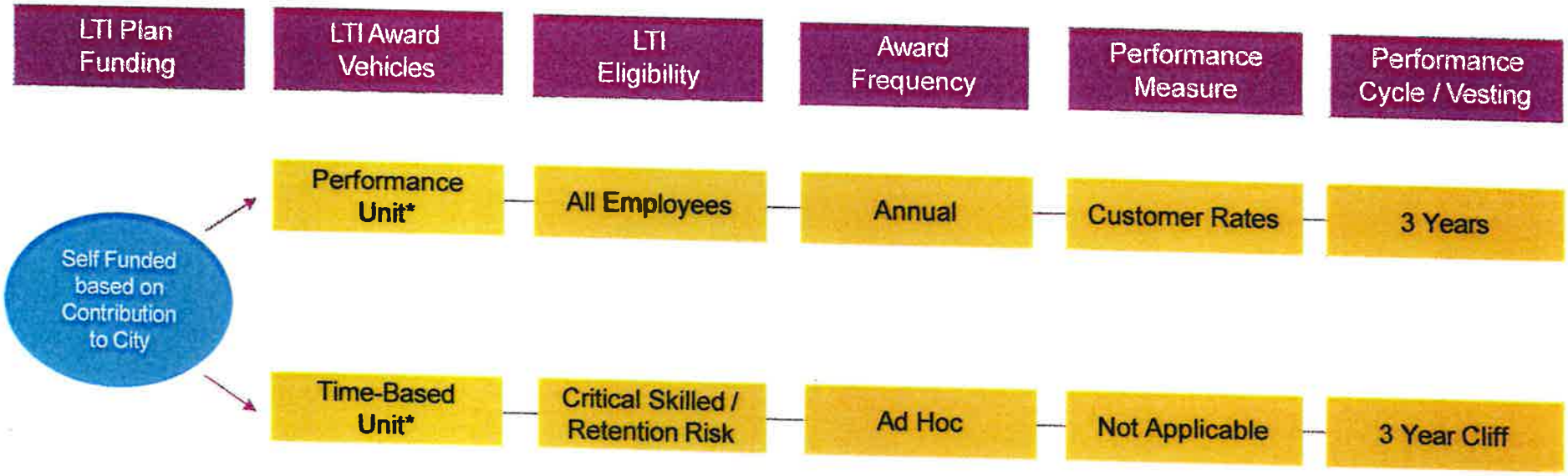
Long-Term Incentive Plan Design
Proposed Design

- *Given consideration of the overarching goal to allow all employees the opportunity to share in the long-term success of the company, we propose a multi-pronged LTI design approach below:*



* Value of units tied to JEA Net Book Value.

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Long-Term Incentive Plan Design

Proposed Design Details: Performance Unit

Performance Unit

Plan Design Element	Plan Design Details
Award Vehicle	• Performance Unit: value of unit tied to JEA Net Book Value; unit valuation formula to be determined
Eligibility	• All employees would be eligible in order to drive collective focus on JEA long-term performance
Target Award Opportunity (as % of base salary)	• Award opportunities vary based on level in the organization (see page 31 for proposed targets); Management and Board's intent is to close competitive gap to market for LTI in first year of grant and ensure JEA compensation is competitive with market 50th percentile
Award Frequency	• Annual
Circuit Breaker	• Defined level of contribution to the City will be established for each award cycle; intent is for contribution level to ensure LTI plan is self funded
Performance Measures	• Net Book Value: used to determine Performance Unit value • Customer Rates: performance measure used to modify the number of Performance Units earned; performance goal to be determined
Performance Period	• 3-year performance cycle with overlapping cycles due to annual grant frequency
Payout Range	• Threshold: 50% of Target • Maximum: 150% of Target
Estimated Cost	• Estimated cost of annual Performance Unit awards to all employees based on current incumbent base salaries* is $3.4M

*Bargaining Unit costs calculated based on step structure data if incumbent data are not available.

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Long-Term Incentive Plan Design
Proposed Design Details: Time-Based Unit

Time-Based Unit

Plan Design Element	Plan Design Details
Award Vehicle	• Time-Based Unit: value of unit tied to JEA Net Book Value; unit valuation formula to be determined
Eligibility	• All employees eligible, but awards targeted to **critically skilled employees or employees viewed as retention risk**; awards generally intended for Manager level positions and below in order to enhance employee retention • Target 10% of employees below the Director level (approximately 1,500 including Bargaining Units) or approximately 150 employees below the Director level to receive awards each year
Target Award Opportunity (as % of base salary)	• Retention award values range from 10% to 20% depending on criticality of role and/or retention need
Award Pool Funding	• Defined level of contribution to the City will be established each year with intent for contribution level to ensure LTI plan, covering both Performance Unit and Time-Based Unit awards, is self funded
Award Frequency	• Ad hoc awards
Vesting Period	• 3-year cliff vesting period
Estimated Cost	• Estimated cost of annual Time-Based Unit awards to employees below the Director level based on current incumbent base salaries* is $1.2M

*Bargaining Unit costs calculated based on step structure data if incumbent data are not available.

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Proposed Compensation Adjustments

Competitive Pay Gaps to Market by Pay Element

- The following exhibit summarizes the current gaps to market for JEA's population (excluding the M&C roles due to lack of incumbent data) by each pay element:
  - JEA's base salary, target TCC, and target TDC show variances comparing incumbent pay to market for the Appointed population
  - Bargaining Units' pay elements and JEA target bonus % are based off of pay structures (many of the Bargaining Units are in step structures)
- Gaps to market exist at target bonus % and long-term incentive %, particularly for the executives and directors, which lead to higher variances to market at target TCC and target TDC

Job Weighted:

Level	Average Base Salary/Midpoint Variance (Median)	Average Target Bonus %		Proposed Target TCC Variance (Median)	Average Long-term Incentive %		Proposed Target TDC Variance (Median)
	JEA	JEA	Market	JEA	JEA	Market	JEA
Executive	-12%	10%	43%	-28%	--	40%	-42%
Director	-1%	8%	18%	-8%	--	8%	-13%
Manager	-2%	7%	13%	-6%	--	--	-6%
Individual Contributor	-1%	7%	10%	-1%	--	--	-1%
Bargaining Units	11%	2%	7%	8%	--	--	8%
Total	**3%**	**5%**	**12%**	**-1%**	--	**19%**	**-2%**

Note: Market data provided by JEA.

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Proposed Compensation Adjustments

Proposed Base Salary, Target Bonus and Long-Term Incentive Adjustments

- **Base Salary**: assess individual competitive position to market; for individual positions well below market, JEA could bring positions to within the competitive range of the market median within two to three years, assuming performance expectations are being met
- **Target Bonus % and LTI % (as % of salary)**: the tables below summarize JEA's current average target bonus and LTI incentive opportunities and proposed target values
  - The incentive targets below are intended to close the gap to market for target total direct compensation within the first year in order to align with the Board's compensation philosophy
  - **Note**: when material gaps to market exist, typical market practice is to make incremental adjustments over a multi-year period (2 to 3 years) to close the gap to market. Company performance, cost considerations and stakeholder optics will influence the level of pay adjustment and the timeframe over which pay is brought to market

Level	Target Bonus %			LTI Opportunity %			Total At Risk Compensation		
	Current	Market	Proposed	Current	Market	Proposed	Current	Market	Proposed
Executive	10%	43%	45%	--	40%	40%	10%	83%	85%
Director	8%	18%	20%	--	8%	5%	8%	26%	25%
Manager	7%	13%	10%	--	--	3%	7%	13%	13%
Individual Contributor	6%	10%	7%	--	--	3%	6%	10%	10%
Bargaining Units	2%	7%	2%	--	--	1%	2%	7%	3%

- **Estimated Cost Impact:** estimated incremental cost impact of proposed target bonus and LTI adjustments to bring JEA compensation to the market median is **$5.8M**; see details below for cost breakdown:
  - Target Bonus Cost: **$2.4M** based off current incumbent base salaries
  - LTI Cost: **$3.4M** based off current incumbent base salaries for performance unit award (total cost of **$4.6M** if time-based unit award is included)

Note: Market data provided by JEA.

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Proposed Compensation Adjustments

Market Positioning Based on Proposed Pay Adjustments

- The following exhibit summarizes the competitive position of JEA pay based on the target bonus % and LTI % adjustments needed to align pay with market median
  - All levels approximate or exceed the market median for target TDC, thereby aligning with the Board's articulated competitive compensation positioning
    - Proposed target bonus % and LTI % for executives bring target TDC to market competitive levels; therefore, material base salary adjustments are not required
    - Bargaining Unit variance exceeds market median target TDC due primarily to variances that are calculated based off of step structure base salaries

Job Weighted:

Level	Average Base Salary/Midpoint Variance (Median)	Average Target Bonus %		Proposed Target TCC Variance (Median)	Average Long-term Incentive %		Proposed Target TDC Variance (Median)
	JEA	JEA Proposed	Market	JEA	JEA Proposed	Market	JEA
Executive	-12%	45%	43%	-6%	40%	40%	-2%
Director	-1%	20%	18%	2%	5%	8%	1%
Manager	-2%	10%	13%	-3%	3%	--	-1%
Individual Contributor	-1%	7%	10%	-1%	3%	--	2%
Bargaining Units	11%	2%	7%	8%	1%	--	9%
Total	**3%**	**8%**	**12%**	**2%**	**3%**	**19%**	**3%**

Note: Market data provided by JEA.

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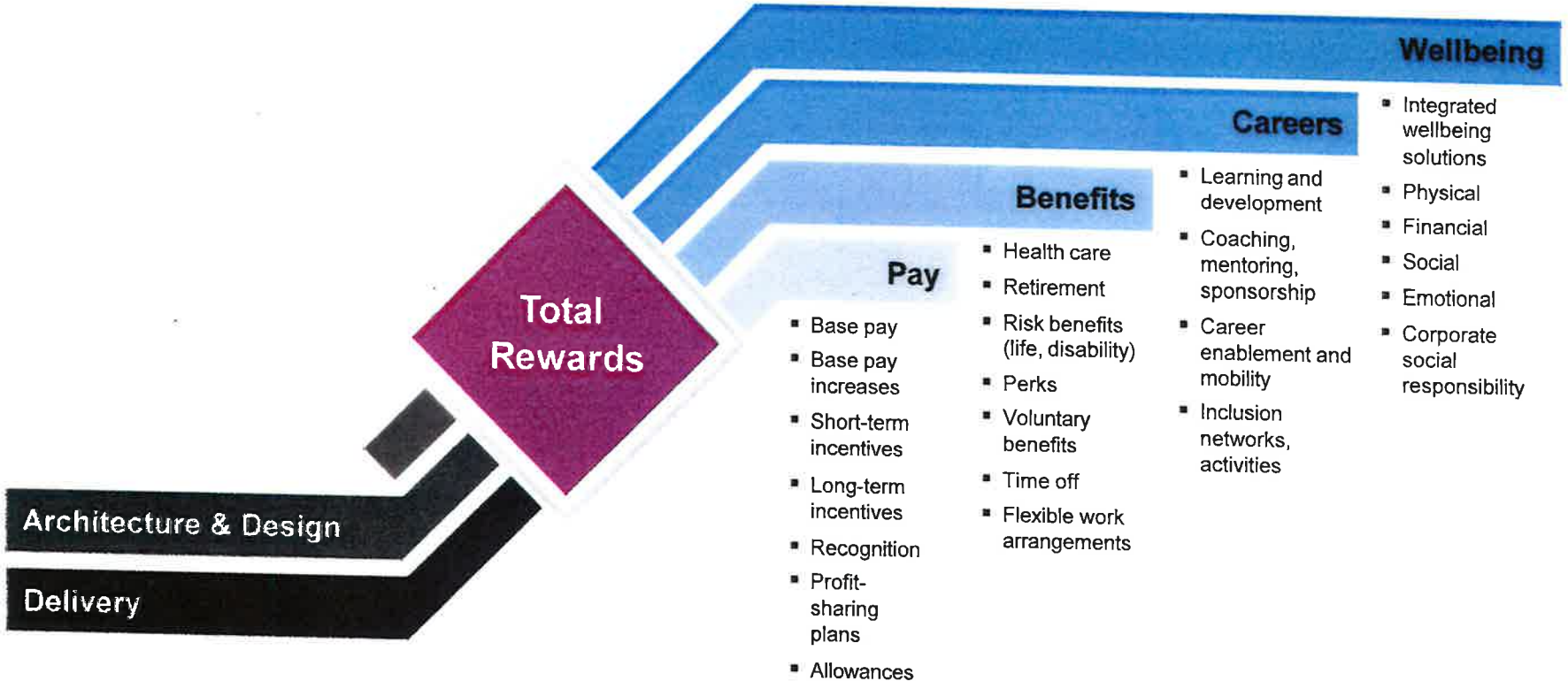
Modernizing Total Rewards

Integrated Total Rewards strategy, architecture & design and delivery for a superior Talent Value Proposition



Source: 2018 Willis Towers Watson Modernizing Total Rewards Survey

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Modernizing Total Rewards

Key themes emerging in the market with implications for Total Rewards

1. Future focused

Emerging work dynamics and skills and multi-generational workforce re-write the deal

2. Technology Advancements

Expansion of *digitization* of the Total Rewards delivery and experience

3. Optimising cost and risk of TR

Analytics and data measurement

4. Segmentation

More tailored Total Rewards with increased choice

5. Consumerism and flexibility

Expansion of worker choice and *voluntary benefits*

6. Transparency

Legislative and social media increase public scrutiny

7. Inclusion and diversity

Total rewards that enable an inclusive culture and diverse workforce

8. Wellbeing

Holistic *physical, financial, social and emotional health*

9. Talent experience

Emphasis on *workplace differentials* that enhance the environment and Talent Value Proposition

10. Good governance

Being *agile and nimble* to adapt to changing, fast-moving business strategies

Source: 2018 Willis Towers Watson Modernizing Total Rewards Survey

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Modernizing Total Rewards

Our findings identify five areas critical to meeting employees' Total Rewards expectations and delivering a consumer-grade experience

Understand what employees value

Consider employee wellbeing a top priority

Make effective use of technology

Measure cost and impact of programs

Prioritize fairness, purpose-driven benefits, and I&D

Source: 2018 Willis Towers Watson Modernizing Total Rewards Survey

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JEA COMPENSATION COMMITTEE MINUTES
June 18, 2019

The Compensation Committee of JEA met on Tuesday, June 18, 2019, in the 8th Floor Conference Room, JEA Plaza Tower, 21 W. Church Street, Jacksonville, Florida.

Agenda Item I – Opening Considerations

A. Call to Order –Committee Chair Johnson called the meeting to order at 2:01 PM with Committee Member April Green in attendance, as well as Board Chair Alan Howard in observance. Also present were Aaron Zahn, Ryan Wannemacher, Jon Kendrick, Lynne Rhode, Herschel Vinyard, and Gina Kyle.

B. Adoption of Agenda – The Agenda was adopted on **motion** by Ms. Green and second by Board Chair Howard.

C. Approval of Minutes – The January 15, 2019 minutes were approved on **motion** by Ms. Green and second by Board Chair Howard.

Agenda Item II – New Business

A. Introduction – Aaron Zahn, Managing Director/CEO introduced the subjects that would be discussed during the meeting.

B. Towers Watson Analysis of JEA vs Industry Compensation – Jon Kendrick, Interim Chief Human Resource Officer provided the committee an overview, as well as, answer question related to the Towers Watson presentation. This item was presented for information to the committee.

C. Long Term Compensation Update – Aaron Zahn, Managing Director/CEO and Herschel Vinyard, Chief Administrative Officer presented the Long Term Compensation Update. With this program, employees are eligible to receive self-funded long term incentives based on clear measurable factors on a three year industry standard cycle. Mr. Zahn advised the committee that if they commissioned JEA leadership to move forward the team would work to develop an appropriate plan. This item was presented for information to the committee.

Board Chair Howard made a **motion** to direct JEA management to start the process of finalizing the long term compensation framework, with a second by Ms. Green, motion carries.

D. Executive Contract – Aaron Zahn, Managing Director/CEO and Committee Chair Johnson discussed the executive contract and discussed extending the current contract until July 31, 2019, to allow time for the total compensation plan to be worked out prior to finalizing the contract for the Managing Director/CEO. Contract discussions were deferred.

E. Other New Business

F. Announcements
   1. Schedule Next Meeting as Appropriate

G. Adjournment

APPROVED BY:

Camille Lee-Johnson, Committee Chair
Date: _____

Submitted by:

_____
Brandi Taylor
Executive Assistant

Vinyard, Herschel T. - Chief Administrative Officer

From: Stewart, Kerri - VP & Chief Customer Officer
Sent: Friday, December 6, 2019 10:53 AM
To: Zahn, Aaron F. - Managing Director/CEO; Vinyard, Herschel T. - Chief Administrative Officer; Dykes, Melissa H. - President/COO; Rhode, Lynne C. (City of Jacksonville); Wannemacher, Ryan F. - Chief Financial Officer; Hall, Sherry L.
Subject: Memo to April Green from Jason Gabriel re: PUPs

FYI

From: Rondinelli, Mellissa <MRondinelli@coj.net>
Sent: Friday, December 6, 2019 10:06 AM
To: Stewart, Kerri - VP & Chief Customer Officer <stewk@jea.com>
Subject: FW: JEA re Preliminary Approval of PUP

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

From: Gabriel, Jason
Sent: Friday, December 06, 2019 10:01 AM
To: April Green (agreen@mebusinesssolutions.com)
Subject: JEA re Preliminary Approval of PUP

Dear April –

Per our conversation earlier this morning, it has come to my attention that a certain implication has been made that JEA did something legally wrong with regard to the preliminary adoption of the Performance Unit Plan (PUP) at the July 23, 2019 meeting. I write to address this unfortunate suggestion.

Following the Board meeting, JEA gave OGC requisite time to research and review the specifics of the plan prior to its implementation. This was a collaborative process between OGC and JEA of due diligence and analysis that included an inquiry to the Florida Attorney General. In preliminarily approving the PUP, the JEA Board did not act outside of their legal authority.

OGC ultimately concluded that the PUP had outstanding legal issues and JEA ultimately concluded that they would no longer pursue the plan. At the next JEA Board meeting, the Board will have the opportunity to vote to formally withdraw the plan. I anticipate that the Board will take appropriate action at that time.

Please do not hesitate to contact me with any questions or concerns.

Thank you,

-Jason G.

Jason R. Gabriel
General Counsel

Office of General Counsel
City of Jacksonville
117 W. Duval Street, Suite 480
Jacksonville, Florida 32202
Telephone: (904) 255-5050
Facsimile: (904) 255-5119
email: jgabriel@coj.net
Board Certified - City, County & Local Government Law*

****** Please note that under Florida's very broad public records law, email communications to and from city officials are subject to public disclosure. ******

OFFICE OF GENERAL COUNSEL
CITY OF JACKSONVILLE
117 WEST DUVAL STREET
SUITE 480
JACKSONVILLE, FL 32202
PHONE: (904) 255-5100

MEMORANDUM

TO: Honorable Council Member Michael Boylan

CC: Jason R. Gabriel, General Counsel

FROM: Lawsikia J. Hodges, Deputy General Counsel, Government Operations

RE: **JEA Invitation to Negotiate #129-19 for Strategic Alternatives - Notice Requirements in Section 21.04(p) of the City Charter**

DATE: December 5, 2019

I. Background.

On July 23, 2019, the JEA Board approved Resolution 2019-07, which authorized the Chief Administrative Officer and Managing Director (the "JEA CEO") to undertake a competitive solicitation regarding JEA's assets (the "Resolution"). On August 2, 2019, JEA issued Invitation to Negotiate #129-19 for Strategic Alternatives (the "ITN")[1].

II. Question Asked.

Whether the JEA Board was required under Section 21.04(p) of the City Charter to provide the Council Auditor with 30 days advance written notice of the JEA Board's action of approving the Resolution?

III. Short Answer.

No. The JEA Board was not required to provide the Council Auditor with 30 days advance written notice of the JEA Board's action of approving the Resolution because such approval by the JEA Board was not an "activity" pursuant to Section 21.04(p). The term "activity" as used in Section 21.04(p) refers to the specific activities listed therein (and any activities not listed of the same kind)[2] (i) that JEA, operating as a public utility, is permitted to

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[1] The ITN was issued in accordance with the authority set forth in the Resolution, the JEA Procurement Code, the JEA Procurement Code Operational Procedures (the "Operational Procedures"), and Article 21 of the City Charter (the "City Charter").

[2] See statutory construction principle *ejusdem generis*.

enter into; and (ii) that transfers, sells, finances, leases *or otherwise provides services or products, or by-products* developed or used by JEA *incident to the exercise of the powers conferred in Article 21* of the City Charter. As a public utility, the quintessential power conferred to JEA in Article 21 is the power of JEA to own, manage and *operate* a *utilities system*[3] within and without the City of Jacksonville[4]; all other powers conferred to JEA in Article 21, including the powers referenced in Section 21.04(p), is in support of this foremost power. As such, the activities referenced in Section 21.04(p) must constitute "services, products, or by-products" developed or used by JEA incident to operating a utilities system. As long as an activity meets the requirements of Section 21.04(p) (i.e., constitute services, products, or by-products developed or used by JEA incident to its power to operate a utilities system), JEA must provide the Council Auditor with advance written notice prior to JEA entering into such activity.

Here, the JEA Board's action of approving the Resolution does not constitute an "activity" under Section 21.04(p) because in and of itself such action by the board is not a "service, product or by-product" developed or used by JEA incident to the powers conferred in Article 21. By way of example, the specific activities listed in Section 21.04(p) include services, products or by-products such as energy performance contracting, power marketing services, the supply of stem or other thermal energy, and the testing and maintenance of customer-owned facilities. These activities represent ordinary activities customary to JEA's operation as a public utility, and thus, JEA is conferred authority to enter into such activities so as long as proper advance notice is provided to the Council Auditor. Here, the board's action of approving the Resolution was a procurement authorization and approval of the JEA CEO to explore transferring a significant portion of JEA assets (comprising more than ten percent of the utilities system) to another utility to own, manage and operate for JEA (and the City).[5] Such action by the board was not an activity similar in nature or kind to the activities listed in Section 21.04(p);[6] therefore, the JEA Board's action of approving the Resolution was not subject to the Council Auditor's notice requirement contained in Section 21.04(p).[7]

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[3] The term "utilities systems" includes the electric utility system, the water and sewer utility system, the natural gas utility system, and any other additional utilities systems *operated* by JEA. See Section 21.02 City Charter.

[4] See Article 21.01 of the City Charter.

[5] Given the exploratory nature, a sale or transfer of JEA assets may or may not result from the procurement process. If the JEA Board ever seeks to consummate a sale or transfer (comprising more than ten percent of the utilities system) to another utility, the JEA Board must obtain City Council approval and a subsequent voter referendum pursuant to Section 21.04(p).

[6] See statutory construction principle *ejusdem generis*.

[7] Although the JEA Board was not required to provide notice to the Council Auditor under Section 21.04(p), the JEA Chief Legal Officer indicated that JEA emailed a link of the July 23, 2019 JEA Board meeting materials on July 22, 2019, to the Council Auditor's office and also delivered a hard copy of the July 23rd board meeting materials to the Council Auditor's office on July 23, 2019.

OFFICE OF GENERAL COUNSEL
CITY OF JACKSONVILLE

CITY HALL, ST. JAMES BUILDING
117 WEST DUVAL STREET, SUITE 480
JACKSONVILLE, FLORIDA 32202

MEMORANDUM
JULY 22, 2019

TO: FILE

FROM: LAWSIKIA J. HODGES, DEPUTY GOVERNMENT OPERATIONS

LYNNE C. RHODE, JEA CHIEF LEGAL OFFICER

JASON R. GABRIEL, GENERAL COUNSEL

RE: **STRATEGIC PLANNING ACTIONS TAKEN BY THE JEA BOARD BASED ON SCENARIO-BASED PLANNING OPTIONS PRESENTED BY THE JEA SENIOR LEADERSHIP TEAM**

The JEA Senior Leadership Team[1] ("SLT") has presented, and intends to present scenario-based planning options to the JEA Board ("Board") to assist the Board in making strategic planning decisions regarding JEA's future. In scenario-based strategic planning, SLT presents various scenarios regarding JEA's future to the Board, and depending on the scenario chosen by the Board, the Board makes strategic planning decisions based on the scenario selected.

SLT presented scenario-based planning option 1 (Scenario 1 - Status Quo) to the Board on May 28, 2019. SLT intends to present three additional scenario-based planning options to the Board at its regular meeting on July 23, 2019: Scenario 2A - Traditional Utility Response, Scenario 2B - Traditional Utility Response (with traditional legislative approach) and Scenario 3 - Non-Traditional Utility Response (collectively "Options" or individually "Option").

Any decision by the Board to proceed with implementing one of the Options presented by SLT will require formal actions by the Board in the form of various Board resolutions and/or motions. The Office of General Counsel, in consultation with outside counsel,[2] has reviewed the proposed resolutions associated with each Option (Resolutions 2019-06 through 2019-10), and we believe that the Board is authorized under its charter provisions, subject to applicable laws, to proceed with implementing through formal action one of the Options, as presented.

The decision to proceed with implementing one of the Options, as presented, is a business decision for the Board to make and within its authority under the City Charter.

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[1] The Senior Leadership Team consists primarily of the Managing Director and Chief Executive Officer, the Chief Operating Officer, the Chief Administrative Officer and the Chief Financial Officer.

[2] Office of General Counsel engaged and relied on various outside specialized counsel to assist JEA in the preparation of the resolutions and underlying documents required for each Option presented by SLT. Accordingly, the scope of this memorandum does not address the legality of the underlying documents drafted to implement such resolutions, as such legality has been confirmed, and will continue to be developed and approved by special counsel to JEA appointed and supervised by the Office of General Counsel pursuant to the course of action approved by the JEA Board.

JEA BOARD MINUTES
July 23, 2019

The JEA Board met in regular session on Tuesday, July 23, 2019, on the 19th Floor, 21 W. Church Street, Jacksonville, Florida. Present were April Green, Camille Lee-Johnson, Alan Howard, Reverend Fredrick Newbill, Kelly Flanagan, and Andy Allen. John Campion was absent and excused.

Agenda Item I – Welcome

A. The meeting was **called to order** at 9:00 AM by Chair April Green.

B. A **Moment of Reflection** was observed by all.

C. The **Pledge of Allegiance** was led by Chair Green.

D. **Adoption of Agenda** – The agenda was approved on **motion** by Vice Chair Newbill and second by Mr. Howard.

E. **Introductions** were made by board members present, Aaron Zahn, and Lynne Rhode.

F. The **Safety Briefing** was given by Aaron Zahn, Managing Director/Chief Executive Officer.

G. **Sunshine Law/Public Records Statement** – Lynne Rhode, Office of General Counsel (OGC), stated this Board Meeting is being held in compliance with Florida's Government in the Sunshine Law, §286.011. The complete statement can be found in section I. F. of the Board package.

Agenda Item II – Comments / Presentations

A. **Comments from the Public** – All information for speakers on file.

- **Jennifer Stokes:** JEA employee and PEA vice chair. Comments on Strategic Planning. Asked that Staff keeps the employees in mind during decision making.
- **Cathleen Crowe:** JEA employee and President of AFSCME. Comments on Strategic Planning. Invited the SLT and Board of Directors to a union meeting to discuss their union's contribution to JEA.
- **Ronnie Burris:** Business Manager of LIUNA Local 630 and JEA retiree. Comments on Strategic Planning. Asked that thought is put into decisions that are made and do whatever it takes to protect the employees.
- **Jesse Ferraccio:** Vice President of IBEW Local 2358 and JEA employee. Comments on Strategic Planning. Asked that decisions made about the future of JEA's detriment of the employee and stated that they are more than willing to work with the SLT to protect the employees.
- **Randy Hilton:** President of PEA and JEA employee. Comments on Strategic Planning.

B. **Comments from Council Liaison – Councilman Danny Becton** stated that he is glad to be the liaison for the board. He also stated that JEA is a crossroad and it is unacceptable to ignore the facts that we must innovate. He is looking forward to this opportunity.

Agenda Item III – Operations (Discussion/Action)

A. **Consent Agenda** – used for items that require no explanation, discussion or presentation and are approved by one motion and vote. On **motion** by Secretary Johnson and second by Mr. Howard, Appendix A and Appendix B were approved.

Appendix A: Board Meeting Minutes May 28, 2019 – approved
Appendix B: Approval of Bond Counsel - approved

B. **Monthly Reports and Updates** – The following monthly reports and updates are submitted to the Board as information only. These items require no explanation, discussion, presentation or action.

Appendix C: Monthly Financial Statements – received for information

Appendix D: Monthly FY19 Communications & Engagement Calendar and Plan Update – received for information

Appendix E: Sole Source & Emergency Procurement/Procurement Appeals Board Report – received for information

Appendix F: Corporate Campus Update – received for information

C. **Monthly Financials and Operations Dashboard** – Melissa Dykes, President/COO discussed the details of financial dashboards, highlighting some of the metrics. JEA is in the first quartile of residential customer satisfaction in the JD Power Residential Index; improved to 28 of 142 metrics for residential customer satisfaction amongst National utilities. JEA is in the second quartile of business customer satisfaction index, therefore JEA will not meet that goal. The water pressure metric is not likely to be met as well. In addition, capital spending is on track. Also nitrogen into the river is doing well; the last 12 months have been the lowest in the history of JEA.

D. **Strategic Planning** – Aaron Zahn, Managing Director/CEO introduced the presentation and the flow of presenters. Melissa Dykes, President/COO recapped the past presentations and Lynne Rhode, Chief Legal Officer read the disclaimer. Ms. Dykes stated that Scenario 2A shifts responsibility back to JEA but at the cost of operations. Ms. Dykes explained the sensitivity analysis and outlined the process and timeline of Scenario 2A. Highlighted the implementation plan located in the appendix.

Mr. Zahn stated that he went out to speak to customers and they are actively investing in alternative energy distribution.

Herschel Vinyard, Chief Administrative Officer presented Scenario 2B, the analysis on the constraints and the significant legal barriers. Mr. Vinyard explained what Public Policy is and the difficulties of competing in the private sector. Mr. Vinyard highlighted several laws that make it difficult for JEA to compete. Mr. Vinyard asked that the Board of Directors allow Staff to pursue the removal of legal barriers and allow Staff to come back with a granular strategy in a few months.

Ryan Wannemacher, Chief Financial Officer, presented Scenario 3. Mr. Wannemacher stated that Scenario 2A and 2B puts JEA on a controlled declined shrinkage. Mr. Wannemacher highlighted the options in Scenario 3. Scenario 3A would give ownerships to the customers, Scenario 3B would consider an IPO, and Scenario 3C would be private placement, Scenario 3D technology conversion, 3E oil and gas conversion, and Scenario 3F would be utility conversion. Mr. Wannemacher stated the first priority is the employee. Mr. Wannemacher provided a timeline and flow of a non-government structure. Mr. Wannemacher asked that the Board of Directors approve a minimum set of requirements that must be achieved by any investor for recapitalization. Kevin Hyde of Foley & Lardner joined the presentation to further explain the pension protection and provided two

examples, but stated that employees will be provided specific details on their situations.

Mr. Zahn, stated should the board approve Scenario 3 there would be a recommendation for retention payments and accelerated service, base rate freeze approval, an open and competitive process, and a commitment from the Board of Directors and management team to investors.

Lynne Rhode, Chief Legal Officer read Resolution 2019-06 and solicited a motion to pursue Scenario 2A and 2B and motion to adopt Resolution 2019-06. Ms. Rhode then read Resolutions 2019-07, 2019-08, and Resolution 2019-09 and solicited a motion to adopt 2019-07, 2019-08, and Resolution 2019-09.

Chair Green stated that the Board has reviewed the documents extensively. Scenarios felt very corporate, specifically Scenario 3 and felt the importance of the employees and the community. The board had an open discussion on all of the presentation. Mr. Zahn stated that the minimum requirements were deliberated by staff and business partners.

Motion was made and passed to amend Resolution 2019-07 number 4. On motion by Secretary Johnson and second by Vice Chair Newbill amended Resolution 2019-07 was approved unanimously.

RESOLUTION 2019-07

A RESOLUTION AUTHORIZING THE CEO TO TAKE ANY AND ALL ACTION TO INVESTIGATE AND PURSUE SCENARIO 3: THE NON-TRADITIONAL UTILITY RESPONSE

Resolution 2019-08 on motion by Vice Chair Newbill and second by Alan Howard was approved unanimously.

RESOLUTION 2019-08

A RESOLUTION APPROVING THE REQUEST FOR INTRODUCTION OF PENSION REVISION LEGISLATION TO THE CITY COUNCIL UNDER SCENARIO 3 (THE NON-TRADITIONAL UTILITY RESPONSE) AND AUTHORIZING THE CEO TO TAKE ANY AND ALL ACTION TO PURSUE THE INTRODUCTION OF THE LEGISLATION

Resolution 2019-09 on motion by Vice Chair Newbill and second by Secretary Johnson was approved unanimously.

RESOLUTION 2019-09

A RESOLUTION APPROVING EMPLOYEE PROTECTION AND RETENTION PROGRAM AND APPROVING CEO AND NON-CEO EXECUTIVE EMPLOYMENT AGREEMENTS UNDER SCENARIO 3 (THE NON-TRADITIONAL UTILITY RESPONSE) AND AUTHORIZING ACTION TO PURSUE IMPLEMENTATION OF SUCH PROGRAM AND EXECUTION OF SUCH AGREEMENTS

Agenda Item VI – Committee Report

A. **Total Compensation and Employee Benefits** – Jon Kendrick, Chief Human Resource Officer, presented the Total Compensation Strategy. The goal is to elevate the entire team by ensuring the compensation philosophy align with the guiding principles, encourage long-term culture value, establish a formal compensation policy to align behavior to the four corporate measures of value, and ensure policy promotes collaboration to drive

vision and mission. Ryan Wannemacher, Chief Financial Officer presented the Long-Term Performance Units Program and how they will be beneficial to both the employees and JEA.

Lynne Rhode, Chief Legal Officer read Resolution 2019-10. On motion by Alan Howard and second by Vice Chair Newbill Resolution 2019-10 was approved unanimously.

RESOLUTION 2019-10

A RESOLUTION APPROVING LONG-TERM PERFORMANCE UNIT PLAN AND RELATED DOCUMENTATION AND AUTHORIZING THE CEO TO TAKE ANY AND ALL ACTION TO PURSUE THE IMPLEMENTATION OF SUCH PLAN AND RELATED DOCUMENTATION

Agenda Item VII – Other Business

A. **Old Business** – N/A
B. **Other New Business** – Alan Howard thanked everyone for their time and the opportunity
C. **Open Discussion** – None
D. **Managing Director/CEO's Report** – Mr. Zahn extended gratitude to Lynne Rhode and the entire Executive Team for their efforts to get the material and presentations together. Mr. Zahn thanked the Board of Directors for their work as well.
E. **Chair's Report** – Chair Green reiterated Mr. Zahn's message and also reiterated that there was no vote to sell JEA. The board gave leadership the direction to go back and pursue an unconstrained non-traditional response to make JEA better for the employees, customers, and community as a whole.

Agenda Item VIII – Closing Considerations

A. **Announcements** – Next Board Meeting – August 27, 2019

B. **Adjournment**

With no further business claiming the attention of the Board, Chair Green adjourned the meeting at 12:00.

APPROVED BY:

_____
SECRETARY
DATE: _____

Board Meeting recorded by:

_____
Madricka L. Jones, Executive Staff Assistant

RESOLUTION 2019-10

A RESOLUTION APPROVING LONG-TERM PERFORMANCE UNIT PLAN AND RELATED DOCUMENTATION AND AUTHORIZING THE CEO TO TAKE ANY AND ALL ACTION TO PURSUE THE IMPLEMENTATION OF SUCH PLAN AND RELATED DOCUMENTATION

WHEREAS, in accordance with Board Policy 2.7, the Compensation Committee directed JEA management in January 2019 to develop a compensation policy to align with talent market and guiding principles, JEA management presented to the Compensation Committee and the Compensation Committee approved in June 2019 the framework for a compensation plan, including a long-term incentive plan;

WHEREAS, at its June 2019 Board meeting, the Board approved the framework of JEA's long-term compensation plan and authorized JEA management to develop the plan and present it to the Board at the July 2019 Board meeting for final approval;

WHEREAS, the Board believes that it is in the best interest of JEA to adopt a long-term performance unit plan in connection with annual performance reviews and general operation of JEA; and

WHEREAS, the Board has reviewed the summary of the terms and conditions of the Long-Term Performance Unit Plan, which summary is attached hereto as Exhibit 1 (the "Long-Term Performance Plan Summary").

BE IT RESOLVED, by the Board that:

1. The Chief Executive Officer and Managing Director (the "CEO") or his designee shall have the authority to (i) implement a long-term performance unit plan (the "Long-Term Performance Unit Plan") on the terms and conditions set forth on the Long-Term Performance Plan Summary, (ii) execute with each actively employed eligible full-time employee, any full-time JEA employee as otherwise recommended by the CEO and approved by the Administrator of the Long Term Performance Unit Plan, and each actively employed eligible full-time attorney from the Office of General Counsel of the City of Jacksonville who is dedicated exclusively to JEA an agreement under the Long-Term Performance Unit Plan, (iii) in consultation with the Office of General Counsel, make technical and clerical amendments to the Long-Term Performance Unit Plan and/or the Form Long-Term Performance Agreement, all of which do not increase the financial obligations or liability of JEA under the Long-Term Performance Unit Plan and/or the Form Long-Term Performance Agreement, and (iv) take, or cause to be taken, any and all action and to prepare, execute and deliver, or cause to be prepared, executed and delivered, any and all documents that the CEO or his designee deems necessary or advisable to carry out the intent of this resolution.

2. The Chair of the Compensation Committee of the Board be, and hereby is, appointed as the Administrator of the Long-Term Performance Unit Plan with full power and authority to administer the Long-Term Performance Unit Plan in accordance with the terms

therewith.

3. The 2019 Redemption Price Schedule under the Long-Term Performance Unit Plan for the Performance Units to be purchased by Participants in January 2020 attached hereto as Exhibit 2 is hereby approved.

4. This resolution shall be effective immediately upon its adoption.

Dated this 23rd day of July 2019.

JEA

By: _____
April Green, Chair

_____
Secretary

Form Approved:

_____
Office of General Counsel

RESOLUTION 2019-10 EXHIBIT 1

Long-Term Performance Plan Summary

Overview	Subject to the satisfaction of the conditions described below, each eligible employee may purchase a specified number of performance units from JEA on January 15th of each year. Eligible employees will be notified in and will execute the Long-Term Performance Unit Plan Agreement in Q4 of calendar year 2019 that they may purchase performance units and the first purchase date will be January 15, 2020. Each performance unit represents a potential right to receive a cash payment equal to the redemption price (as described below) for such unit.
Documentation	All eligible employees will be subject to a plan and will be required to sign an agreement with JEA.
Eligible Employees	All (i) full-time employees who are actively employed with JEA for at least three months prior to the purchase date and (ii) full-time attorneys from the Office of the General Counsel of the City of Jacksonville who are dedicated exclusively to JEA for at least three months prior to the purchase date are eligible to purchase performance units. Any exceptions to the above must be recommended by JEA's CEO and approved by the administrator (as described below).
Pool	A total of 100,000 performance units are available for purchase under the plan.
Purchase Price Payment	Each performance unit will have a purchase price of $10.00. To pay the purchase price, an eligible employee will elect to defer a portion of his or her pay equal to the aggregate purchase price for the performance units. Each eligible employee may elect to defer his or her pay in a lump sum or equal installments during the payroll periods as selected by such employee and such employee's pay will be deferred at such time as such pay would otherwise have been paid but not for the deferral election. An eligible employee will elect to defer in the calendar year prior to the year in which the compensation is earned.
Performance Period	Each performance period will be a three-year period that is used to calculate the redemption price (if a Recapitalization Event occurs, the performance period will be truncated and will end on the closing date of such Recapitalization Event).

Redemption Price	An eligible employee will receive a cash payment equal to the redemption price for each performance unit that such employee purchases. The redemption price will include the purchase price paid by an eligible employee for such unit. The redemption price will increase by $100.00 per performance unit for each Value Change Percentage increase of 1% in excess of the "Challenge Value Target" and will decrease by $0.50 per performance unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target, but the redemption price will not be less than $0.00 per performance unit. • The "Challenge Value Target" will be 110% for the first performance period and the "Threshold Value Target" will be 90% for the first performance period. • The "Value Change Percentage" means a percentage equal to the "Current Year Value" divided by the "Base Year Value." • "Current Year Value" means, with respect to each performance period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such performance period, (ii) the aggregate consideration paid, distributed, credited or otherwise provided to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the 12-month period prior to the end of the performance period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to JEA's customers during the 12-month period prior to the end of the performance period. Any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event will be taken into account for purposes of calculating the amounts in (i) – (iii). • For the first performance period, "Base Year Value" is the amount equal to the Current Year Value for fiscal year 2019 as reflected on JEA's audited financial statements when available. JEA's Chief Financial Officer will calculate the redemption price. The administrator will certify the redemption price as soon as practicable following the completion of JEA's audit for the applicable performance period, but in no event later than 30 days thereafter (or, if a Recapitalization Event occurs, no later than 30 days following the closing date of such Recapitalization Event).

Payments and Vesting Generally	The performance units will vest on the earlier to occur of (i) the first anniversary of the last day of the performance period and (ii) the date on which a Recapitalization Event occurs (the "Vesting Date"). Except as otherwise described herein, an eligible employee must be employed on the Vesting Date for the performance units to vest. Payments will be paid to an eligible employee no later than 30 days after the redemption price has been certified by the administrator as described above.
Termination of Employment	If an eligible employee experiences an involuntary termination of employment (as described below) prior to the applicable Vesting Date, such employee will receive a payment in respect of all of his performance units. Any amounts payable to a terminated eligible employee in respect of his performance units will be paid to such employee at the same time as the amounts would have been paid had there been no termination of employment. An involuntary termination means a termination of employment by JEA without cause or due to the eligible employee's death or disability. An eligible employee will forfeit his performance units and aggregate purchase price on a termination of employment that is not involuntary.
Retirement Eligible Employees	If an eligible employee becomes a retirement eligible employee (as described below) and retires, in each case, prior to the applicable Vesting Date, such employee's performance units will vest on the applicable Vesting Date. An eligible employee is retirement eligible if such employee has attained one of the retirement milestones as described in the General Employees Retirement Plan.
Recapitalization Event	"Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other applicable law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least 50% of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.
Conditions to Receipt	An eligible employee will receive the cash payment in respect of his performance units if: (i) he executes an agreement; (ii) the employee is continuously employment with JEA (except as set forth above); (iii) the employee executes and does not revoke a release of claims in favor of JEA and the City of Jacksonville; (iv) the employee complies with the covenants set forth below; and (v) the conditions in Section 215.425(3), Florida Statutes are satisfied.

Employee Covenants	Each eligible employee must (i) devote his best efforts to faithfully discharge his duties on behalf of JEA and not take any action that would be contrary to the best interests of JEA, (ii) not disclose confidential JEA information (except as required by applicable law or to perform his job duties) or (iii) not make any unauthorized public statements about, among others, JEA and government officials of the City of Jacksonville. If an eligible employee breaches or threatens to breach these covenants, such employee will forfeit his unvested performance units and JEA will not pay to such employee any amount in respect of his performance units (including any purchase price paid by such employee for the performance units) and/or such employee will promptly repay all or any portion of the cash payment previously paid to him in respect of his performance units, as applicable.
Administrator	The Chair of the Compensation Committee will be the administrator.
Miscellaneous	Any payments made to an eligible employee will be paid less applicable withholding taxes. The plan and agreements will be subject to Sections 409A and 457(f) of the Internal Revenue Code (the "Code") and will be construed and interpreted accordingly. The agreements will be governed by the laws of the State of Florida and subject to arbitration in Duval County in the State of Florida. If or as required, JEA will collectively bargain the plan and applicable agreements with unions representing covered bargaining unit employees of JEA. If any payments under the plan or an agreement to an eligible employee are subject to any excise tax, interest or penalties under the Code (the "Penalties"), JEA will pay to such employee an amount equal to the full amount of the Penalties. JEA will not pay to an eligible employee any amount in respect of Penalties caused by such employee's breach of his or her agreement or such employee's failure to comply with applicable law.

RESOLUTION 2019-10 EXHIBIT 2

Long-Term Performance Unit Plan – 2019 Redemption Price Schedule

SCHEDULE A
2019 REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means 110%.

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period, (ii) the aggregate consideration paid, distributed, credited or otherwise provided to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (a), (b) and (c), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means 100%.

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

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[1] For 2019, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

THIS LONG-TERM PERFORMANCE UNIT AGREEMENT (this "Agreement") is made effective as of the [_____] day of [_____], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), and [_____] (the "Participant").

RECITALS:

WHEREAS, all Employees perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Participant obtaining performance standards that shall be individually determined and evaluated based on the Participant's proportionate contribution to JEA, JEA desires to allow the Participant, and Participant desires, to participate in JEA's Long-Term Performance Unit Plan (the "Plan") on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the Plan.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, JEA and the Participant agree as follows:

1. **Certain Definitions; Incorporation by Reference**. Capitalized terms used herein but not defined shall have the meanings given to such terms in the Plan. The terms of the Plan are hereby incorporated by reference.

2. **Deferral Election**. Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that the Participant defers hereunder are unfunded and unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax

advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

3. Payment of Redemption Price. The Performance Units shall vest in accordance with the terms of the Plan and JEA shall pay to the Participant a cash lump sum equal to the product of the number of vested Performance Units multiplied by the Redemption Price per Performance Unit in accordance with the terms of the Plan. For the avoidance of doubt, in no event shall the Participant be entitled to receive any amounts in excess of the value of the Redemption Price per Performance Unit (other than salary and other compensation (including any retention arrangements) approved by the Board in the normal course) under this Agreement.

4. Conditions to Receipt of the Performance Units. The Participant's right to retain the Performance Units and receive payment of the Redemption Price per Performance Unit is conditioned on his or her execution of this Agreement (including the completion and execution of Schedule I attached hereto) and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth in the Plan); (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group in a form reasonably satisfactory to JEA; and (c) the Participant's compliance with the covenants set forth in Section 5 of this Agreement. If the Participant breaches or threatens to breach any of the covenants in Section 5, the Participant shall forfeit any Performance Units that have not vested in accordance with Section 5(d) or Section 5(f) of the Plan (except JEA shall refund to the Participant the aggregate Purchase Price of such forfeited Performance Units).

5. Covenants. The Participant shall comply with the following covenants:

THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.

(a) Cooperation. The Participant shall throughout the Performance Period: (i) devote best efforts to faithfully discharge his or her duties, obligations and responsibilities on behalf of the JEA Group as those duties, obligations and responsibilities have been performed in the past or as may be subsequently modified in writing by JEA and the Participant, (ii) provide full support and cooperation in the best interests of the JEA Group and (iii) take no action that would be considered contrary to the best interests of the JEA Group..

(b) Confidentiality.

(i) *Protection of Information.* The Participant acknowledges and agrees that the confidentiality provision contained in this Section 5(b) is essential to protect JEA's goodwill, the value of JEA's business and assets and the investor relations that JEA has expended significant resources to develop. Subject to applicable limitations of Chapter 119 and Section 215.425(5), Florida Statutes, the Participant shall keep confidential the

Plan and this Agreement and their respective terms; provided that the Participant may provide the Plan and this Agreement on a confidential basis to his or her legal counsel, accountant, and/or tax advisor. In addition, at all times during the Participant's relationship with the JEA Group and thereafter, the Participant agrees to hold in strictest confidence and not disclose Confidential Information to any individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof, without prior written authorization from JEA, and not to use Confidential Information, except to perform the Participant's obligations to the JEA Group, until such Confidential Information becomes publicly and widely known and made generally available through no wrongful act of the Participant's or of others who were under confidentiality obligations as to the item or items involved. The Participant further agrees not to make any copies of Confidential Information, except as authorized in writing in advance by JEA.

(ii) *Definitions*. For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

(iii) *Confidential Disclosure in Reporting Violations of Law or in Court Filings*. The Participant acknowledges and JEA agrees that the Participant may disclose Confidential Information in confidence directly or indirectly to federal, state, or local government officials, including, but not limited, to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. The Participant may also disclose Confidential Information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this Agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create liability for disclosures of Confidential Information that are expressly allowed by 18 U.S.C. § 1833(b).

6. Entire Agreement; Modification. This Agreement (including the Plan which is incorporated herein by reference) contains the entire understanding and agreement between the

parties relating to the Performance Units and supersedes and replaces all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, by or among the parties with respect thereto (none of which remain of any force or effect). This Agreement, including this Section 6, may be modified only by agreement in writing signed by both JEA and the Participant.

7. Counterparts. This Agreement may be executed in two or more counterparts (including via facsimile or .pdf file), each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

8. Waiver. Any failure of the Participant to comply with any of his or her obligations under the Plan and/or this Agreement may be waived only in writing signed by JEA's Vice President of Human Resources (or his or her delegate). Any failure of JEA to comply with any of its obligations under the Plan and/or this Agreement may be waived only in writing signed by the Participant. No waiver of any breach, failure, right or remedy contained in or granted by the provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

9. Right to Seek Counsel. The Participant acknowledges that the Participant has the right to review this Agreement with legal, financial, and/or tax advisors of the Participant's choosing before signing it and that he or she was encouraged and advised to consult with such advisors prior to signing it.

10. Non-Appropriation. The Participant acknowledges that, so long as and to the extent such limitations are applicable, payments made by JEA pursuant to the Plan and this Agreement after the fiscal year following the year in which this Agreement is signed shall be contingent upon the existence of lawfully appropriated annual funds.

11. Section Headings. The section headings are included for convenience and are not intended to limit or affect the interpretation of this Agreement.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date written below.

JEA

By _____

Name: [●]
Title: [●]

PARTICIPANT

_____

Name: [●]

SCHEDULE I

Purchase of Performance Units and Deferral Election

Please complete the following in order to purchase Performance Units under the JEA Long-Term Performance Unit Plan and this Agreement:

Participant Last Name:	[•]
Participant First Name:	[•]
No. of Performance Units Available for Purchase (the "Available Performance Units"):	[•]
Purchase Price per Performance Unit:	$10.00
No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units):	_____
Aggregate Purchase Price: ($10.00 x No. of Performance Units Participant Purchases)	_____

I hereby elect to pay the Aggregate Purchase Price by deferring my pay as follows:

A. I hereby elect to defer $_____ of my pay for services to be rendered in [YEAR] in (check one):

Lump sum from pay to be paid during the payroll period on [DATE]	_____
Equal installments from pay to be paid over the next [NUMBER] pay periods commencing with the payroll period on [DATE]	_____

_____	_____	_____
NAME	SIGNATURE	DATE

JEA LONG-TERM PERFORMANCE UNIT PLAN

RECITALS:

WHEREAS, all Employees of JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), perform valuable services for the customers and citizens they serve;

WHEREAS, JEA provides a work environment which emphasizes safety and a positive culture;

WHEREAS, JEA operates in a rapidly evolving business climate to provide energy, water and wastewater utility services;

WHEREAS, JEA desires to recognize the past and continued service of its Employees;

WHEREAS, JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework approved by the Board in June 2019, that motivates Employees to drive the customer, community and environmental value of JEA;

WHEREAS, in recognition of the Employees obtaining performance standards that shall be individually determined and evaluated based on the Employees' proportionate contribution to JEA, JEA desires to allow Employees to participate in a long-term performance unit plan on the terms and conditions set forth herein; and

WHEREAS, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, all Employees are eligible to participate in the plan.

SECTION 1
PURPOSE

(a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.

(b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

SECTION 2
CERTAIN DEFINITIONS

As used in this Plan, the following terms shall have the meanings given to them in this Section 2. Certain other terms are defined elsewhere in this Plan.

(a) "Administrator" means the Chairperson of the Compensation Committee of the Board and, following a Recapitalization Event, the entity designated in the definitive agreement entered into in connection with such Recapitalization Event to act as the representative of JEA's interests under such agreement (and, in the absence of such a designation, the Chairperson of the Board).

(b) "Agreement" means a Long-Term Performance Unit Agreement in the form prescribed by the Administrator for the purchase of Performance Units under this Plan.

(c) "Applicable Law" means any constitution, law, statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision.

(d) "Board" means the Board of Directors of JEA.

(e) "Cause" means (x) in the case where a Participant has an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement or (y) in the case where a Participant does not have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import):

(i) the Participant has been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, (A) any felony under Applicable Law or (B) any crime involving dishonesty or moral turpitude;

(ii) the Participant has engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence, in each case with respect to this clause (B), that would reasonably be expected to result in a material injury to the JEA Group;

(iii) the Participant willfully fails to perform the Participant's duties to the JEA Group and/or willfully fails to comply with lawful directives of the Board;

(iv) the Participant materially breaches any term of any contract to which the Participant and any member of the JEA Group is a party; or

(v) the Participant materially breaches any term of this Plan and/or his or her Agreement;

provided that, with respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of Cause is curable, JEA provides written notice to the Participant of the event within thirty (30) days of JEA learning of the occurrence of such event, and such Cause event remains uncured fifteen (15) days after JEA has provided such written notice; provided further that any termination

of the Participant's employment for "Cause" with respect to clause (iii), (iv) or (v) occurs no later than thirty (30) days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "Cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "Civil Service Rules"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, shall control.

(f) "Closing Date" means the date on which a Recapitalization Event occurs.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance issued thereunder.

(h) "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year.

(i) "Disability" means (i) if JEA provides long-term disability insurance to its employees generally and if JEA's long-term disability plan defines the term "disability," then the same meaning as in JEA's long-term disability plan or (ii) if JEA does not provide long-term disability insurance to its employees generally, a condition that renders a Participant unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment as determined by JEA's absence management vendor; provided, however, that the absence management vendor has no obligation to investigate whether Disability exists, unless the Participant or representative thereof puts JEA on notice within ninety (90) days after the Participant's termination of employment.

(j) "Election Notice" means the notice or notices established from time to time by the Administrator for making Deferral Elections under this Plan. The Election Notice shall include the amount of compensation to be deferred and the number of Performance Units to be purchased (subject to any minimum or maximum amounts set forth herein). Each Election Notice shall become irrevocable as of December 31st of the calendar year immediately preceding the calendar year in which the Purchase Date occurs (or such earlier date as determined by the Administrator).

(k) "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any (i) full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date and (ii) full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date.

(l) "Involuntary Termination" means, with respect to a Participant, a termination of the Participant's employment by any member of the JEA Group without Cause or due to such Participant's death or Disability.

(m) "JEA Group" means JEA and its affiliates, assigns, subsidiaries and successors.

(n) "Participant" means any Employee who makes a Deferral Election to purchase Performance Units under this Plan.

(o) "Performance Period" means a three (3)-year period used to measure the Value Change Percentage beginning on the applicable Purchase Date and ending on the earlier to occur of the third anniversary of the Purchase Date and the Closing Date.

(p) "Performance Unit" means a bookkeeping entry representing a potential right to receive a payment under this Plan.

(q) "Purchase Date" means the date on which Performance Units are purchased by Participants under this Plan, which shall be each January 27th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed (or, if January 27th falls on a weekend or a holiday, the next business day thereafter). The first Purchase Date under the Plan shall be January 27, 2020.

(r) "Purchase Price" means the price to be paid by a Participant for each Performance Unit under this Plan which shall be no less than $10.00 per Performance Unit.

(s) "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other Applicable Law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least Three Billion Dollars ($3,000,000,000) or (ii) at least fifty percent (50%) of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

(t) "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the redemption price schedule substantially in the form attached hereto as Schedule A (the "Redemption Price Schedule"); provided, however, that if the Threshold Value Target (as defined on Schedule A attached hereto) set forth on the Redemption Price Schedule is not attained during the applicable Performance Period, the Redemption Price for such Performance Period may be reduced to $0. For the avoidance of doubt, (i) the Redemption Price shall include the Purchase Price per Performance Unit and the Purchase Price may be reduced to $0 in accordance with the Redemption Price Schedule and (ii) if performance results in a percentage between the Challenge Value Target and the Threshold Value Target, then a Participant shall only be eligible to receive an amount equal to the Purchase Price paid by such Participant for his or her Performance Units.

(u) "Retirement Eligible Employee" means an Employee who has attained one of the retirement milestones as described in the General Employees Retirement Plan.

(v) "Vesting Date" means the last day of the Performance Period.

SECTION 3
ADMINISTRATION; CERTIFICATION

(a) Appointment; Delegation. This Plan shall be interpreted and administered by the Administrator, whose actions shall be final and binding on all persons, including the Participants. The Administrator may delegate all or any of its responsibilities hereunder to the Board, a committee of the Board or any member of JEA's senior executive management.

(b) Powers. The Administrator, in its sole but reasonable discretion, shall have the power, subject to, and within the limitations of, the express provisions of this Plan:

(i) to determine whether any individual has status as a Participant, the number of Performance Units that may be purchased by a Participant, and whether a Participant is entitled to payment hereunder;

(ii) to determine for a Participant any additional terms and conditions of participation in this Plan not inconsistent with the terms of this Plan, which such additional terms and conditions shall be set forth in the Agreement;

(iii) to certify whether or not the performance metrics set forth on the Redemption Price Schedule for the applicable Performance Period have been attained, including whether or not the Value Target for the applicable Performance Period has been attained;

(iv) to establish procedures to allow Employees to make deferral elections (provided that such procedures shall be designed to comply with requirements of Applicable Law);

(v) to take all other action as may be required hereunder; and

(vi) to interpret this Plan.

Notwithstanding the foregoing, JEA's Chief Financial Officer shall determine the amount of the Redemption Price.

(c) Certification. As soon as practicable following the completion of JEA's financial statements audit for the applicable Performance Period and in no event later than thirty (30) days following the end of such Performance Period, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period. Notwithstanding the foregoing, if a Recapitalization Event occurs, the Administrator shall certify in writing the Value Change Percentage as set forth on the applicable Redemption Price Schedule for such Performance Period no later than thirty (30) days following such Recapitalization Event.

SECTION 4
EFFECTIVE DATE; NUMBER OF PERFORMANCE UNITS

(a) Effective Date. This Plan is effective as of July 23, 2019 (the "Effective Date").

(b) Performance Unit Limit. The aggregate number of Performance Units which may be purchased by Participants under this Plan is one hundred thousand (100,000) Performance Units.

SECTION 5
VESTING; REDEMPTION PRICE

(a) Agreement. Each Performance Unit purchased under this Plan by a Participant shall represent a contractual right to receive, on the terms and subject to the conditions of this Plan and the applicable Agreement evidencing such purchase, payments under this Plan on the terms and subject to the conditions of this Plan and the applicable Agreement.

(b) Number of Units. The number of Performance Units purchased by each Participant shall be set forth in such Participant's Agreement.

(c) Time of Purchase. Upon the conclusion of JEA's annual financial statements audit, Employees may purchase Performance Units on an annual basis (provided, however, that all the Performance Units have not previously been purchased by Participants).

(d) Vesting Schedule. The Performance Units purchased by any Participant shall vest on the Vesting Date if a Participant's employment with any member of the JEA Group had not previously terminated. Notwithstanding the foregoing, in the event of a Participant's Involuntary Termination prior to the applicable Vesting Date, such Participant shall be eligible to receive all of his or her Performance Units and such Performance Units shall vest on the Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had there been no termination of employment.

(e) Forfeiture. Unvested Performance Units held by a Participant whose employment with any member of the JEA Group is terminated prior to the applicable Vesting Date shall be forfeited for no consideration (but only after giving effect to any vesting pursuant to Section 5(d)). Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan. If a Participant forfeits all or any of his or her Performance Units, he or she shall be refunded the Purchase Price paid by such Participant for such Performance Units; provided, however, that any forfeiture due to a termination of employment for Cause or a resignation of employment for any reason shall result in a forfeiture of unvested Performance Units and the Purchase Price paid for such unvested Performance Units.

(f) Retirement Eligible Employees. Notwithstanding Section 5(d), if a Participant becomes a Retirement Eligible Employee prior to the applicable Vesting Date and such Participant retires from employment with any member of the JEA Group prior to the Applicable Vesting Date, such Participant's Performance Units shall vest on the applicable Vesting Date. Any amount payable to a Participant pursuant to the foregoing sentence shall be paid to such Participant at the same time as the Redemption Price for the Performance Units (to the extent unpaid) would have been paid had the Participant not retired from employment. The Administrator shall determine in its sole and absolute discretion whether a Participant's termination shall qualify as a retirement for purposes of this Section 5(f).

(g) Civil Service Reversion. If at any time during the period commencing on the date on which an Employee is notified by JEA of his or her eligibility to participate in the Plan and ending on the last day of the Performance Period, such Employee's designation changes from appointed to civil service (whether or not such change is voluntary), the level at which such Employee participates in the Plan shall be adjusted to reflect such change. If such change occurs (i) at any time prior to the Purchase Date, the number of Performance Units that such Employee shall be eligible to purchase shall be reduced to a number of Performance Units that is equal to the number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the date on which such Employee was notified of his or her eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, the Employee shall forfeit a number of Performance Units such that the Employee shall have purchased a number of Performance Units that is equal to the maximum number of Performance Units such Employee would have been eligible to purchase had such Employee been civil service on the Purchase Date (it being understood that such number of forfeited Performance Units may be zero) and JEA shall refund to the Employee the aggregate Purchase Price in respect of such forfeited Performance Units. Performance Units forfeited pursuant to the preceding sentence may be available for purchase by other Participants in accordance with the terms of this Plan.

(h) Redemption Price. On the applicable payment date, each Participant shall receive an amount equal to the number of his or her vested Performance Units multiplied by the Redemption Price per Performance Unit.

SECTION 6
PURCHASE OF PERFORMANCE UNITS; PAYMENT AND DISTRIBUTIONS

(a) Purchase of Performance Units. To purchase Performance Units under this Plan, a Participant must pay to JEA a Purchase Price for each Performance Unit that he or she would like to purchase. To pay the Purchase Price for a Performance Unit, an Employee must elect to defer a portion of his or her pay by completing an Election Notice and filing it with the Administrator no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. The Election Notice must specify the amount of pay that the Employee would like to defer (such pay must be payable for services rendered in a calendar year beginning after the date the Election Notice becomes irrevocable) and the number of Performance Units that such Employee would like to purchase. The Administrator shall notify each Employee of the maximum number of Performance Units that the Employee is eligible to purchase (it being understood that an Employee may not defer an amount of pay in excess of the aggregate Purchase Price for the maximum number of Performance Units that may be purchased by such Employee).

(b) Payments. On the terms and subject to the conditions set forth in this Plan and any Agreement, a Participant who holds vested Performance Units as of the applicable Vesting Date shall be entitled to receive the Redemption Price for such Performance Units. Payments shall be made to the Participants no later than March 15th of the calendar year following the calendar year in which the applicable Performance Period ends.

SECTION 7
CONDITIONS TO RECEIPT OF PAYMENT

A Participant's right to receive a payment in consideration for his or her Performance Units is conditioned on his or her execution of an Agreement and all of the following: (a) the Participant's continuous employment with any member of the JEA Group through the Vesting Date (except as set forth herein), (b) the Participant's execution and non-revocation of a release of claims in favor of the JEA Group ("Release") in a form reasonably satisfactory to JEA, (c) the Employee's compliance with the covenants set forth in the Agreement, and (d) satisfaction of the conditions set forth in Section 215.425(3), Florida Statutes (if applicable). Within sixty (60) days prior to the anticipated payment date, JEA shall deliver the Releases to the Participants and, to the extent required by Applicable Law, the Participants shall have twenty-one (21) or forty-five (45) days from the date of the Releases are delivered to the Participants to review the Releases and an additional seven (7) days to revoke the Releases. Each Participant must have executed an irrevocable Release prior to the applicable payment date to receive any payment in respect of his or her Performance Units.

SECTION 8
AMENDMENT AND TERMINATION OF PLAN

(a) General. This Plan (including the template Redemption Price Schedule attached hereto and any Redemption Price Schedule created for specific Performance Periods) may be amended or terminated at any time or from time to time by the Board; provided, however, that no such amendment or termination shall impair the then-existing rights of a Participant with regard to this Plan without such Participant's written consent.

(b) Final Distribution. This Plan shall automatically terminate upon the payment or distribution of all amounts owed to all Participants under this Plan.

SECTION 9
MISCELLANEOUS

(a) Rounding. All payments provided under this Plan shall be rounded down to the nearest whole cent.

(b) Tax Withholding. The JEA Group shall be entitled to make deductions from the payments hereunder in respect of any applicable income and employment tax, up to the maximum amount permitted by Applicable Law, subject to the JEA Group's normal withholding procedures.

(c) Unfunded Plan. This Plan is intended to constitute an "unfunded" program, and no amounts shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder.

(d) Sections 409A and 457(f). This Plan and any Agreements are intended to provide payments that are exempt from Sections 409A and 457(f) of the Code ("Code Sections 409A and

457(f)"), or alternatively that comply with Code Sections 409A and 457(f), and the terms of this Plan and any Agreements shall be construed and administered in a manner that is exempt from or in compliance with Code Sections 409A and 457(f), as appropriate. Each payment hereunder is intended to be treated as one of a series of separate payments for purposes of Code Sections 409A and 457(f). Notwithstanding anything herein to the contrary, no amendment may be made to this Plan or any Agreement if it would cause this Plan, any Agreement or any payment hereunder or thereunder not to be in compliance with Code Sections 409A and 457(f).

(e) Successors and Assigns.

(i) This Plan and any Agreements shall be binding on and shall inure to the benefit of JEA and its successors (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and assigns, and the term "JEA" whenever used in this Plan and any Agreements shall mean and include any such successors or assigns. This Plan and any Agreements shall be assigned to and assumed by any successor of JEA (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA) and this Plan and any applicable Agreements may be assigned in part to and assumed by any successor of a substantial portion of the assets and business of JEA as determined by the Administrator in its sole discretion, which such determination shall be final and binding on JEA, the Participants (and their respective beneficiaries) and any such successor. Upon such assignment and assumption, the rights and obligations of JEA under this Plan and any applicable Agreements shall become the rights and obligations of such successor. Further, JEA shall require any successor to assume expressly and agree to perform this Plan and any applicable Agreements in the same manner and to the same extent that JEA would be required to perform this Plan and any such Agreements if no such succession had taken place. This Plan and any Agreements shall be administered in a manner which best reflects the spirit and purpose of this Section 9(e)(i), and the Board may amend or clarify this Plan and/or any Agreements to reflect the spirit and purpose of this Section 9(e)(i) in accordance with the amendment procedures set forth in Section 8(a).

(ii) Neither this Plan nor any Agreements nor any right or interest hereunder or thereunder shall be assignable or transferable by any Participants or their beneficiaries or legal representatives, except by will or by the laws of descent and distribution. Notwithstanding the foregoing, in the event of the death of a Participant, payments that otherwise would have been made to the Participant shall instead be made to the Participant's estate.

(f) Governing Law. All questions concerning the construction, validity and interpretation of this Plan and any Agreement shall be governed by the laws of the State of Florida, applicable to contracts to be executed and performed entirely therein, regardless of the laws of any other jurisdiction that might otherwise govern due to applicable conflicts of laws principles.

(g) Arbitration. Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Plan and/or any Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding

arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Plan and/or any Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County of the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

(h) Survival. The provisions of this Plan and any Agreement that are intended to survive this Plan and any Agreement and to survive the Participant's termination of employment shall survive in accordance with their terms.

(i) Severability. If any provision of this Plan or any Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to Applicable Law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Plan or any Agreement (as applicable) shall continue in full force and effect.

(j) Collective Bargaining; Civil Service Rules. If or as required, JEA shall collectively bargain this Plan and/or any Agreement with unions representing covered bargaining unit employees of JEA. This Plan and any Agreement shall not be interpreted to be inconsistent with the Civil Service Rules, as applicable.

(k) Penalties. In the event that any payments under this Plan and/or any Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to such Participant an amount equal to the full amount of the Penalties. Such payment is intended to place the Participant in the same economic position such Participant would have been in if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make any Participant economically whole for Penalties caused by, relating to or arising from such Participant's breach of this Plan or any Award Agreement or such Participant's failure to comply with his or her obligations under Applicable Law.

(l) Compliance with Applicable Law. No provision of this Plan and/or any Agreement shall be deemed to violate Applicable Law and this Plan and any Agreement shall be interpreted in accordance with this intent.

(m) Determinations. All determinations regarding the Performance Units, including the amount of the Redemption Price, shall be made by JEA in its sole and absolute discretion in accordance with the terms of this Plan and any Agreement, and shall be final, conclusive and binding on all parties.

(n) Section Headings. The headings in this Plan are inserted for convenience only and shall not be deemed to constitute a part hereof nor to affect the meaning hereof.

(o) Savings Account. The aggregate Purchase Price paid by the Participants in respect of the Performance Units shall be deposited by JEA into a FDIC-insured savings account. JEA shall be entitled to any interest on the amount deposited into the savings account.

[*Remainder of Page Intentionally Left Blank*]

SCHEDULE A
[YEAR] REDEMPTION PRICE SCHEDULE

The Redemption Price shall increase by $100.00 per Performance Unit for each Value Change Percentage increase of 1.00% in excess of the Challenge Value Target and shall decrease by $0.50 per Performance Unit for each Value Change Percentage decrease of 1.00% below the Threshold Value Target, but in no event shall the Redemption Price per Performance Unit be less than $0.00.

For purposes of this Schedule A, the following defined terms shall mean:

(a) "Base Year Value" means $[AMOUNT].[1]

(b) "Challenge Value Target" means [PERCENT].[2]

(c) "Current Year Value" means, with respect to each Performance Period, the sum of (i) JEA's Net Position, as shown on JEA's audited financial statements for such Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the Closing Date), (ii) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the twelve (12)-month period prior to the end of the Performance Period, and (iii) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to the customers of the JEA Group during the twelve (12)-month period prior to the end of the Performance Period. For the avoidance of doubt, for purposes of calculating the amounts in clauses (i), (ii) and (iii), any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event shall be taken into account.

(d) "Value Change Percentage" means a percentage equal to the Current Year Value divided by the Base Year Value.

(e) "Threshold Value Target" means [PERCENT].[3]

Any amounts paid, distributed, credited or otherwise provided in a form other than cash shall be valued at the value ascribed to them in the documents governing, or if none, then at their fair market value as determined by the Administrator in its sole discretion.

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[1] For the first performance period, this amount will be equal to the Current Year Value for fiscal year 2019 as reflected on the audited financial statements when available.

[2] For the first performance period, insert 110%.

[3] For the first performance period, insert 100%.

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MEMORANDUM

TO: Lawsikia Hodges, Esq.
Jason Gabriel, Esq.

CC: Lynne Rhode, Esq.

FROM: Kevin E. Hyde

DATE: September 25, 2019

RE: JEA Performance Unit Plan

This memorandum addresses the Long Term Performance Unit Plan (the "PUP" or the "Plan") approved by the JEA Board on July 23, 2019 and the application, if any, of various federal and state laws relating to securities and deferred compensation. We also comment on whether the PUP constitutes "extra compensation" under Florida law.

Description of the PUP

The PUP allows eligible employees to defer compensation in order to purchase a specified number of performance units from JEA and redeem them for a cash payment equal to the redemption price. The PUP is entirely voluntary. Any eligible employee may decide to participate or decline.

Eligible employees include all full-time employees (including full-time attorneys from the Office of the General Counsel dedicated exclusively to JEA, appointed employees, and represented employees) actively employed with JEA for at least three months prior to the performance units purchase date. The eligibility of employees to participate in the program is dependent solely on their employment status and execution of and compliance with a performance plan participation agreement. To participate, the employee must agree in a performance plan participation agreement to comply with the following covenants: (i) devote his/her best efforts to faithfully discharge his/her duties on behalf of the JEA and not take any action that would be contrary to the best interests of the JEA and (ii) not disclose confidential JEA information except as required by law or to perform employment duties. A breach of these covenants would result in the forfeiture of unvested units except for a return of the aggregate purchase price for such units. The agreements regarding the Plan will be subject to sections 409A and 457(f) of the Internal Revenue Code and will be governed by the laws of Florida and subject to arbitration in Duval County.

A pool of units will be allocated[1] amongst employees based on his/her position level and the most recent annual performance review. The units will be available for purchase at $10.00 per unit on January 15th of the calendar year following the calendar year in which JEA's annual financial audit statement is completed. Unpurchased units will return to the pool. Eligible employees will pay the purchase price of the unit by electing to defer a portion of his/her salary (equal to the aggregate purchase price for the performance units) into an FDIC-insured savings account. At redemption, the employee will receive a cash payment in the amount of the redemption price that will include the purchase price paid per unit. JEA's Chief Financial Officer will calculate the redemption price, and it will be certified no later than 30 days following the completion of JEA's annual financial audit statement.

The calculation of the redemption price is dependent on JEA's current year value, which is defined as the sum of JEA's net position per JEA's annual audited financial statement, the aggregate consideration paid, distributed, credited, or otherwise provided to the City of Jacksonville during the 12-month period prior to the end of the performance period, and the aggregate consideration paid, distributed, credited, or otherwise provided to JEA's customers during the 12-month period prior to the end of the performance period. Depending on the increase or decrease of JEA's current year value, the redemption price for the units will increase or decrease. Payments made regarding the units will be paid less applicable withholding taxes.[2]

The employee must be actively employed on the vesting date for the units to vest. If an employee is involuntarily terminated (without cause or due to death or disability) prior to the vesting date, then the employee will receive a payment for the units at the same time as the amounts would have been paid had the employee not been terminated. If the employee's termination of employment is voluntary, then the employee forfeits the units. If an employee is retirement-eligible and retires prior to the vesting date, the units will vest on the normal vesting date.

1. The PUP Does Not require Registration Under the Securities Laws

As described above, the PUP is an opportunity for JEA employees to defer compensation, purchase units within the PUP, and realize gain, if any, if the enterprise value of JEA increases. The PUP is designed to allow employees to personally invest in the enterprise growth of JEA in the next three years (i.e. encourage employees to have "skin in the game" with respect to improving the health of the utility). JEA's performance will be measured on the change in JEA's net position during the performance period.

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[1] The allocation of performance units available to each employee for purchase will be directed by the JEA Compensation Committee Chair, who is the Administrator of the Plan.

[2] As a part of the JEA's Board's exploration of alternative scenarios to address the utility's fiscal challenges, JEA is also considering selling the utility. If that occurs, the performance period ends, the amount owed to the employee will be paid, and the Plan will be extinguished.

A security may be considered any situation where individuals invest money in a common enterprise with the expectation that they would earn a profit solely through the efforts of someone other than themselves. However, since the performance units are being issued and sold by JEA, then the performance units are exempt from registration under both the federal and state securities laws. The units are exempt from registration since they are being issued by a public instrumentality of a state. Section 3(a)(2) of the Securities Act of 1933 and Section 517.051(1) of the Florida Statutes provide this exemption.

As long as the total subscription for the PUP does not exceed $1,000,000.00,[3] the municipal securities disclosures required for offerings of $1,000,000 or more as provided by Rule 15c2-12 of the Securities Exchange Act of 1934 will not be applicable.

2. The PUP is Akin to Deferred Compensation Plans Allowed by Florida Law

Florida law and the JEA Charter allows employees of a governmental unit to participate in a deferred compensation plan.

The relevant Florida statute, F.S. 112.215, states in part:

> In accordance with a plan of deferred compensation which has been approved as herein provided, the state or any state agency, county, municipality, other political subdivision, or constitutional county officer may, by contract or a collective bargaining agreement, agree with any employee to defer all or any portion of that employee's otherwise payable compensation and, pursuant to the terms of such approved plan and in such proportions as may be designated or directed under that plan, place such deferred compensation in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or such other investment products as may have been approved for the purposes of carrying out the objectives of such plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws and regulations by persons who are duly authorized by applicable state and federal authorities. (F.S. 112.215(3)) (Emphasis added)

The statute further provides the basis for establishing the plan and criteria for approving the various accounts and investment accounts or vehicles. (F.S. 112.215(5-6)).

Article 21.07(j) of the JEA Charter specifically provides that "JEA shall have the option to establish an employee deferred compensation program separate from the city's employee deferred compensation program." Under this authority, the JEA 457 Deferred Compensation Plan was established in 2002 for the purpose of providing employees of JEA and employees of

[3] As written, the PUP is scheduled to have 100,000 units at $10.00 per unit.

the (now former) St. Johns River Power Park System with a voluntary method deferring taxation on compensation until death, retirement or certain other events. See memo dated July 6, 2018 from Aaron Zahn to JEA Board and as approved by JEA Board on July 30, 2018.

The PUP is not a traditional deferred compensation plan such as the one currently in place with JEA. However, the PUP is akin to and fits with the deferred compensation plan allowed by F.S. 112.215. Specifically, the JEA Board has approved the PUP; JEA will seek a determination that the compensation deferred by employees to purchase the PUP is not currently taxable (F.S. 112.215(5); and that the proceeds to the employees from the PUP, if any, will not be included in the employee's taxable income until proceeds are actually received (F.S. 112.215(6)(a)). Finally, the PUP does not impose any liability on JEA, "except to show that the payments have been [or will be] remitted for the purposes for which the compensation has been deferred." (F.S. 112.215(9)). Specifically, Section 9(c) of the JEA Long-Term Performance Unit Plan states, "[t]his Plan is intended to constitute an 'unfunded' program, and no amount shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder." Further, a JEA Employee stands to gain nothing if the Threshold Value Target is not attained during the applicable Performance Period. (Section 2(t) of the JEA Long-Term Performance Unit Plan).

If requested, we can provide a more detailed analysis but our initial review is that the PUP appears to be a permissible form of deferred compensation under F.S. 112.215.

In addition to the requirements under F.S. 112.215, the Administrator of the PUP should consult F.S. 112.21 to determine the applicability of requirements of custodial accounts in which the deferred compensation used to purchase performance units will be held. It is our understanding that JEA intends to hold the deferred compensation in an interest-bearing FDIC insured account such as those currently used for other existing JEA deferred compensation plans.

3. JEA is Not Pledging Credit to Participating Employees

Article 7, Section 10 of the Florida Constitution prohibits JEA from becoming a "joint owner with, or stockholder of, or giv[ing], lend[ing] or us[ing] its taxing power or credit to aid any corporation, association, partnership or person." As indicated above, JEA is not giving or using its taxing power or credit to help any JEA employee who purchases a PUP with deferred compensation. The Florida Supreme Court has described the pledging of credit as follows:

> As used in Article VII, section 10, "credit" means "the imposition of some new financial liability upon the State or a political subdivision which in effect results in the creation of a State or political subdivision for the benefits of private enterprises. This Court has explained that the lending of public credit means:

> [T]he assumption by the public body of some degree of direct or indirect obligation to pay a debt of the third party. Where there is no direct or indirect undertaking by the public body to pay the obligation from public funds, and no public property is placed in jeopardy by a default of the third party, there is no lending of public credit.
>
> Under this definition, we conclude that the COP's in this case do not contemplate a pledge of the District's credit, and that only a public purpose, and not a paramount public purpose, need be shown.
>
> *Miccouskee Tribe v. South Florida Water Management District,* 48 So.3d 811, 823 (Fla. 2010) (internal citations omitted).

As earlier explained, a participating employee only realizes a gain on the deferred compensation used to purchase the PUP if the Threshold Value Target set forth on the Redemption Price Schedule is attained during the applicable Performance Period, i.e. there is an increase in value of JEA itself. No public property is placed in jeopardy by default of the participating employee or any other third party.

Given that no credit is being pledged, Article VII, Section 10 requires only that a public purpose be met. The PUP's stated public purpose is to "provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of Northeast Florida; (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville. (Section 1(a) of the JEA Long-Term Performance Unit Plan)."

The Florida Attorney General has opined that "if the expenditure primarily or substantially serves a public purpose, the fact that the expenditure may also incidentally benefit private individuals does not violate Article VII, section 10. "AGO 2005-02. The AGO further stated that the determination of whether the expenditure of funds fulfills a public purpose is one that the legislative body, in this case the JEA Board, must make. *Id.* As noted above, the PUP specifies the public purpose, and the JEA Board has approved the PUP.

3. The PUP is Permissible under Florida Laws related to "Extra Compensation"

JEA's PUP gives employees the choice of purchasing units that can increase in value if the value of JEA increases and decrease in value if the value of JEA decreases. The Plan is voluntary and requires employees that wish to participate to buy-in by deferring their personal compensation to purchase the units and to execute an agreement pertaining to the Plan. As developed below, the Plan does not therefore constitute "extra compensation" under section 215.425, Florida Statutes.

Section 215.425 provides that "no extra compensation shall be made to any [public employee] after the service has been rendered or the contract made." The intent behind this provision is that public employees should not receive gratuities for services that were already rendered. AGO 2005 07 ("The purpose of such a provision is to prevent payments in the nature of gratuities for past service, and the restriction pertains to extra compensation given after service has been performed, not to compensation earned during service.").

We have reviewed the applicable legislative history of section 215.425 and have not identified anything suggesting that plans such as the PUP are, or are intended to be, prohibited by the statute. The provision applies principally in instances where public employees were to receive retroactive compensation for work already performed. *See* AGO 92-49 (holding that the Police Pension Board of Trustees could not pay a cost of living allowance to a retired police officer already receiving pension benefits for prior services); *see also* AGO 91-51 (holding that severance payments in lieu of notice violated the provision because the employee renders no service after termination and the payments were compensation for work already performed).

JEA's PUP plainly does not constitute "extra compensation" because the redemption payments are not compensation for the services that the employees render as part of their employment with JEA. Rather, the PUP allows all eligible employees to participate through a voluntary payment in enterprise creation at the risk of not receiving a return on the investment made to purchase the performance units. The PUP also does not serve to provide gratuities to the employees for their past service that they have been previously paid for and does not serve as a bonus program or incentive program to reward employees. Indeed, to participate in the Plan, JEA employees must opt-in at their sole discretion and expend their personal funds to purchase the units. The number of performance units available for purchase by each employee is directed by the Plan Administrator and is based on the employee's position level and annual performance review. The redemption payments for the units depend solely on the change in value of JEA. Thus, section 215.425 does not apply to the Plan, and the Plan does not constitute "extra compensation."

Conclusion

We appreciate the opportunity to review the PUP. Please call if there are any questions.

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MEMORANDUM

TO: Lawsikia Hodges, Esq.
Jason Gabriel, Esq.

CC: Lynne Rhode, Esq.

FROM: Kevin E. Hyde

DATE: October 21, 2019

RE: JEA Performance Unit Plan

This memorandum addresses the Long Term Performance Unit Plan (the "PUP" or the "Plan") approved by the JEA Board on July 23, 2019 and laws relating to its implementation.

Description of the PUP

The PUP[1] allows eligible employees to defer compensation to purchase a specified number of performance units from JEA and redeem them in later years for a cash payment equal to the redemption price. Any eligible employee may decide to participate or decline.

Eligible employees include all full-time JEA employees (including full-time attorneys from the Office of the General Counsel dedicated exclusively to JEA, appointed employees, and represented employees) actively employed with JEA for at least three months prior to the performance units purchase date. The eligibility of employees to participate in the program depends solely on their employment status and execution of and compliance with a performance plan participation agreement (Exhibit 2). To participate, the employee must agree to comply with the following covenants: (i) devote his/her best efforts to faithfully discharge his/her duties on behalf of the JEA and not take any action that would be contrary to the best interests of the JEA

[1] Attached as Exhibit 1 is the JEA Long-Term Performance Unit Plan, the plan document. Exhibit 2 is the Long-Term Performance Unit Agreement, which an individual employee will sign.

and (ii) not disclose confidential JEA information except as required by law or to perform employment duties. A breach of these covenants would result in the forfeiture of unvested units except for a return of the aggregate purchase price for such units. The agreements regarding the Plan will be subject to sections 409A and 457(f) of the Internal Revenue Code and will be governed by the laws of Florida and subject to arbitration in Duval County.

A pool of units will be allocated[2] amongst employees based on his/her position level and the most recent annual performance review. The units will be available for purchase at $10.00 per unit in the first months of the calendar year following the calendar year in which JEA's annual financial audit statement is completed. Unpurchased units will return to the pool. Eligible employees will pay the purchase price of the unit by electing to defer a portion of his/her salary (equal to the aggregate purchase price for the performance units) into an FDIC-insured savings account. At redemption, the employee will receive a cash payment in the amount of the redemption price that will include the purchase price paid per unit. JEA's Chief Financial Officer will calculate the redemption price, and it will be certified by the Plan Administrator (the JEA Compensation Committee chair) no later than 30 days following the completion of JEA's annual financial audit statement.

The calculation of the redemption price is dependent on JEA's current year value, which is defined as the sum of JEA's net position per JEA's annual audited financial statement, the aggregate consideration paid, distributed, credited, or otherwise provided to the City of Jacksonville during the 12-month period prior to the end of the performance period, and the aggregate consideration paid, distributed, credited, or otherwise provided to JEA's customers during the 12-month period prior to the end of the performance period. Depending on the increase or decrease of JEA's current year value, the redemption price for the units will increase or decrease. Payments made regarding the units will be paid less applicable withholding taxes.[3]

The employee must be actively employed on the vesting date for the units to vest. If an employee is involuntarily terminated (without cause or due to death or disability) prior to the vesting date, then the employee will receive a payment for the units at the same time as the amounts would have been paid had the employee not been terminated. If the employee's termination of employment is voluntary, then the employee forfeits the units. If an employee is retirement-eligible and retires prior to the vesting date, the units will vest on the normal vesting date.

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[2] The allocation of performance units available to each employee for purchase will be directed by the JEA Compensation Committee Chair, who is the Administrator of the Plan.

[3] As a part of the JEA's Board's exploration of alternative scenarios to address the utility's fiscal challenges, JEA is also considering selling the utility. If that occurs, the performance period ends, the amount owed to the employee will become the obligations of the acquirer to be paid post-closing, and the PUP will be extinguished.

Questions Related to PUP

Since inception, a number of questions have been asked about the PUP. These questions are addressed below.

1. Does JEA have the authority to issue the PUP?

Article 21 of the City of Jacksonville Charter (the "Charter") provides plenary power to JEA to "manage, operate and promote the utilities system." (Charter at s. 21.04(a)). JEA may "enter into contracts with any person or entity, public or private, deemed necessary or desirable by JEA in connection with carrying out its powers and duties." (Charter at s. 21.04(e)) (Emphasis added). JEA may also "do all acts and deeds necessary, convenient or desirable, incidental to the exercise and performance of the powers and duties granted to JEA in this article." (Charter at s. 21.04(t)).

JEA's powers relating to employees is stated in Section 21.08 of the Charter:

> All employees of the utilities system shall be employees of JEA and shall be subject to articles 16 and 17 unless otherwise provided by the council, which shall be and continue to be the legislative body as provided in section 447.203(10), Florida Statutes. JEA shall be fully responsible for the administration and operation of all utility services as set out in this article and in order to meet its administrative and operational responsibilities, JEA shall have **full and independent** authority to hire, transfer, promote, discipline, terminate and evaluate employees engaged to provide any and all of the utilities services for which it is responsible and accordingly, consistent with the provisions of article 17, JEA may establish employment policies relating to hiring, promotion, discipline and termination, and other terms and conditions of employment, and enter into negotiations with employee organizations with respect to wages, hours and terms and conditions of employment and take such other employment related action as needed to assure effective and efficient administration and operation of the utilities system. In order to effectively implement the foregoing, JEA shall perform all functions with regard to its own employees that are performed by the City department or division which oversees city employees in regard to personnel matters....(emphasis added).

Except for deferred compensation,[4] the Charter does not specifically state that JEA may establish terms of compensation. But compensation is an integral part of employment and by implication is included within the phrase "other terms and conditions of employment." JEA's "full and independent authority" over its employees is essentially meaningless if JEA cannot set the terms of compensation.

[4] Section 21.09(j).

The PUP is a form of deferred and long-term incentive compensation which is well within JEA's right to establish absent explicit and contrary authority. This inherent power is evident by Section 21.05 of the Charter:

> The powers of JEA shall be construed liberally in favor of JEA. No listing of powers included in this article is intended to be exclusive or restrictive and the specific mention of, or failure to mention, particular powers in this article shall not be construed as limiting in any way the general powers of JEA as stated in Section 21.04. It is the intent of this article to grant to JEA full power and right to exercise all authority necessary for the effective operation and conduct of JEA. It is further intended that JEA should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which JEA is created. The fact that this article specifically states that JEA possesses a certain power does not mean that JEA must exercise such power unless this article specifically so requires. JEA's power to levy special assessments shall not be deemed to be the power to levy taxes.

The issue, then, is whether the PUP lends to the effective operation and conduct of JEA. The PUP and the individual Long-Term Performance Unit Agreement each contain the following recital stating the PUP's purpose:

> JEA desires to have long-term incentives, in accordance with its total compensation philosophy approved by the Board in January 2019 and the compensation framework established by the Board in June 2019 that motivates Employees to drive the customer, community and environmental value of JEA.

The PUP further specifies its purpose in Section 1 (a) and (b):

> (a) The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of North East Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville.
>
> (b) JEA hereby seeks to retain the services of Employees and to provide incentives for such Employees to exert maximum efforts for the success of JEA and for the benefit of JEA's customers and the community it serves and the City of Jacksonville.

Based on the plenary power granted to JEA, and the PUP's stated purposes, we conclude JEA has the authority to implement the PUP.

2. May JEA establish who is eligible to purchase a PUP?

All JEA employees are eligible to participate in the PUP. "Employee" means:

> "Employee" means, except as otherwise recommended by JEA's Chief Executive Officer and approved by the Administrator, any (i) full-time employee of the JEA Group who has been employed by any member of the JEA Group for at least three (3) months prior to the Purchase Date and (ii) full-time attorney from the Office of the General Counsel of the City of Jacksonville who is dedicated exclusively to JEA for at least three (3) months prior to the Purchase Date. (JEA Long-Term Performance Unit Plan at Section 2(k). (PUP at Section 2(k)).

The Charter provides the General Counsel may "employ, supervise and terminate assistant counsels to assist with the efficient provisions of legal services for the City's independent agencies." (Charter at s. 7.01)). "The general counsel shall appoint assistant counsels and fix their compensation subject to the approval of the mayor." (Charter at s. 7.07)). Nothing in these provisions prohibit an assistant counsel assigned to JEA from participating in the PUP, provided that the General Counsel has authorized it.

3. Does the PUP Violate Article 21.09 of the Charter?

Article 21.09 of the Jacksonville City Charter contains the following provision related to the award of contracts by JEA:

Section 21.09. - Awards of contracts.

(a) JEA shall not be subject to the provisions of Chapter 126, Ordinance Code of the City of Jacksonville, as the same may be amended from time to time, however, JEA in entering into any contracts relating to the construction, reconstruction, repair, operation or maintenance of the utilities system or the purchase of supplies, equipment, machinery and materials for the utilities system or the contracting or otherwise purchasing for any advisory, professional or any other services may establish such rules, regulations or procedures as it may deem desirable or necessary in connection therewith. In the absence of such specific authority, rules, regulations or procedures, JEA shall follow the provisions of Chapter 126 of the Ordinance Code of the City of Jacksonville, as the same may be amended from time to time. JEA shall have the right to reject any and all bids, in whole or in part, in the best interests of JEA. Nothing in this chapter shall be construed to limit the power of JEA to construct, repair, or improve the utilities system, or any part thereof, or any addition, betterment or extension thereto, directly by the officers, agents, and employees of JEA, or otherwise by contract. JEA is authorized to implement and to take all actions necessary to administer a purchasing and procurement program directed to Minority Business Enterprises including, but not limited to, prime contractors, subcontractors, consultants,

subconsultants, and suppliers. Any such Minority Business Enterprise program shall be implemented by JEA to remedy discrimination or the present effects of past discrimination, if any, suffered by Minority Business Enterprises in the business community in the area served by JEA. For purposes of this chapter, the term "Minority Business Enterprise" shall be defined by JEA and shall include, at a minimum, those business entities that are legitimately owned, operated and controlled by persons who have been shown to have been discriminated against or who suffer from the present effects of past discriminations, if any, in the business community in the area served by JEA. Such program shall be used to redress and remedy discrimination or the present effects of past discrimination, if any, as may be determined by JEA, and which are shown to have been suffered by Minority Business Enterprises, in the business community in the area served by JEA.

(b) No member of JEA or officer or employee thereof shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with JEA for any matter, cause or thing whatsoever in which such member shall have a financial interest or by reason whereof any liability or indebtedness shall in any way be created against JEA. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against JEA.

Section 21.09 relates to procurement, not employee compensation. Section 21.09(a) clearly relates to those contracts where a competitive procurement process must be used. ("JEA shall follow the provisions of Charter 126...."). This type of process is not used in employee matters.[5] When read together, sections 21 (a) and (b) contemplate and relate to an award of contracts to vendors or suppliers to JEA rather than to employment or compensation agreements. This is evident by a number of factors.

First, the PUP is not awarded to employees or subject to any procurement process. The PUP is a voluntary benefit program in which an employee may or may not participate. To participate, the employee must purchase the PUP on the same terms as any other participant. JEA is not selecting or awarding the right to participate in the PUP. The Plan Administrator or designee determines the number of PUPs an individual may purchase.

Second, if Section 21.09(b) precluded the PUP (as some form of impermissible contract between employees and JEA), it would also preclude other forms of contractual indebtedness such as (a) individual employment agreements providing for compensation except for services previously performed; (b) pension obligation to JEA employees, namely Unfunded Actual Award Liability; and (c) deferred compensation. Each of these agreements give JEA employees a "financial interest" in JEA and a potential indebtedness of JEA. Allowing these items, but

[5] Section 21.08 (JEA may "enter into negotiations with employee organization.")

prohibiting the PUP would be inconsistent with Charter provisions (previously discussed) allowing JEA to establish terms and conditions of employment.

Third, the PUP requires an employee to invest deferred compensation into the PUP. An indebtedness is only created above the original investment if the Net Position Value is correspondingly increased.

4. Do some PUP participants have an advantage over others in deciding whether to participate?

The PUP is available only to a defined group of individuals – JEA employees and certain attorneys assigned to JEA. Thus, the PUP is not open to the "public." Some have questioned whether certain individuals within the eligible group will have an impermissible advantage over others due to position held or access to information. The answer is "no."

Because the PUP involves only transactions between JEA, on the one hand, and employees and attorneys of JEA, all of whom are "insiders," on the other, the PUP raises no insider trading concerns. Insider trading under the securities laws requires a transaction with an "outsider" who is disadvantaged in a transaction with an insider due to lack of information, and no such outsiders are involved in the PUP.

Apart from insider trading concerns, it is important for securities law purposes that all of the PUP participants be provided with all material financial information about JEA and all material information about how the PUP payments will be calculated when they make their Deferral Elections, so that they are able to make an informed investment election. We understand that this requirement will be addressed as follows:

- Each participant will receive a copy of the PUP document itself, which outlines the conditions of an employee's participation. Except for the precise number of PUPs made available to a particular individual, the terms are the same for all employees.

- Schedule A provides employees information as to how the PUP value is calculated. The "Value Change Percentage", as discussed in Schedule A, determines the increase or decrease of the Redemption Price. That determination is based on JEA's audited financial statements and the aggregate consideration paid, distributed, credited or otherwise provided to the City and to JEA customers during the "Performance Period," all of which are public records.

- JEA intends to provide employees extensive information, including risk factors and hypothetical projections, during the enrollment period to assist employees with deciding whether to purchase one or more PUP(s). Each employee will receive the same information.

- A representative of JEA's HR department will be available to answer questions from employees and employees will be strongly encouraged to obtain their own financial and legal counsel to advise on the Plan should they chose to do so.

There is also a concern over potential inequities among individual participants if some employees have access to information that others do not. So long as all material information relating to the PUP value calculation is disclosed to all participants, they have sufficient information to make a fully informed decision concerning their Deferral Election, and the fact that some participants have access to additional information does not impact the fairness of the other participants' Deferral Elections. To the extent there is concern that some participants may gain access to additional material information relating to the PUP value calculation, , JEA may avoid such concerns over inequity by (a) requiring those participants to elect to decide whether to participate in the PUP prior to receiving that material information or (b) excluding those participants from the PUP.

The PUP mitigates any remaining risk from these concerns by limiting the amounts that may be invested and allowing only future deferred compensation to be invested, (thus preventing an employee from investing (or jeopardizing) additional personal monies or obtaining money from any other source to purchase the PUP).

5. Does the PUP comply with the Florida Code of Ethics for Public Officers and Employees?

JEA employees eligible for the PUP are covered by F.S. 112.311, the Florida Code of Ethics for Public Officers and Employees. See F.S. 112.312(2) defining "agency" to include a "municipal government entity of this state." The prohibitions discussed below relate to employees of covered agencies.

It is important to evaluate the purpose of the PUP in reviewing the applicable ethics laws. The PUP clearly states its purpose:

> The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of Northeast Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville. (PUP at Section 1a).

Nothing in the stated purpose or the actuality of the PUP creates a conflict between the participating employee and JEA or the customers JEA serves. Indeed, participating employees only stand to benefit if the value of JEA increases.

The Florida Code of Ethics for Public Officers and Employees makes it clear that the applicable laws are designed to prevent conflicts between the personal interests of employees and the public. The law also states that governmental agencies (e.g. JEA) may take measures to retain

employees and that the code of ethics should not be a barrier from doing so. F.S. 112.311 specifies this intent:

> 1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.
>
> (2) It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.
>
> (4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.
>
> (5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part. (Emphasis added)

Nothing in the PUP is prohibited by the legislative intent expressed in F.S. 112.311. Indeed, the PUP promotes the legislative intent of recruiting and retaining governmental employees. Contrary to creating a conflict of interest, the PUP aligns the interest of employees and JEA, creating long-term value for JEA and its customers.

Additionally, there is very limited appellate case law interpreting F.S. 112.311.[6] But, certain cases and Attorney General Opinions provide further guidance, though not arising from potential compensation vehicles such as the PUP. The opinions underscore the intent behind the statute and the ills the statute is designed to prevent.

First, a conflict must be substantial to be prohibited. AGO 1973-215 ("the personal investment in an enterprise that is prohibited by the act is one that will create a 'substantial conflict' between his private interest and the public interest"). See also AGO 1980-71 ("Thus, we do not believe that the Code of Ethics should be interpreted to prohibit the most remote possibilities of conflicts of interest, but rather to prohibit those relationship which are in substantial conflict with the proper discharge of duties in the public interest.")

Second, the Code of Ethics is designed to prevent individuals from acting against the interest of their agency or the public. "A primary objective of the Code of Ethics is that governmental officials avoid recurring situations in which there is a temptation to place personal gain, economic or otherwise, above the discharge of their fiduciary duty to the public." *Zerweck v. State,* 409 So.2d 57, 60 (Fla. 4th DCA 1982). Contrary to acting against the interest of JEA, the PUP is designed to encourage employees to personally invest in JEA and work to increase its value. Only if this occurs does the PUP gain value and the employee stand to benefit. Thus, the interests of JEA employees and JEA itself are strictly aligned.

Likewise, the PUP does not violate the more specific provisions of Chapter 112. Specifically:

a. The PUP is not a Prohibited Gift

To participate in the PUP the employee must do a "Deferral Election." A "Deferral Election" means:

> "Deferral Election" means an election by an Employee under the Agreement to defer pay to purchase Performance Units under this Plan payable for services to be performed in calendar years beginning after the date the Election Notice becomes irrevocable. An Employee shall make a new Deferral Election with respect to each Performance Period to the extent that such Employee is eligible to participate in this Plan for such Performance Year. (PUP at Section 2(h)). (Emphasis added)

An employee who purchases a PUP is not receiving a "gift" as defined in F.S. 112. F.S. 112.311(b)1 states that a "gift" does not include "salary, benefits, services, fees, commissions, gifts or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization." The participating employee is deferring a part

[6] The statute was enacted in 1974. Legislative history is only available in the state library. We have not yet been able to access that legislative history.

of his or her salary to purchase the PUP. As such, the restrictions of F.S. 112.313(2) prohibiting a public officer from soliciting or accepting a gift do not apply.[7]

b. The PUP is not Unauthorized Compensation.

Florida Statute 112.313(4) prohibits a public officer from accepting unauthorized compensation if the public officer knew or reasonably should have known that "it was given to influence a vote or action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity." This section does not apply to the PUP. First, nothing is "given" to the participating employee. The PUP is a form of deferred compensation which has been duly authorized and adopted by the JEA Board. Employees choose how much, if any, of their earned compensation to defer for the purchase of allotted Plan units. Moreover, the PUP is offered to employees generally and not any individual specifically. Participation is purely voluntary. Thus, the PUP cannot be said to influence any individual or particular action. If anything, the PUP is designed to promote retention across all levels of JEA employees and increased or improved performance.

c. The PUP Does Not Confer a Special Benefit to a Particular Employee.

All JEA employees, as well as defined representatives of the Office of General Counsel, are eligible to purchase a PUP. This class is similar to JEA employees who are eligible to participate in the JEA deferred compensation plan, i.e. it is a benefit incidental to their employment. It is not a special privilege, benefit or exemption solely for a particular individual or one which a particular individual can secure for himself. Thus, the PUP is not prohibited by F.S. 112.313(6) (prohibits a public employee from using an official position to secure a special privilege, benefit or exemption for himself.)

d. A Participating Employee Does Not Misuse a Public Position

Section. 112.313(6) prohibits misuse of public position. That statute provides:

> No public officer, employee of an agency, or local government attorney shall *corruptly* use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit or exemption for himself, herself, or others. The section shall not be construed to conflict with s. 104.31. (Emphasis added)

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[7] This conclusion is further strengthened by the definition of gift within F.S. 112.312(12)(a). A gift "for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days..."

The PUP is available to all employees who may decide whether or not to participate and is incidental to their employment (e.g. a form of deferred compensation). No individual is able to secure something not available to other JEA employees. It is also important to note that the PUP was developed at the instruction of the JEA Board, authorized by it, and will be administered under Board auspices and the redemption price certified by the Board. Further, an independent auditor will certify all values and financial results that will substantiate the value of the PUP. No individual can affect or create a benefit which is not approved or authorized by the Board. And, no JEA Board member can participate in the PUP. Thus, there is complete independence of participants from the creation and authorization of the PUP and certification of values related to the PUP.

To establish a violation of s. 112.313(6), the following elements must be proven by clear and convincing evidence:

> "(a) the employee used or attempted to use his official position; (2) to secure a special privilege, benefit or exemption for himself or another and (3) acted corruptly in doing so, that is, with wrongful intent and for the purpose of benefiting himself or another person from some act or omission, which is inconsistent with the proper performance of his public duties. Corruptly is statutorily defined as being done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from act or omission of a public servant which is inconsistent with the proper performance of his or her duties. To satisfy this statutory element, proof must be adduced that Siplin [the Respondent/Appellant] acted with reasonable notice that [his or her] conduct was inconsistent with the proper performance of his or her public duties and would be a violation of the law of the code of ethics. *Siplin v. Commission on Ethics, 59 So.3d 150, 151-152 (Fla. App. 5th Dist. 2011) (internal citations omitted).*

Employees eligible to participate in the PUP are not receiving compensation inconsistent with the proper performance of their duties. Indeed, the PUP is based on the employee properly performing their duties and incentivizing them to do so. Moreover, all eligible participants are properly advised of the conditions of eligibility to participate in the PUP and its terms. The JEA Board has approved the PUP and the employee does not have notice that the PUP is inconsistent with performing his or her duties. Consequently, the PUP, and those who participate in it, do not violate s. 112.313(6).

6. Must the PUP Be Registered under the Securities Laws?

The PUP is exempt from registration under the securities laws. As described above, the PUP is an opportunity for JEA employees to defer compensation, purchase units within the PUP, and realize gain, if any, if the enterprise value of JEA increases. The PUP is designed to allow employees to personally invest in the enterprise growth of JEA in the next three years (i.e. encourage employees to have "skin in the game" with respect to improving the health of the utility).

JEA's performance will be measured on the change in JEA's net position during the performance period.

A security may be considered any situation where individuals invest money in a common enterprise with the expectation to earn a profit solely through the efforts of someone other than themselves. Employees must remain employed to receive benefits under the PUP. The employees' continued effort is required. Moreover, since the performance units are being issued and sold by JEA, then the performance units are exempt from registration under both the federal and state securities laws. The units are exempt from registration since they are being issued by a public instrumentality of a state. Section 3(a)(2) of the Securities Act of 1933 and Section 517.051(1) of the Florida Statutes provide this exemption.

As long as the total subscription for the PUP does not exceed $1,000,000,[8] the municipal securities disclosures required for offerings of $1,000,000 or more as provided by Rule 15c2-12 of the Securities Exchange Act of 1934 will not be applicable.

7. Is the PUP a Deferred Compensation Plan Allowed by Florida Law?

Florida law and the JEA Charter allow employees of a governmental unit to participate in a deferred compensation plan.

The relevant Florida statute, F.S. 112.215, states in part:

> In accordance with a plan of deferred compensation which has been approved as herein provided, the state or any state agency, county, municipality, other political subdivision, or constitutional county officer may, by contract or a collective bargaining agreement, agree with any employee to defer all or any portion of that employee's otherwise payable compensation and, pursuant to the terms of such approved plan and in such proportions as may be designated or directed under that plan, place such deferred compensation in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or such other investment products as may have been approved for the purposes of carrying out the objectives of such plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws and regulations by persons who are duly authorized by applicable state and federal authorities. (F.S. 112.215(3)) (Emphasis added)

The statute further provides the basis for establishing the plan and criteria for approving the various accounts and investment accounts or vehicles. (F.S. 112.215(5-6)).

[8] As written, the PUP is scheduled to have 100,000 units at $10.00 per unit.

Article 21.07(j) of the JEA Charter specifically provides that "JEA shall have the option to establish an employee deferred compensation program separate from the city's employee deferred compensation program." Under this authority, the JEA 457 Deferred Compensation Plan was established in 2002 for the purpose of providing employees of JEA and employees of the (now former) St. Johns River Power Park System with a voluntary method deferring taxation on compensation until death, retirement or certain other events. See memo dated July 6, 2018 from Aaron Zahn to JEA Board and as approved by JEA Board on July 30, 2018.

The PUP is not a traditional deferred compensation plan such as the one currently in place with JEA. However, the PUP is akin to and fits with the deferred compensation plan allowed by F.S. 112.215. If JEA desires to treat the PUP as a deferred compensation plan pursuant to §112.215, the JEA Board must approve the PUP (it has); as required JEA will seek a determination that the compensation deferred by employees to purchase the PUP is not currently taxable (F.S. 112.215(5) and (6)(b)); and that the proceeds to the employees from the PUP, if any, will not be included in the employee's taxable income until proceeds are actually received (F.S. 112.215(6)(a)). Finally, the PUP does not impose any liability on JEA, "except to show that the payments have been [or will be] remitted for the purposes for which the compensation has been deferred." (F.S. 112.215(9)). Specifically, Section 9(c) of the JEA Long-Term Performance Unit Plan states, "[t]his Plan is intended to constitute an 'unfunded' program, and no amount shall be set aside to fund any payments hereunder prior to the end of the Performance Period. JEA's obligations under this Plan are unfunded and unsecured, and the Participants have no rights other than those of general unsecured creditors of the JEA Group with respect to any payment hereunder." Further, a JEA Employee stands to gain nothing if the Threshold Value Target is not attained during the applicable Performance Period (Section 2(t) of the JEA Long-Term Performance Unit Plan).

In addition to the requirements under F.S. 112.215, the Administrator of the PUP should consult F.S. 112.21 to determine the applicability of requirements of custodial accounts in which the deferred compensation used to purchase performance units will be held. It is our understanding that JEA intends to hold the deferred compensation in an interest-bearing FDIC- insured account such as those currently used for other existing JEA deferred compensation plans.

8. Is JEA Pledging Credit to Participating Employees?

Article 7, Section 10 of the Florida Constitution prohibits JEA from becoming a "joint owner with, or stockholder of, or giv[ing], lend[ing] or us[ing] its taxing power or credit to aid any corporation, association, partnership or person." As indicated above, JEA is not giving or using its taxing power or credit to help any JEA employee who purchases a PUP with deferred compensation. The Florida Supreme Court has described the pledging of credit as follows:

> As used in Article VII, section 10, "credit" means "the imposition of some new financial liability upon the State or a political subdivision which in effect results in the creation of a State or political subdivision for the benefits of private enterprises. This Court has explained that the lending of public credit means:

> [T]he assumption by the public body of some degree of direct or indirect obligation to pay a debt of the third party. Where there is no direct or indirect undertaking by the public body to pay the obligation from public funds, and no public property is placed in jeopardy by a default of the third party, there is no lending of public credit.
>
> Under this definition, we conclude that the COP's in this case do not contemplate a pledge of the District's credit, and that only a public purpose, and not a paramount public purpose, need be shown. *Miccouskee Tribe v. South Florida Water Management District,* 48 So.3d 811, 823 (Fla. 2010) (internal citations omitted).

Further, as previously stated, any amount owed to employees under the PUP will become the obligation of the acquirer to be paid post-closing.

As earlier explained, a participating employee only realizes a gain on the deferred compensation used to purchase the PUP if the Threshold Value Target set forth on the Redemption Price Schedule is attained during the applicable Performance Period, i.e. there is an increase in value of JEA itself. No public property is placed in jeopardy by default of the participating employee or any other third party.

Given that no credit is being pledged, Article VII, Section 10 requires only that a public purpose be met. The PUP's stated public purpose is to "provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of Northeast Florida; (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville. (Section 1(a) of the JEA Long-Term Performance Unit Plan)."

The Florida Attorney General has opined that "if the expenditure primarily or substantially serves a public purpose, the fact that the expenditure may also incidentally benefit private individuals does not violate Article VII, section 10." AGO 2005-02. The AGO further stated that the determination of whether the expenditure of funds fulfills a public purpose is one that the legislative body, in this case the JEA Board, must make. *Id.* As noted above, the PUP specifies the public purpose, and the JEA Board has approved the PUP.

9. Is the PUP permissible under Florida Laws related to "Extra Compensation?"

The PUP gives employees the choice of purchasing units that can increase in value if the value of JEA increases and decrease in value if the value of JEA decreases. The Plan is voluntary and requires employees that wish to participate to buy-in by deferring their personal compensation to purchase the units and to execute an agreement pertaining to the Plan. As developed below, the Plan does not therefore constitute "extra compensation" under section 215.425, Florida Statutes.

Section 215.425 provides that "no extra compensation shall be made to any [public employee] after the service has been rendered or the contract made." The intent behind this provision is that public employees should not receive gratuities for services that were already rendered. AGO 2005-07 ("The purpose of such a provision is to prevent payments in the nature of gratuities for past service, and the restriction pertains to extra compensation given after service has been performed, not to compensation earned during service.").

We have reviewed the applicable legislative history of section 215.425 and have not identified anything suggesting that plans such as the PUP are, or are intended to be, prohibited by the statute. The provision applies principally in instances where public employees were to receive retroactive compensation for work already performed. *See* AGO 92-49 (holding that the Police Pension Board of Trustees could not pay a cost of living allowance to a retired police officer already receiving pension benefits for prior services); *see also* AGO 91-51 (holding that severance payments in lieu of notice violated the provision because the employee renders no service after termination and the payments were compensation for work already performed).

JEA's PUP plainly does not constitute "extra compensation" because the redemption payments are not compensation for the services that the employees render as part of their employment with JEA. Rather, the PUP allows all eligible employees to participate through a voluntary payment in enterprise creation at the risk of not receiving a return on the investment made to purchase the performance units. The PUP also does not serve to provide gratuities to the employees for their past service that they have been previously paid for and does not serve as a bonus program or incentive program to reward employees. Indeed, to participate in the Plan, JEA employees must opt-in at their sole discretion and expend their personal funds to purchase the units. The number of performance units available for purchase by each employee is directed by the Plan Administrator and is based on the employee's position level and annual performance review. The redemption payments for the units depend solely on the change in value of JEA. Thus, section 215.425 does not apply to the Plan, and the Plan does not constitute "extra compensation."

CONCLUSION

We appreciate the opportunity to review the PUP. Please call if there are any questions.

DRAFT 09-26-2019
CONFIDENTIAL

[INSERT JEA LOGO]

INVITATION TO PARTICIPATE IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

Dear [NAME],

As a new benefit to JEA employees, we are delighted to let you know that you are eligible to participate in the JEA Long-Term Performance Unit Plan (the "**Plan**"). The Plan was approved by JEA's Board of Directors as part of the long-term compensation framework and is available starting in 2020.

How the Plan Works

The Plan allows you to purchase performance units from JEA referred to as "PUPs." The purchase price of each PUP is $10.00 and is paid by deferring a portion of your pay earned in 2020 equal to the aggregate purchase price of the PUPs you wish to purchase. The number of PUPs available to you to purchase is set forth in the cover letter to the Plan and your Long-Term Performance Unit Agreement provided to you.[1] For example, if JEA allocates you five PUPs and you wish to purchase all five PUPs, the aggregate purchase price to be deferred from your pay earned would be equal to $50.00 ($10.00 x five PUPs). When the PUPs vest, subject to the satisfaction of certain conditions, you are eligible to receive a cash payment in consideration for the PUPs you purchased. The amount of the cash payment is calculated based on the attainment of specified corporate performance metrics and includes the aggregate purchase price you paid for your PUPs. For additional information on how the Plan works, please refer to the frequently asked questions on Tab A of this invitation booklet.

Risks Associated with Participating in the Plan

As described above, in order to purchase PUPs under the Plan, you must pay a purchase price of $10.00 per PUP. As it is possible that you may forfeit the entire amount of the purchase price under certain circumstances (for example, if your employment with JEA is terminated for cause), you should carefully consider whether to purchase the PUPs. In considering whether to purchase the PUPs, you should review the risks described on Tab B of this invitation booklet and the financial information contained in Tab C of this invitation booklet.

Instructions and Additional Information

If you wish to participate in the Plan and purchase the PUPs, please review this invitation booklet carefully and follow the instructions set forth on Tab D of this invitation booklet. All required forms and materials must be postmarked by no later than [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase PUPs and participate in the Plan.[2]

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1 JEA to confirm whether there will be a separate cover letter to the Plan and Long-Term Performance Unit Agreement.

2 JEA to provide the postmark date.

For further information concerning the Plan, please contact [NAME], [TITLE] at JEA, via email at [EMAIL ADDRESS].[3]

This is an exciting time for JEA!

Sincerely,

Aaron Zahn
Managing Director & Chief Executive Officer

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[3] JEA to provide the name, title and email address of the JEA representative.

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TAB A

QUESTIONS AND ANSWERS ABOUT THE JEA LONG-TERM PERFORMANCE UNIT PLAN

INTRODUCTION[4]

Below are a number of frequently asked questions ("**FAQs**") regarding the principal features of the Plan. The Plan was adopted by the Board at its meeting on July 23, 2019.

This document is only intended to be a summary. Some provisions are described in abbreviated form and others are not mentioned at all. If there is any ambiguity in these FAQs or if there is a conflict between these FAQs and the official text of the Plan or your Long-Term Performance Unit Agreement, then the official text of the Plan or your Long-Term Performance Unit Agreement, as applicable, will govern.

Where the context so requires, references to "JEA" refer to JEA, its affiliates, assigns, subsidiaries and successors.

THIS INVITATION BOOKLET DOES NOT PROVIDE LEGAL, FINANCIAL OR TAX ADVICE. JEA STRONGLY ADVISES YOU TO SEEK THE ADVICE OF A QUALIFIED LEGAL, FINANCIAL AND/OR TAX ADVISER REGARDING YOUR PARTICIPATION IN THE PLAN.

GENERAL PLAN PROVISIONS

Q1: What is the purpose of the Plan?

A1: The purpose of the Plan is to provide a means by which employees of JEA may be given incentives to remain with JEA and share in the financial [health][5] of JEA.

Q2: Who is eligible to participate in the Plan?

A2: Any full-time employee of JEA (including any full-time OGC attorney) who has been employed by JEA for at least three months prior to the Purchase Date (as described in Q&A 3) is eligible to participate in the Plan. Part-time and temporary employees of JEA are not eligible to participate in the Plan.

Any exceptions to the above eligibility requirements must be recommended by JEA's Chief Executive Officer (the "**CEO**") and approved by the Chair of the Compensation Committee (the "**Committee Chair**") of the Board of Directors of JEA (the "**Board**").

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[4] JEA to confirm whether all the references to "performance units" should be changed to "PUPs." This was not reflected in the hand mark-up received from JEA.

[5] JEA to confirm whether this should instead refer to "success."

Q3: How does the Plan work?

A3: Each eligible employee may purchase a specified number of performance units (the "**Performance Units**") as set forth in the employee's Long-Term Performance Unit Agreement from JEA on January 15 of each year (the "**Purchase Date**")[6] by electing to defer a portion of the employee's pay equal to the aggregate purchase price (the "**Purchase Price**") for the Performance Units that the employee wishes to purchase.

The Purchase Date for the Performance Units that are allocated to you now will be January 15, 2020.

Q4: Who administers the Plan?

A4: The Committee Chair administers the Plan. The Committee Chair has the full authority and discretion to take any actions the Committee Chair deems necessary or advisable for the administration of the Plan. All decisions, interpretations, and other actions of the Committee Chair will be final and binding.

Q5: How many Performance Units are reserved under the Plan?

A5: JEA has reserved an aggregate of 100,000 Performance Units for purchase by eligible employees under the Plan. However, only 30,000 Performance Units will be available for purchase by eligible employees on the Purchase Date.

ALLOCATION OF PERFORMANCE UNITS

Q6: What is a Performance Unit?

A6: Each Performance Unit represents a right to receive a cash payment equal to the Redemption Price (as described in Q&A 14) in exchange for such Performance Unit. A Performance Unit is not, and does not represent an equity or security interest in JEA.

Q7: How are Performance Units allocated under the Plan?

A7: Under the Plan, the Committee Chair has complete discretion to determine when and to whom Performance Units will be allocated and the number of Performance Units that may be allocated. The terms and conditions of Performance Units will be set forth in your Long-Term Performance Unit Agreement.

The Committee Chair may delegate the Committee Chair's authority under the Plan to determine the number of Performance Units that may be allocated to eligible employees

[6] To discuss the Purchase Date with JEA, including whether the Purchase Date should occur over multiple pay periods. Section 2(q) of the Plan specifies that the first Purchase Date will occur January 15, 2020.

(other than to the CEO) under the Plan to the CEO. The Committee Chair retains the authority to determine the number of Performance Units that may be allocated to the CEO.

Q8: How many Performance Units must I purchase to participate in the Plan?

A8: You may purchase up to the maximum number of Performance Units allocated to you. However, you may purchase less than all of the Performance Units that you have been allocated.

If you purchase none of the Performance Units allocated to you, you will not participate in the Plan and you will not be eligible to receive the Redemption Price in exchange for your Performance Units.

Q9: How is the Purchase Price determined?

A9: Under the Plan, the Purchase Price will be no less than $10.00 per Performance Unit. JEA has set the Purchase Price as $10.00 per Performance Unit.

Q10: Will I be required to pay the Purchase Price for my Performance Units?

A10: Yes, to purchase Performance Units under the Plan, you must pay the aggregate Purchase Price for the Performance Units you wish to purchase. The aggregate Purchase Price is equal to $10.00 multiplied by the number of Performance Units that you wish to purchase.

Example: If JEA allocates you five Performance Units and you wish to purchase four Performance Units, the aggregate Purchase Agreement will be equal to $40.00 ($10.00 x four Performance Units).

Q11: How do I pay the Purchase Price for my Performance Units?

A11: To pay the Purchase Price for the Performance Units that you wish to purchase, you must elect to defer a portion of your pay equal to the aggregate Purchase Price for the Performance Units you wish to purchase. You may elect to defer your pay in a lump sum or equal installments during certain payroll periods as selected by you.

To purchase Performance Units on January 15, 2020, you must elect to defer your pay by no later than December 31, 2019. If you do not make this election by December 31, 2019, you will not be eligible to purchase Performance Units on January 15, 2020.

Q12: Under what circumstances will I forfeit the Purchase Price that I pay for my Performance Units?

A12: If prior to the Vesting Date (as described in Q&A 13) your employment with JEA is terminated for cause (as described in Q&A 20) or you voluntarily terminate your employment with JEA for any reason, you will forfeit the entire amount of the Purchase

Price that you paid for the Performance Units that have not vested as of the date of your termination or voluntary termination, as applicable, of employment.

Q13: When will I receive the Redemption Price for my Performance Units?

A13: The Performance Units will vest on the earlier to occur of (a) the last day of the three-year performance period (as described in Q&A 14) and (ii) the date on which a Recapitalization Event (as described in Q&A 23) occurs (the "**Vesting Date**"). Except as otherwise described in Q&A 18, you must be employed with JEA on the Vesting Date for the Performance Units to vest. You will only receive the Redemption Price for vested Performance Units.

JEA will pay the Redemption Price to you for your vested Performance Units no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 14. The amount of the Redemption Price will be reduced by applicable withholding taxes.

Q14: How is the Redemption Price calculated?

A14: The Redemption Price is calculated as set forth below based on a three-year performance period (if a Recapitalization Event occurs, the performance period will be shortened, and the performance period will end on the closing date of such Recapitalization Event) (the "**Performance Period**").

The Performance Period will begin on January 15, 2020 and will end on January 15, 2023 (the "**2020/2023 Performance Period**"), unless a Recapitalization Event occurs before such date in which case the performance period will end on the date on which the closing of the Recapitalization Event occurs.

The 2020/2023 Performance Period will be based on the following performance metrics:

The Redemption Price will increase by $100.00 per Performance Unit for each "Value Change Percentage" increase of 1% in excess of the "Challenge Value Target" and will decrease by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target, but the Redemption Price will not be less than $0.00 per Performance Unit (the "**Redemption Price**").

- For the 2020/2023 Performance Period, the "Challenge Value Target" will be 110% and the "Threshold Value Target" will be 90%.
- The "Value Change Percentage" means a percentage equal to the "Current Year Value" divided by the "Base Year Value."
- "Current Year Value" means, with respect to the Performance Period, the sum of (a) JEA's Net Position, as shown on JEA's audited financial statements for the Performance Period (or, in the case of a Recapitalization Event, JEA's Net Position as shown on JEA's audited financial statements immediately following the closing date

of the Recapitalization Event), (b) the aggregate consideration paid directly or otherwise transferred to the City of Jacksonville whether in cash or in-kind (excluding any public service taxes or franchise fees) during the 12-month period prior to the end of the performance period, and (c) the aggregate consideration (including refunds, rebates and distributions) paid, distributed, credited or otherwise provided to JEA's customers during the 12-month period prior to the end of the Performance Period. Any consideration and change in Net Position, as applicable, in connection with the Recapitalization Event will be taken into account for purposes of calculating the amounts in (a) – (c).

- For the 2020/2023 Performance Period, "Base Year Value" is the amount equal to the Current Year Value for fiscal year 2019 as reflected on JEA's audited financial statements when available.

The Redemption Price that you receive for your vested Performance Units will include the Purchase Price that you paid for each Performance Unit.[7]

Example: [To come][8]

Q15: Is it possible that I may not receive any Redemption Price for my Performance Units?

A15: Yes, as described in Q&A 14, the Redemption Price will be decreased by $0.50 per Performance Unit for each "Value Change Percentage" decrease of 1% below the Threshold Value Target up to $0.00 per Performance Unit. However, the Redemption Price will not be less than $0.00 per Performance Unit.

Q16: Who will calculate the Redemption Price?

A16: JEA's Chief Financial Officer will calculate the Redemption Price per Performance Unit. The Committee Chair will certify the Redemption Price as soon as practicable following the completion of JEA's audit for the applicable Performance Period, but in no event later than 30 days following the end of the Performance Period.

Q17: Are there any conditions to my receipt of the Redemption Price?

A17: Yes, you need to satisfy certain conditions in order to receive the Redemption Price for your vested Performance Units. These conditions include as follows:

(a) you must execute your Long-Term Performance Unit Agreement enclosed with this invitation booklet on Tab F and return it to JEA by following the instructions included in Tab D;

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[7] To discuss with JEA whether the Purchase Price will be refunded to a participant even if the performance metrics are not attained. There is a substantial risk of forfeiture on a termination for cause or a voluntary termination of employment.

[8] JEA to provide.

(b) except as described in Q&A 18, you must be continuously employed with JEA;

(c) you must execute and not revoke a release of claims in favor of JEA and the City of Jacksonville (JEA will notify you when it is time for you to execute the release); and

(d) you must comply with the covenants set forth in your Long-Term Performance Unit Agreement (the "**Agreement**").

Q18: What happens to my Performance Units and the Purchase Price that I paid upon an involuntary termination of employment with JEA?

A18: If you experience an involuntary termination of employment prior to the applicable Vesting Date for your Performance Units, you will still be paid the Redemption Price for all of your Performance Units. Any Redemption Price payable to you as a terminated employee for your Performance Units will be paid to you at the same time as the amounts would have been paid had you not experienced an involuntary termination of employment.

An involuntary termination of employment means a termination of employment by JEA without cause (as described in Q&A 20) or due to your death or disability (as defined in the Plan).[9]

Q19: What happens to my Performance Units and the Purchase Price that I paid upon a termination of employment with JEA for cause or a voluntary termination of employment?

A19: If you experience a termination of employment for cause (as described in Q&A 20) or you voluntarily terminate your employment with JEA for any reason, in each case, prior to the applicable Vesting Date for your Performance Units, you will forfeit both the Performance Units to the extent unvested and the Purchase Price that you paid for such unvested Performance Units.

Q20: What is a termination of employment for "cause"?

A20: Under the Plan, "cause" generally means:

(a) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units that defines a termination for "cause" (or words of like import), "cause" as defined in such agreement, or

(b) if you have an employment agreement, consulting agreement or similar agreement in effect with JEA at the time of purchase of the Performance Units or where there is such an agreement but it does not define "cause" (or words of like import): (i) you have been convicted of, pled guilty or no contest to or entered into a plea agreement with respect to, any felony under applicable law or any crime involving dishonesty or moral

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[9] JEA to clarify what is meant by the request to include a "geographic trigger."

turpitude; (ii) you have engaged in (A) any willful misconduct or gross negligence or (B) any act of dishonesty, violence or threat of violence that would reasonably be expected to result in a material injury to JEA; (iii) you willfully fail to perform your duties to JEA and/or willfully fail to comply with lawful directives of the Board; (iv) you materially breach any term of any contract to which you and JEA is a party; or (v) you materially breach any term of the Plan and/or your Long-Term Performance Unit Agreement.

With respect to clauses (iii), (iv) and (v) and if the event giving rise to the claim of "cause" is curable, JEA will provide written notice to you of the event within 30 days of JEA learning of the occurrence of such event, and such cause event must remain uncured 15 days after JEA has provided such written notice and any termination of your employment for "cause" with respect to clause (iii), (iv) or (v) must occur no later than 30 days following the expiration of such cure period.

Notwithstanding the foregoing, to the extent that this definition of "cause" is inconsistent with a definition of "cause" (or words of like import) in any applicable and lawful collective bargaining agreement or the applicable and lawful Civil Service and Personnel Rules and Regulations of the City of Jacksonville (the "**Civil Service Rules**"), the definition of "cause" (or words of like import) in such collective bargaining agreement or the Civil Service Rules, as applicable, will control.

Q21: What happens if I am retirement eligible and retire before the applicable Vesting Date?

A21: If you become a retirement eligible employee (as described below) and retire, in each case, prior to the applicable Vesting Date for your Performance Units, your Performance Units will vest on the applicable Vesting Date.

You are retirement eligible if you have attained one of the retirement milestones as described in the General Employees Retirement Plan.

Q22: What happens if my designation changes from appointed to civil service?

A22: If at any time from when you are notified by JEA of your eligibility to participate in the Plan and ending on the last day of the Performance Period, your designation changes from appointed to civil service (whether or not such change is voluntary), the level at which you participate in the Plan will be adjusted to reflect such change.

If such change occurs (a) at any time prior to the Purchase Date, the number of Performance Units that you will be eligible to purchase will be reduced to a number of Performance Units that is equal to the number of Performance Units you would have been eligible to purchase had you been civil service on the date on which you were notified of your eligibility to participate in the Plan or (ii) at any time on or after the Purchase Date, but prior to the last day of the Performance Period, you will forfeit a number of Performance Units such that you will have purchased a number of Performance Units that is equal to the maximum number of Performance Units you would have been eligible to purchase had you been civil service on the Purchase Date (it being understood that such number of forfeited

Performance Units may be zero) and JEA will refund to you the aggregate Purchase Price for such forfeited Performance Units.

RECAPITALIZATION EVENT

Q23: What is a Recapitalization Event?

A23: A "Recapitalization Event" means the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other applicable law that results in either (a) unencumbered cash proceeds to the City of Jacksonville of at least $3,000,000,000 or (b) at least 50% of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

Q24: What happens to my Performance Units upon a Recapitalization Event?

A24: On the closing date of a Recapitalization Event, your Performance Units will vest and you will receive the applicable Redemption Price for your Performance Units. The Redemption Price will be paid in cash no later than 30 days after the Redemption Price has been certified by the Committee Chair as described in Q&A 16.

AMENDMENTS OF THE PLAN

Q25: May the Board amend the Plan?

A25: Yes, the Board may amend the Plan at any time. However, no amendment to the Plan may impair the rights of participants in the Plan without such participants' written consent. You will be provided any details of any amendment that would affect you as soon as reasonably practicable.

MISCELLANEOUS

Q26: Has the Plan been collectively bargained?[10]

A26: Yes, the Plan has been collectively bargained with the applicable union representatives.

Q27: How should I respond if someone asks about my Plan benefits or JEA's financial status?

A27: All inquiries from persons other than your legal, financial and/or tax advisors relating to the value of your Performance Units, the Plan or JEA's financial status (including questions from the press, prospective JEA investors, JEA customers or vendors, prospective JEA

[10] Foley to confirm whether this Q&A can be deleted.

hires and current co-workers) should be directed to the JEA's Chief Financial Officer via email at wannrf@jea.com.

TAB B

RISK FACTORS TO BE CONSIDERED BEFORE PURCHASING THE PERFORMANCE UNITS UNDER THE JEA LONG-TERM PERFORMANCE UNIT PLAN

The occurrence of any of the following risks could materially and adversely affect JEA's business, operating results and financial condition. In addition, risks and uncertainties that are not presently known to us or that we currently believe are immaterial may also impair JEA's business and operations. If any of these risks occur, the value of your Performance Units could decline and you may lose all or part of your Purchase Price.

The list of risk factors below does not purport to be a complete enumeration or explanation of the risks involved in purchasing the Performance Units under the Plan. You should carefully evaluate all of the information in this invitation booklet, the Plan and your Long-Term Performance Unit Agreement and consult with your own legal, tax and/or financial advisers before deciding whether to purchase Performance Units and pay the Purchase Price under the Plan.

There are a number of factors that may impact JEA's business and financial conditions.

The Redemption Price of the Performance Units will be subject to the future performance of JEA and, accordingly, before purchasing the Performance Units, you should carefully consider the risk factors described in JEA's Electric System and Water & Sewer System Annual Disclosure Reports (the "**Annual Reports**") filed with the Municipal Securities Rulemaking Board on its EMMA website and on www.jea.com under the "Financial Reports" section (About > Investor Relations > Financial Reports > Annual Disclosure Reports), which are incorporated by reference into this invitation booklet, together with the other information incorporated by reference herein or provided in this invitation booklet (including the risks set forth below).

The issues and associated risks and uncertainties discussed in the Annual Disclosure Reports that are incorporated herein by reference are not the only ones JEA may face. Additional issues may arise or become material as the energy, water and wastewater industries evolve. The risks and uncertainties associated with those additional issues could impair JEA's businesses in the future.

The Redemption Price of the Performance Units in the future may be higher or lower than the Purchase Price that you paid for the Performance Units due to changes in JEA's operating performance or prospects and other factors, including broad market fluctuations. Some specific factors that may have a significant effect on the Redemption Price of your Performance Units include:

- JEA has a history of losses, and may not achieve or maintain profitability in the future;
- climate change, or legal, regulatory or market measures to address climate change, may negatively affect JEA's business, operations and/or financial performance;

- natural disasters, including, but not limited to, hurricanes and/or fires, could destroy JEA's facilities and equipment;
- actual or anticipated fluctuations in JEA's operating results or future prospectus;
- factors outside of JEA's control, including modifications to JEA's book value;
- strategic actions by other industry participants, such as acquisitions or restructurings;
- new laws or regulations or new interpretations of existing laws or regulations applicable to JEA's business;
- JEA may be subject to legal proceedings and litigation, which are costly and may subject JEA to significant liability and increased costs of doing business;
- changes in accounting standards, policies, guidance, interpretations or principles; and
- adverse conditions in the financial markets or general economic conditions, including but not limited to, those resulting from war, incidents of terrorism and responses to such events.

There is no duty to update this invitation booklet.

JEA has no obligation to update the information contained in this invitation booklet. Accordingly, you should bear in mind that there may have been material changes in the affairs of JEA since the date of this invitation booklet, and it is up to you to review JEA's publicly available reports and information.

The information and expressions of opinion set forth herein or included herein by specific reference are subject to change without notice, and neither the delivery of this invitation booklet, nor the Plan nor your Long-Term Performance Unit Agreement shall, under any circumstances, create the implication that there has been no change in the affairs of JEA since the date hereof and thereof.

The Performance Units are not transferable and there is no market available for sale of the Performance Units.

You may not transfer, sell, pledge or otherwise dispose of your Performance Units (other than by will or the laws of descent or distribution) and there is no market to sell the Performance Units.

* * *

THE PERFORMANCE UNITS ARE NOT EQUITY OR SECURITIES OF JEA, NOR ARE THEY INTENDED TO BE TREATED AS SUCH AND ANY REPRESENTATION BY JEA OR ITS AGENTS TO THE CONTRARY SHOULD NOT BE RELIED UPON.

TAB C

FINANCIAL STATEMENTS

You can access and view JEA's financial statements, including the unaudited Quarterly Analysis of Financial Performance for the quarter ended June 30, 2019, through this link:[11]

https://www.jea.com/About/Investor_Relations/Financial_Reports/

Please contact [NAME], [TITLE] at [EMAIL ADDRESS] if you have trouble viewing or accessing the financial statements.[12]

[11] To be updated prior to distribution to participants, as necessary.

[12] JEA to provide the name, title and email address of the JEA representative.

TAB D

INSTRUCTIONS FOR PARTICIPATING IN THE JEA LONG-TERM PERFORMANCE UNIT PLAN

To purchase Performance Units and participate in the Plan:

- You must sign and return your Long-Term Performance Unit Agreement enclosed with this invitation booklet; and

- You must complete, sign and return the Purchase of Performance Units and Deferral Election attached as Schedule I to your Long-Term Performance Unit Agreement.

The documents listed above must be returned to [NAME], [TITLE], at [Foley/Pillsbury],[13] at [ADDRESS], or at [EMAIL ADDRESS].

All required forms and materials must be postmarked by no later [DATE], 2019. If your required forms and materials are postmarked later than [DATE], 2019, your election will not be processed and you will not be eligible to purchase Performance Units and participate in the Plan.[14]

[13] JEA to confirm whether Foley or Pillsbury will receive the documents.

[14] JEA to provide the postmark date.

TAB E

JEA LONG-TERM PERFORMANCE UNIT PLAN

[To be attached]

TAB F

JEA LONG-TERM PERFORMANCE UNIT AGREEMENT

[To be attached]

[OGC Letterhead]

October __, 2019

The Florida Commission on Ethics
325 John Knox Road
Building E, Suite 200
Tallahassee, Florida 32303

RE: Request for Advisory Opinion

Dear Commissioners:

I write on behalf of JEA (formerly known as the "Jacksonville Electric Authority") to request an informal advisory opinion regarding a matter of importance to JEA and, critically, to the approximately 2,000 JEA employees who provide dedicated service to JEA and its customers. JEA is an independent agency of the City of Jacksonville and is subject to the jurisdiction of the Jacksonville City Charter, ordinances and, of course, state laws and regulations. Pursuant to section 112.322(3)(a), Florida Statutes, JEA employees are public employees that are entitled to request an advisory opinion from the Commission to establish the standard of public duty pursuant to Florida ethics laws.[1]

Over the past few months, the Board of JEA has been exploring multiple scenarios of operation and investment to ensure that JEA customers and Northeast Florida receives the most cost-effective and efficient electric, wastewater, and water utility services. This exploration is necessary due to the rapidly evolving utility industry and declining sales resulting from energy efficiency measures taken by its customers. This fiscal and technological shift has necessitated development of a number of initiatives designed to improve and optimize the fiscal health of the utility and promote employee retention.

In order to proactively engage and retain employees in this evolving and challenging financial landscape, the JEA Board on July 23, 2019 passed Resolution 2019-10, approving a Long Term Performance Unit Plan (the "PUP" or the "Plan"). The PUP is designed to allow employees to benefit from the enterprise growth of JEA in the next three years. JEA's performance will be measured on the change in JEA's net position during the performance period.

Attached is a copy of Resolution 2019-10 and Exhibits 1 and 2 to that resolution. Exhibits 1 and 2 provide a detailed summary of the PUP and Redemption Price Schedule for the PUP. Also attached is the Long Term Performance Unit Plan and Form of Long Term Performance Unit Agreement.

[1] JEA is established as a "body politic and corporate," an independent authority of the City of Jacksonville pursuant to Laws of Florida 78-538, 80-515, 92-341 and Section 21.01 of the Charter of the City of Jacksonville, Florida.

In summary, and as detailed below, the PUP provides full-time JEA employees an opportunity to defer compensation in order to purchase units at $10.00 per unit and later redeem them for an amount dependent on JEA's current year value. Participation in the Plan is voluntary, and eligibility is dependent upon employment status. Benefits like the Plan are commonplace in the corporate world, where employees invest in the success of a company, but are less so in government. The Office of General Counsel of the City of Jacksonville (the "OGC") and JEA Special Counsel (selected by the OGC) have assisted throughout the development and drafting of the PUP and associated PUP Agreement and confirmed the JEA Board's authority to pass Resolution 2019-10. While, as outlined herein, we believe the PUP complies with Florida ethics laws, given the absence of available case law or advisory opinions directly on point, JEA requests respectfully an informal advisory opinion confirming that (1) the PUP comports with section 112.313, Florida Statutes, and does not constitute the solicitation or acceptance of a gift or unauthorized compensation and (2) that the PUP does not violate any other ethics laws deemed to be implicated.[2]

A. The Long-Term Performance Plan:

The PUP allows eligible employees to defer compensation in order to purchase a specified number of performance units from JEA and redeem them for a cash payment equal to the redemption price. The PUP is entirely voluntary. Any eligible employee may decide to participate or decline.

Eligible employees include all full-time employees (including full-time attorneys from the Office of the General Counsel dedicated exclusively to JEA, appointed employees, and represented employees) actively employed with JEA for at least three months prior to the performance unit purchase date. The eligibility of employees to participate in the program is dependent solely on their employment status and execution of and compliance with a performance plan participation agreement. To participate, the employee must agree in a performance plan participation agreement to comply with the following covenants: (i) devote his/her best efforts to faithfully discharge his/her duties on behalf of the JEA and not take any action that would be contrary to the best interests of the JEA and (ii) not disclose confidential JEA information except as required by law or to perform employment duties. A breach of these covenants would result in the forfeiture of unvested units except for a return of the aggregate purchase price for such units. The agreements regarding the Plan will be subject to sections 409A and 457(f) of the Internal Revenue Code and will be governed by the laws of Florida and subject to arbitration in Duval County.

[2] On October 1, 2019, JEA requested an opinion from the Florida Attorney General that the Plan complies with F.S. 215.425 (related to "extra compensation" for employees).

A pool of units will be allocated[3] amongst employees based on his/her position level and the most recent annual performance review. The units will be available for purchase at $10.00 per unit in the early months of the calendar year following the calendar year in which JEA's annual financial audit statement is completed. Unpurchased units will return to the pool. Eligible employees will pay the purchase price of the unit by electing to defer a portion of his/her salary (equal to the aggregate purchase price for the performance units) into an FDIC-insured savings account. At redemption, the employee will receive a cash payment in the amount of the redemption price that will include the purchase price paid per unit. JEA's Chief Financial Officer will calculate the redemption price, and it will be certified no later than 30 days following the completion of JEA's annual financial audit statement. It is important to note that the PUP was developed at the instruction of the JEA Board, authorized by it, and will be administered under Board auspices and the redemption price certified by the Board. Further, an independent auditor will certify all values and financial results that will substantiate the value of the PUP.

The calculation of the redemption price is dependent on JEA's current year value, which is defined as the sum of JEA's net position per JEA's annual audited financial statement, the aggregate consideration paid, distributed, credited, or otherwise provided to the City of Jacksonville during the 12-month period prior to the end of the performance period, and the aggregate consideration paid, distributed, credited, or otherwise provided to JEA's customers during the 12-month period prior to the end of the performance period. Depending on the increase or decrease of JEA's current year value, the redemption price for the units will increase or decrease. Payments made regarding the units will be paid less applicable withholding taxes.[4]

The employee must be actively employed on the vesting date for the units to vest. If an employee is involuntarily terminated (without cause or due to death or disability) prior to the vesting date, then the employee will receive a payment for the units at the same time as the amounts would have been paid had the employee not been terminated. If the employee's termination of employment is voluntary, then the employee forfeits the units. If an employee is retirement-eligible and retires prior to the vesting date, the units will vest on the normal vesting date.

B. Questions:

As described above, while it appears clear that the PUP is permissible under Florida ethics laws, in an abundance of caution we are requesting an opinion from the Commission to confirm:

1. Whether the PUP comports with section 112.313, Florida Statutes, and does not constitute the solicitation or acceptance of a gift or unauthorized compensation.
2. Whether the PUP violates other Florida ethics laws, if any, deemed applicable to employee participation in enterprise value creation.

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[3] The allocation of performance units available to each employee for purchase will be directed by the JEA Compensation Committee Chair, who is the Administrator of the Plan.

[4] As a part of the JEA's Board's exploration of alternative scenarios to address the utility's fiscal challenges, JEA is also considering selling the utility. If that occurs, the performance period ends, the amount owed to the employee will become the obligations of the acquirer to be paid post-closing and the PUP will be extinguished.

C. The Plan does not constitute the Solicitation or Acceptance of a Gift or Unauthorized Compensation under Section 112.313, Florida Statutes

The Plan gives employees the choice of purchasing units that can increase in value if the value of JEA increases and decrease in value if the value of JEA decreases. The Plan is voluntary and requires employees that wish to participate to buy-in by deferring their personal compensation to purchase the units and to execute an agreement pertaining to the Plan. The PUP does not violate Florida ethics laws for public employees because it does not constitute the unlawful solicitation or acceptance of a gift or unauthorized compensation. In addition, the PUP directly aligns with the intent of the Legislature in ensuring that government entities have mechanisms to recruit and retain those citizens best qualified to serve.

The PUP clearly states its purpose:

> The purpose of this JEA Long-Term Performance Unit Plan (this "Plan") is to provide a means by which employees of JEA may be given incentives to (i) remain with JEA, (ii) drive value for customers, (iii) drive value for the community of Northeast Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville. (PUP at Section 1a).

Nothing in the stated purpose or the actuality of the PUP creates a conflict between the participating employee and JEA or the customers JEA serves. Indeed, participating employees only stand to benefit if the value of JEA increases.

The Legislature enacted chapter 112, Florida Statutes, to create a code of ethics for public officers and employees. The Legislature's intent in promulgating a code of ethics was to ensure that public employees be independent and impartial, to prevent conflicts of interest, and to protect the integrity of the governmental process. § 112.311, Fla. Stat.[5] In addition, the Legislature specifically sought to ensure that the code of ethics be designed so "as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve." § 112.311(2), Fla. Stat. The code does not deny public employees the opportunities available to all other citizens to acquire private economic interests unless a conflict with the responsibility of such public officials cannot be avoided. *Id.* Thus, the code of ethics serves to protect the integrity of government while also facilitating the recruitment and retention of "those citizens best qualified to serve." § 112.311(3), (4), Fla. Stat.

In furthering such purposes, the Legislature sought to prevent public employees from engaging in conduct that would create the opportunity for improper influence or a conflict between the employees' private and public interests. *See* Chapter 67-469, Laws of Florida (The Legislature's first iteration of the bill prohibited the acceptance of gifts that would improperly influence an employee in the discharge of his official duties and personal investments that created a substantial conflict between an employee's private and public interests). In section

[5] A conflict must be substantial to be prohibited. AGO 1973-215 ("the personal investment in an enterprise that is prohibited by the act is one that will create a 'substantial conflict' between his private interest and the public interest"). See also AGO 1980-71 ("Thus, we do not believe that the Code of Ethics should be interpreted to prohibit the most remote possibilities of conflicts of interest, but rather to prohibit those relationship which are in substantial conflict with the proper discharge of duties in the public interest.")

112.313(2), Florida Statutes, the code of ethics prohibits public employees from soliciting or accepting "anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgement of the [public employee] would be influenced thereby." A "gift" is defined as real property, the use of real property, tangible or intangible personal property, the use of tangible or intangible personal property, a preferential rate or terms on a debt, loan, goods, or services, forgiveness of an indebtedness, transportation, food or beverage, membership dues, tickets and entrance fees, plants and flowers, other personal services, and similar services or things having attributable value. § 112.213(12)(a), Fla. Stat. "Gifts" do *not* include salary, benefits, fees, commissions, gifts, or expenses associated with employment, contributions to political parties or campaign-related personal services, an honorarium, an award, an honorary membership, use of public facilities or public properties made available for a public purpose, and transportation for official governmental business. § 112.213(12)(b), Fla. Stat.

The Commission has previously held that to establish a violation of section 112.313(2), the following elements must be established: (i) Respondent is a public employee; (ii) Respondent "solicited or accepted something of value to him or her, including a gift, loan, reward, promise of future employment, favor, or service"; (iii) the solicitation or acceptance "must have been based upon on an understanding that the Respondent's vote, official action or judgement would be influenced thereby." *In re: Danny Howell*, 2007 FL COMM. ETHICS LEXIS 77, *50 (Sep. 12, 2007). The term "understanding" in the statute is used to denote "a mutual agreement not formally entered into but in some degree binding on each side." *In re: Rudy Maloy*, 2003 FL COMM. ETHICS LEXIS 24, *40-41 (Apr. 25, 2003) (quoting Merriam-Webster Online Dictionary). Accordingly, "there must be a meeting of the minds between the public officer who receives (or is requesting) the gift and the person who confers (or is being asked for) the gift pursuant to which each understands that the gift is being given (or solicited) for the purpose of influencing some official action of the recipient." *Id.* at *41.

Furthermore, section 112.313(4) provides that a public employee may not "accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity." Section 112.313(4) requires the same inquiry as section 112.313(2) except that when the compensation, payment, or thing of value was accepted, the Respondent must have either: (i) "[known] that it was given to influence a vote or other action in which the Respondent was expected to participate in an official capacity; or (ii) "with the exercise of reasonable care, should have known that it was given to influence a vote or other action in which the Respondent was expected to participate in an official capacity." *In re: Danny Howell* at *44.

The Plan plainly does not violate Florida's code of ethics for public employees. The PUP does not fall under the definition of a gift because it requires employees to expend their personal funds to purchase the units. Furthermore, participation in the PUP serves solely as an opportunity for employees to help improve the health of the utility. It is not premised on an understanding that participation serves to influence a vote or official action. Rather, the PUP allows employees to participate in enterprise value creation at the risk of not receiving a return on the investment made to purchase the performance units. This is the opposite of what the Code of Ethics is

designed to prevent. "A primary objective of the Code of Ethics is that governmental officials avoid recurring situations in which there is a temptation to place personal gain, economic or otherwise, above the discharge of their fiduciary duty to the public." *Zerweck v. State,* 409 So.2d 57, 60 (Fla. 4th DCA 1982). Contrary to acting against the interest of JEA, the PUP is designed to encourage employees to personally invest in JEA, and work to increase its value. Only if this occurs does the PUP gain value and the employee stand to benefit. Thus, the interests of JEA employees and JEA itself are strictly aligned.

In sum, the Plan is directly aligned with the Legislature's intent to ensure that the government can recruit and retain employees that are best qualified to serve. JEA's PUP will serve as a mechanism to recruit and retain qualified employees.

Finally, s. 112.313(6) is not implicated. That statute provides:

> No public officer, employee of an agency, or local government attorney shall *corruptly* use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit or exemption for himself, herself, or others. The section shall not be construed to conflict with s. 104.31. (Emphasis added)

The PUP is available to all employees who may decide whether or not to participate and is incidental to their employment (e.g. a form of deferred compensation). No individual is able to secure something not available to other JEA employees. As previously stated, it is important to note that the PUP was developed at the instruction of the JEA Board, authorized by it, and will be administered under Board auspices and certified by the Board. Further, an independent auditor will certify all values and financial results that will substantiate the value of the PUP. No individual can affect or create a benefit which is not approved or authorized by the Board. And, no JEA Board member can participate in the PUP. Thus, there is complete independence being the creation and authorization of the PUP, and certification of values related to the PUP.

To establish a violation of s. 112.313(6), the following elements must be proven by clear and convincing evidence:

> "(a) the employee used or attempted to use his official position; (2) to secure a special privilege, benefit or exemption for himself or another and (3) acted corruptly in doing so, that is, with wrongful intent and for the purpose of benefiting himself or another person from some act or omission, which is inconsistent with the proper performance of his public duties. Corruptly is statutorily defined as being done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from act or omission of a public servant which is inconsistent with the proper performance of his or her duties. To satisfy this statutory element, proof must be adduced that Siplin [the Respondent/Appellant] acted with reasonable notice that [his or her] conduct was inconsistent with the proper performance of his or her public duties and would be a violation of the law of the code of ethics. *Siplin v. Commission on Ethics, 59 So.3d 150, 151-152 (Fla. App. 5th Dist. 2011) (internal citations omitted).*

Employees eligible to participate in the PUP are not receiving compensation inconsistent with the proper performance of their duties. Indeed, the PUP is based on the employee properly performing their duties and incentivizing them to do so. Moreover, all eligible participants are properly advised of the conditions of eligibility to participate in the PUP and its terms. The JEA Board has approved the PUP and the employee does not have notice that the PUP is inconsistent performing his or her duties. Consequently, the PUP, and those who participate in it, do not violate s. 112.313(6).

D. No Other Laws are Implicated

As to Question 2, we seek the guidance of the Commission to determine whether any other Florida ethics laws of which we currently are not aware are implicated. Our legal research has not identified any statutes or ethics laws prohibiting the Plan. We appreciate your assistance with this matter. Please let us know if you need any additional information.

Sincerely,

Lynne C. Rhode

Rhode, Lynne C. (City of Jacksonville)

From: KHyde@foley.com
Sent: Thursday, October 3, 2019 11:49 AM
To: Rhode, Lynne C. (City of Jacksonville)
Cc: crodriguez@foley.com
Subject: Letter to Attorney General Ashley Moody
Attachments: 2019-10-01 - Final Letter to The Honorable Ashley Moody (SIGNED) 4833-3472-6056 v.1.pdf

[External Email - Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.]

Attached is a copy of the letter delivered to the office of Attorney General Ashley Moody on October 10, 2019. Foley & Lardner reviewed this letter and agrees with its analysis and content. Please call me if you have any questions.

-Kevin E. Hyde

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*BOARD CERTIFIED CITY, COUNTY AND LOCAL GOVERNMENT LAW

October 1, 2019

The Honorable Ashley Moody
Attorney General, State of Florida
The Capitol PL01
Tallahassee, Florida 32399-1050

RE: Request for Opinion

Dear General Moody:

Pursuant to Section 16.01(3), Florida Statutes, JEA (formerly known as the "Jacksonville Electric Authority") requests respectfully an official opinion and legal advice regarding a matter of importance to JEA and, critically, to the approximately 2000 JEA employees who provide dedicated service to JEA and its customers. JEA is an independent agency of the City of Jacksonville and is subject to the jurisdiction of the Jacksonville City Charter, ordinances and, of course, state laws and regulations. Pursuant to section 16.01(3), Florida Statutes, JEA constitutes a "unit of local government" entitled to request an official opinion in writing on a question of law.[1]

Over the past few months, the Board and Senior Leadership Team of JEA have been exploring multiple scenarios of operation and investment to ensure that JEA customers and Northeast Florida receive the most cost-effective and efficient electric, wastewater, and water utility services. This exploration is necessary due to the rapidly evolving utility industry and declining sales resulting from energy efficiency measures taken by its customers. This fiscal and

[1] JEA is established as a "body politic and corporate," an independent authority of the City of Jacksonville pursuant to Laws of Florida 78-538, 80-515, 92-341 and Section 21.01 of the Charter of the City of Jacksonville, Florida. JEA is a unit of local government within the meaning of F.S. 16.01(3). The Florida Attorney General has previously issued advisory opinions at the request of the General Counsel of JEA. *See* AGO 92-43.

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technological shift has necessitated development of a number of initiatives designed to improve and optimize the fiscal health of the utility and promote employee retention

In order to proactively engage and retain employees in this evolving and challenging financial landscape, the JEA Board on July 23, 2019 passed Resolution 2019-10, approving a Long Term Performance Unit Plan (the "PUP" or the "Plan"). The PUP is designed to allow employees to benefit from the enterprise growth of JEA in the next three years. JEA's performance will be measured on the change in JEA's net position during the performance period.

Attached is a copy of Resolution 2019-10 and Exhibits 1 and 2 to that resolution. Exhibits 1 and 2 provide a detailed summary of the PUP and Redemption Price Schedule for the PUP. Also attached is the Long Term Performance Unit Plan and Form of Long Term Performance Unit Agreement.

In summary, and as detailed below, the PUP provides full-time JEA employees an opportunity to defer compensation in order to purchase units at $10.00 per unit and later redeem them for an amount dependent on JEA's current year value. Participation in the Plan is voluntary, and eligibility is dependent upon employment status. Benefits like the Plan are commonplace in the corporate world, where employees benefit from for the success of a company, but are less so in government. The Office of General Counsel of the City of Jacksonville (the "OGC") and JEA Special Counsel (selected by the OGC) have assisted throughout the development and drafting of the PUP and associated PUP Agreement, and have confirmed the JEA Board's authority to pass Resolution 2019-10. While, as outlined herein, we believe the PUP complies with Florida law, given the absence of available case law or advisory opinions directly on point, JEA requests respectfully an opinion confirming that the PUP is not subject to section 215.425, Florida Statutes; and, if it is, that the PUP is not prohibited by section 215.425.[2]

A. The Long-Term Performance Plan:

The PUP allows eligible employees to defer compensation in order to purchase a specified number of performance units from JEA and redeem them for a cash payment equal to the redemption price. The PUP is entirely voluntary. Any eligible employee may decide to participate or decline.

Eligible employees include all full-time employees (including full-time attorneys from the Office of the General Counsel dedicated exclusively to JEA, appointed employees, and represented employees) actively employed with JEA for at least three months prior to the performance units purchase date. The eligibility of employees to participate in the program is dependent solely on their employment status and execution of and compliance with a performance plan participation agreement. To participate, the employee must agree in a performance plan participation agreement to comply with the following covenants: (i) devote his/her best efforts to faithfully discharge his/her duties on behalf of the JEA and not take any

[2] While JEA has not identified any other Florida Statutes implicated by the Plan, JEA intends to seek similar guidance from the Florida Commission on Ethics.

action that would be contrary to the best interests of the JEA and (ii) not disclose confidential JEA information except as required by law or to perform employment duties. A breach of these covenants would result in the forfeiture of unvested units except for a return of the aggregate purchase price for such units. The agreements regarding the Plan will be subject to sections 409A and 457(f) of the Internal Revenue Code and will be governed by the laws of Florida and subject to arbitration in Duval County.

A pool of units will be allocated[3] amongst employees based on his/her position level and the most recent annual performance review. The units will be available for purchase at $10.00 per unit on January 15th of the calendar year following the calendar year in which JEA's annual financial audit statement is completed. Unpurchased units will return to the pool. Eligible employees will pay the purchase price of the unit by electing to defer a portion of his/her salary (equal to the aggregate purchase price for the performance units) into an FDIC-insured savings account . At redemption, the employee will receive a cash payment in the amount of the redemption price that will include the purchase price paid per unit. JEA's Chief Financial Officer will calculate the redemption price, and it will be certified no later than 30 days following the completion of JEA's annual financial audit statement.

The calculation of the redemption price is dependent on JEA's current year value, which is defined as the sum of JEA's net position per JEA's annual audited financial statement, the aggregate consideration paid, distributed, credited, or otherwise provided to the City of Jacksonville during the 12-month period prior to the end of the performance period, and the aggregate consideration paid, distributed, credited, or otherwise provided to JEA's customers during the 12-month period prior to the end of the performance period. Depending on the increase or decrease of JEA's current year value, the redemption price for the units will increase or decrease. Payments made regarding the units will be paid less applicable withholding taxes.[4]

The employee must be actively employed on the vesting date for the units to vest. If an employee is involuntarily terminated (without cause or due to death or disability) prior to the vesting date, then the employee will receive a payment for the units at the same time as the amounts would have been paid had the employee not been terminated. If the employee's termination of employment is voluntary, then the employee forfeits the units. If an employee is retirement-eligible and retires prior to the vesting date, the units will vest on the normal vesting date.

B. The Plan does not Violate Section 215.425, Florida Statutes

JEA's PUP gives employees the choice of purchasing units that can increase in value if the value of JEA increases and decrease in value if the value of JEA decreases. The Plan is voluntary and requires employees that wish to participate to buy-in by deferring their personal compensation to purchase the units and to execute an agreement pertaining to the Plan. As

[3] The allocation of performance units available to each employee for purchase will be directed by the JEA Compensation Committee Chair, who is the Administrator of the Plan.
[4] As a part of the JEA's Board's exploration of alternative scenarios to address the utility's fiscal challenges, JEA is also considering selling the utility. If that occurs, the performance period ends, the amount owed to the employee will be paid by the Purchaser, and the Plan will be extinguished.

developed below, the Plan does not therefore constitute "extra compensation" under section 215.425, Florida Statutes.

Section 215.425 provides that "no extra compensation shall be made to any [public employee] after the service has been rendered or the contract made." The intent behind this provision is that public employees should not receive gratuities for services that were already rendered. AGO 2005-07 ("The purpose of such a provision is to prevent payments in the nature of gratuities for past service, and the restriction pertains to extra compensation given after service has been performed, not to compensation earned during service.").

We have reviewed the applicable legislative history of section 215.425 and have not identified anything suggesting that plans such as the PUP are, or are intended to be, prohibited by the statute. Moreover, the consistent theme of prior Opinions from your Office – which are consistent with the clear intent of the statute – is that the provision applies principally in instances where public employees were to receive retroactive compensation for work already performed. *See* AGO 92-49 (holding that the Police Pension Board of Trustees could not pay a cost of living allowance to a retired police officer already receiving pension benefits for prior services); *see also* AGO 91-51 (holding that severance payments in lieu of notice violated the provision because the employee renders no service after termination and the payments were compensation for work already performed).

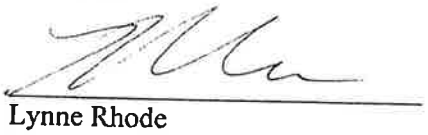
JEA's PUP plainly does not constitute "extra compensation" because the redemption payments are not compensation for the services that the employees render as part of their employment with JEA. Rather, the PUP is a benefit that allows all eligible employees to participate through a voluntary payment in enterprise creation at the risk of not receiving a return on the investment made to purchase the performance units. The PUP also does not serve to provide gratuities to the employees for their past service that they have been previously paid for and does not serve as a bonus program or incentive program to reward employees. Indeed, to participate in the Plan, JEA employees must opt-in at their sole discretion and expend their personal funds to purchase the units. The number of performance units available for purchase by each employee is directed by the Plan Administrator and is based on the employee's position level and annual performance review. The redemption payments for the units depend solely on the change in value of JEA. Thus, section 215.425 does not apply to the Plan, and the Plan does not constitute "extra compensation."

C. Conclusion

In sum, while is appears clear based on our research that the PUP is permissible under Florida law, given the potential significance of the Plan to both JEA and its approximately 2000 employees, we seek guidance from your Office to confirm that the PUP is lawful. Particularly, whether section 215.425, Florida Statutes, is applicable to the PUP and, if so, whether the PUP comports with section 215.425.

JEA appreciates greatly your attention to and assistance with this matter. Please advise if you or your Office have any question or would like additional information.

Sincerely,



Lynne Rhode
VP and Chief Legal Officer
JEA Office of General Counsel,
City of Jacksonville

pillsbury

Pillsbury Winthrop Shaw Pittman LLP
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PRIVILEGED & CONFIDENTIAL

To: Office of General Counsel of the City of Jacksonville, Florida

From: Pillsbury Winthrop Shaw Pittman LLP

Date: November 4, 2019

Re: Tax and Securities Considerations Applicable to JEA Long-Term Performance Unit Plan

A. Background

JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville ("JEA"), sponsors the JEA Long-Term Performance Unit Plan, effective July 23, 2019 (the "Plan"). As requested by the Office of General Counsel of the City of Jacksonville, this memorandum summarizes the basic terms, vesting conditions, and payment provisions applicable to performance units available for allocation to eligible employees under the Plan, and summarizes the relevant federal tax consequences of the Plan under the Internal Revenue Code of 1986, as amended (the "Code"), and related guidance as well as the relevant federal and state securities consequences of the Plan.[1]

B. Plan Summary

1. Basic Plan Terms

Under the Plan, (i) employees of JEA and its affiliates, assigns, subsidiaries and successors (the "JEA Group") who have been employed by the JEA Group for at least three months prior to the Purchase Date (as defined below) and (ii) full-time attorneys of the Office of General Counsel of the City of Jacksonville who are dedicated exclusively to JEA for at least three months prior to the Purchase Date are eligible to be allocated a number of Performance Units (as defined below) by JEA for purchase at a price of $10 per Performance Unit. The Plan is administered by the Chairperson of the Compensation Committee of the Board of Directors of JEA (the "Administrator").[2]

[1] This memorandum is based on the version of the Plan that is current through the date of this memorandum.

[2] Following a Recapitalization Event (as defined below), the Administrator may be such other entity designated in the definitive agreement providing for such Recapitalization Event.

Each performance unit is a bookkeeping entry that represents a potential right to receive a cash payment in the future based on attainment of specified performance metrics (the "Performance Units"). The aggregate number of Performance Units that may be purchased by eligible employees under the Plan is 100,000 Performance Units. Participation in the Plan is not mandatory and eligible employees who purchase Performance Units under the Plan are referred to in this memorandum as "Participants."

To purchase Performance Units, an eligible employee must pay the purchase price for the Performance Units the employee wishes to purchase by electing to defer a portion of his or her pay equal to the aggregate purchase price of the Performance Units the employee wishes to purchase. To defer a portion of his or her pay, the employee must complete an election notice (a "Deferral Election") and file it with the Administrator by no later than December 31st of the calendar year immediately preceding the calendar year to which the Deferral Election relates. Eligible employees may elect to defer their pay earned in the calendar year after the Deferral Election is made over one or two payroll periods.

Before the end of 2019, eligible employees will be allocated up to 35,000 Performance Units for purchase under the Plan. An eligible employee who wishes to purchase all or some of the Performance Units allocated to him or her must complete the Deferral Election by December 31, 2019 and elect to defer pay earned in 2020. The purchase date of the Performance Units will be January 27, 2020.

2. Vesting of Performance Units

Under the Plan, the Performance Units are subject to a time-based vesting component and a performance-based vesting component, in each case measured over a three-year performance period (the "Performance Period") that ends on the earlier to occur of (i) the third anniversary of the Purchase Date[3] (which is January 27, 2023 with respect to Performance Units purchased on January 27, 2020) and (ii) the date on which a Recapitalization Event[4] occurs.

The time-based vesting component is satisfied if a Participant remains employed with any member of the JEA Group through the end of the applicable Performance Period. However, the time-based vesting component is deemed to be satisfied if, prior to the end of the applicable Performance Period, the Participant's employment is terminated due to an involuntary termination or due to the Participant's retirement after the Participant attains one of the retirement milestones described in JEA's General Employees Retirement Plan. An involuntary termination of employment occurs if the Participant's employment is terminated (i) by any member of the JEA Group without "cause" (as defined in the Plan) or (ii) due to the Participant's death or "disability" (as defined in the Plan).

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[3] The "Purchase Date" for Performance Units under the Plan is each January 27th of the calendar year following the calendar year in which JEA's annual financial statements audit is completed, beginning with January 27, 2020.

[4] The Plan defines a "Recapitalization Event" as the closing and funding of a transaction or a series of related transactions in accordance with Article 21 of the Charter of the City of Jacksonville and any other applicable law that results in either (i) unencumbered cash proceeds to the City of Jacksonville of at least $3,000,000,000 or (ii) at least 50% of the net depreciated property, plant and equipment value of either JEA's electric system or JEA's water and wastewater system being transferred, assigned, sold or otherwise disposed of.

If a Participant's employment is terminated prior to the end of the applicable Performance Period for any reason other than due to an involuntary termination or retirement, the Participant forfeits his or her Performance Units. In such a case, the applicable purchase price paid by the Participant in respect of the forfeited Performance Units is refunded to the Participant, provided that, if the Participant's employment is terminated by any member of the JEA Group for cause or the Participant voluntarily resigns from employment with the JEA Group for any reason (other than due to retirement), the applicable purchase price is not refunded to the Participant. As such, there exists the possibility for a Participant to forfeit completely the amount of pay deferred by the Participant under the Plan for failure to satisfy the time-based vesting component.[5]

The performance-based vesting component is satisfied if, as of the end of the applicable Performance Period, JEA realizes a percentage increase in its enterprise value (taking into account its net position reflected on its financial statements, the aggregate consideration paid by JEA to the City of Jacksonville during the 12-month period prior to the end of the applicable Performance Period and the aggregate consideration paid by JEA to its customers during the 12-month period prior to the end of the applicable Performance Period) as compared to its enterprise value at the beginning of the applicable Performance Period, as more fully described on Schedule A to the Plan (the "Redemption Price Schedule"). If JEA realizes a percentage increase in its enterprise value in excess of a specific target change in value percentage and the Participant has satisfied the time-based vesting component, the Participant is eligible to receive a cash payment in respect of his or her vested Performance Units. If, however, the change in value percentage does not meet or exceed a specific threshold value percentage, the Redemption Price (including the purchase price paid for the Performance Units) may potentially be reduced to $0, as more fully described on the Redemption Price Schedule and in the definition of "Redemption Price", and the Participant may receive no cash payment in respect of his or her Performance Units (this is true even if the Participant satisfies the time-based vesting component).[6] As such, there exists the possibility for a Participant to forfeit completely the amount of pay deferred by the Participant under the Plan for failure to satisfy the performance-based vesting component.

3. Payment for Vested Performance Units

Assuming satisfaction of both the time-based vesting component and the performance-based vesting component, on the applicable payment date, each Participant will receive an amount equal to the number of his or her vested Performance Units as of the end of the applicable Performance Period multiplied by the "Redemption Price"[7] per Performance Unit. The

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[5] Participants may also forfeit all or a portion of their allocated or purchased Performance Units (with the applicable purchase price refunded to them) if they incur a change in their civil service status during the applicable Performance Period, as more fully described in the Plan.

[6] If performance results in a percentage increase between the specific threshold value percentage and the specific target change in value percentage, a Participant will only be eligible to receive an amount equal to the purchase price paid for the Performance Units.

[7] The "Redemption Price" means a price per Performance Unit payable by JEA to each Participant calculated in accordance with the Redemption Price Schedule. As described more fully on the Redemption Price Schedule, the Redemption Price will increase by $100.00 per Performance Unit for each "value change percentage" increase of 1.00% in excess of the "challenge value target" and will decrease by $0.50 per Performance Unit for each "value change percentage" decrease of 1.00% below the "threshold value target" (as such terms are defined in the Plan), but in no event will the Redemption Price per Performance Unit be less than $0.

Administrator will certify performance within 30 days following the completion of the applicable Performance Period (or, in the case of a Recapitalization Event, within 30 days following the occurrence of such Recapitalization Event) and payment will be made to the Participants no later than March 15th of the calendar year following the calendar year in which the applicable Performance Period ends.

The Plan provides that, in the event of a Recapitalization Event, the Plan and any Award Agreements thereunder will be assumed by any successor of JEA (including any organization(s) that succeeds to a substantial portion of the assets and business of JEA), and that, upon such assumption, the rights and obligations of JEA under the Plan and any applicable Award Agreements will become the rights and obligations of such successor. This means that payment of the Redemption Price under the Plan will be made by JEA's successor in a Recapitalization Event.

Payment is further conditioned on the Participant (i) executing and not revoking a general release of claims in favor of the JEA Group prior to the applicable payment date, and (ii) complying with the restrictive covenants set forth in the Participant's award agreement under the Plan (the "Award Agreement").

4. Tax Reimbursement Payment

The Plan provides that, in the event any payments under the Plan and/or any Award Agreement to any Participant are subject to any excise tax, interest or penalties under the Code (the "Penalties"), a member of the JEA Group will pay to such Participant an amount equal to the full amount of the Penalties so that such Participant is in the same economic position the Participant would have been if the Penalties did not apply. However, the JEA Group is under no obligation to make a Participant whole for the Penalties if they relate to the Participant's breach of the Plan or any Award Agreement or such Participant's failure to comply with his or her legal obligations.

C. Summary of Federal Tax Consequences

1. Code Section 457

Code Section 457 governs deferred compensation plans of "eligible employers" (i.e., state and local governments and tax-exempt organizations)[8] such as JEA. As described above, the Plan is a deferred compensation plan as Participants may elect to defer a portion of their compensation as payment for the Performance Units. Under Code Section 457, a deferred compensation plan of an eligible employer is either an "eligible deferred compensation plan"[9] or a plan that is not an eligible deferred compensation plan (referred to as an "ineligible deferred compensation plan").[10] A plan is an eligible deferred compensation plan if the amount that can be deferred under the plan for the applicable taxable year is limited to the lesser of (i) $19,000 (indexed for inflation) and (ii) 100% of the participant's includible compensation.[11] As Participants in the Plan are not limited to

[8] See Code §457(e)(1).

[9] See Code §457(b).

[10] See Code §457(f).

[11] See Code §457(b)(2)(A).

a maximum deferral of $19,000 per year, the Plan would not be treated as an eligible deferred compensation plan under Code Section 457(b) and, instead, it would be treated as an ineligible deferred compensation plan under Code Section 457(f).

Amounts (and earnings thereon) deferred under an ineligible deferred compensation plan are includable in the gross income of a plan participant for the first taxable year in which the compensation is not subject to a substantial risk of forfeiture, unless an exemption applies.[12] In other words, amounts payable under an ineligible deferred compensation plan are taxable when they become vested, even if not actually paid until a later date. However, in 2016 the Internal Revenue Service (the "IRS") published proposed regulations under Code Section 457(f) (the "Proposed 457(f) Regulations")[13] which provide that deferred compensation plans that satisfy the short-term deferral exemption (the "STD Exemption") under Code Section 409A[14] are generally not considered ineligible deferred compensation plans under Code Section 457(f).[15]

Code Section 409A contains a comprehensive set of rules regarding the taxation of nonqualified deferred compensation plans, but it does not regulate the payment of compensation where there is no delay, or only a minimal delay, between the time an amount is vested and the time the compensation is paid. Under Code Section 409A, the delay is considered minimal if a service provider actually or constructively receives payment of an amount during the first taxable year in which the amount is no longer subject to a substantial risk of forfeiture ("SROF") or on or before the 15th day of the third month following the end of the taxable year in which the payment is no longer subject to a SROF (i.e., the short-term deferral period). Therefore, a payment is excluded from the application of Code Section 409A and Code Section 457(f) under the STD Exemption if (i) the right to the payment is subject to a condition constituting a SROF and (ii) the payment is paid within the short-term deferral period following the lapse of the SROF.[16] A SROF exists if the entitlement to the compensation is conditioned on the performance of substantial future services or the occurrence of a condition related to the purpose of the compensation and the possibility of forfeiture is substantial. Where there are two conditions that would constitute a SROF, the SROF lapses on the satisfaction of the later of the two conditions.

In the case of the Plan, there are two conditions that would constitute a SROF:[17] (i) the time-based vesting component (i.e., the performance of substantial future services) and (ii) the performance-based vesting component (i.e., the occurrence of a condition related to a purpose of the compensation), with vesting of the Performance Units occurring on the satisfaction of the performance-based vesting component as the later of the two conditions that will be satisfied. While there exists the possibility under the Plan for a Participant to retain his or her Performance Units if he or she experiences an involuntary termination of employment or retires from employment prior to the end of the applicable Performance Period, the deferred purchase price and

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[12] See Code §457(f).

[13] See Section V, "Proposed Applicability Dates," in the preamble to the Proposed 457(f) Regulations, which provides that, until the IRS adopts the Proposed 457(f) Regulations as final, taxpayers may rely on the Proposed 457(f) Regulations.

[14] See Treas. Reg. §1.409A-1(b)(4)(i)(A).

[15] See Prop. Treas. Reg. §1.457-12(d)(2).

[16] Treas. Reg. §1. 409A-1(b)(4).

[17] See Prop. Treas. Reg. §1.457-12(e)(1).

the Performance Units are still subject to a SROF due to the fact that the Performance Units could ultimately be redeemed for $0 if the threshold value percentage is not attained during the applicable Performance Period.

Additionally, because payments in respect of vested Performance Units under the Plan will be made in all events by no later than March 15th of the calendar year following the calendar year in which the SROF has lapsed (as described under "Payment for Vested Performance Units" above), payment of the Redemption Price will be made within the short-term deferral period.

Accordingly, the Plan satisfies the requirements of the STD Exemption under Code Section 409A and the Proposed 457(f) Regulations and, therefore, it should not constitute an ineligible deferred compensation plan under Code Section 457(f) and payment of the deferred purchase price and the Redemption Price should be taxable to Participants only when paid to them.

2. Code Section 409A

In addition to being subject to Code Section 457(f), ineligible deferred compensation plans are subject to the requirements of Code Section 409A[18] governing the taxation of nonqualified deferred compensation plans, unless an exemption applies. The tax rules define a nonqualified deferred compensation plan broadly as any plan that provides for the deferral of compensation.[19] A "deferral of compensation" occurs where a service provider has a legally binding right during a taxable year to compensation that, under the terms of the plan and the relevant facts and circumstances, is or may be payable to the service provider in a later taxable year.[20]

If compensation is not exempt from, and does not comply with, the requirements of Code Section 409A, all compensation deferred under the applicable plan for the taxable year and all preceding taxable years is includable in the gross income of the service provider for the taxable year in which the compensation is no longer subject to a SROF (as described above). In addition, the service provider has to pay an additional 20% tax plus a potential premium interest tax on the compensation amount.[21]

However, compensation that satisfies the STD Exemption is not considered nonqualified deferred compensation subject to Code Section 409A. As discussed above, payments under the Plan are structured to comply with the STD Exemption under Code Section 409A and, therefore, should not be subject to the requirements of Code Section 409A.

3. Code Section 4960

Code Section 4960 imposes on an employer an excise tax equal to the corporate tax rate (currently 21%) on the sum of (i) remuneration[22] in excess of $1 million paid by an applicable tax-

[18] See Prop. Treas. Reg. §1.457-12(d)(5)(i).

[19] See Treas. Reg. §1.409A-1(a)(1); Treas. Reg. §1.409A-1(c)(1).

[20] See Treas. Reg. §1.409A-1(b).

[21] See Code §409A(a)(1).

[22] See Code §4960(c)(3) and Section D. of IRS Notice 2019-9, which provide that "remuneration" is generally defined as wages under Code §3401(a) (i.e., wages subject to federal income tax withholding), but excluding (i) any excess

exempt organization (an "ATEO") or a related organization[23] for the taxable year with respect to the employment of a covered employee[24] and (ii) any excess parachute payments[25] paid by an ATEO or a related organization to a covered employee. Under Code Section 4960, the employer is the common law employer (as generally determined for federal tax purposes).[26]

Code Section 4960 applies to payments made by ATEOs, which, in relevant part, are defined to include any organization which, for the taxable year, has income excluded from tax under Code Section 115(1).[27] We understand from JEA that JEA is exempt from taxation under Code Section 115(1), although we have not independently verified this. As such, assuming that JEA is indeed exempt from taxation under Code Section 115(1), JEA would likely be considered an ATEO that is subject to Code Section 4960. In this respect, payments under the Plan to covered employees that exceed $1 million or that constitute excess parachute payments may be subject to the 21% excise tax under Code Section 4960.

One possibility for excluding the application of Code Section 4960 may be to assert that JEA is exempt from tax under the doctrine of implied statutory immunity.[28] Under this doctrine, the income of a State, a political subdivision of a State or an integral part of a State or political

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parachute payment under Code §4960 (parachute payments that are not excess parachute payments are not excluded), (ii) designated Roth contributions under Code §402A(c), (iii) certain retirement benefits (see Code §3401(a)(12)) or certain directors' fees (see IRS Rev. Rul. 57-246), and (iv) certain remuneration for medical services (see Code §4960(c)(3)(B)), but including amounts required to be included in gross income under Code §457(f).

[23] See Code §4960(c)(4)(B), which provides that, a person or governmental entity will be treated as related to an ATEO if such person or governmental entity: (i) controls, or is controlled by, the organization, (ii) is controlled by one or more persons which control the organization, (iii) is a supported organization (as defined in Code §509(f)(3)) during the taxable year with respect to the organization, (iv) is a supporting organization described in Code §509(a)(3) during the taxable year with respect to the organization, or (v) in the case of an organization which is a voluntary employees' beneficiary association described in Code §501(c)(9), establishes, maintains, or makes contributions to such voluntary employees' beneficiary association.

[24] See Code §4960(c)(2), which provides that a "covered employee" means an employee (including any former employee) of an ATEO if the employee (i) is one of the five highest compensated employees of the organization for the taxable year, or (ii) was a covered employee of the organization (or any predecessor) for any preceding taxable year beginning after December 31, 2016. There is no minimum compensation threshold for an employee to be treated as a covered employee.

[25] See Code §4960(c)(5), which provides that an "excess parachute payment" means an amount equal to the excess of any parachute payment over the portion of the base amount allocated to such payment. For these purposes, "parachute payment" means a compensatory payment to a covered employee that is contingent on such employee's separation from employment, and the aggregate present value of the compensatory payments to such employee which are contingent on his or her separation equals or exceeds three times the base amount. The "base amount" means the employee's average annual compensation paid or treated as paid by the organization during the five taxable years immediately preceding the year in which the separation occurs (or the average annual compensation over the actual number of years of service with the organization, if fewer than five).

[26] See IRS Notice 2019-9, which provides interim guidance under Code §4960; however, until the Department of the Treasury and the IRS issue final guidance, taxpayers may rely on good faith, reasonable interpretations of Code §4960.

[27] See Code §4960(c)(1).

[28] Case law has established that JEA is entitled to sovereign immunity treatment. See *Fluid Dynamics Holdings, LLC v. Jacksonville Electric Authority*, No. 18-11082 (11th Cir. 2018).

subdivision (often referred to as a "governmental unit") is generally not taxable unless there is a specific statutory authorization for taxing the income. However, at least in the context of a governmental entity that is exempt from tax under Code Section 501(c)(3), it appears that such entity would first need to relinquish its Code Section 501(c)(3) status for Code Section 4960 not to apply on the basis of the doctrine of implied statutory immunity, and in such a case, such entity may still be liable for the excise tax under Code Section 4960 as a "related organization" under Code Section 4960(c)(4)(B).[29] As such, if JEA were to assert that it was not subject to Code Section 4960 on the basis of the doctrine of implied statutory immunity, it may be the case that JEA would first have to relinquish its tax-exempt status under Code Section 115(1), although this is not clear from the relevant guidance. The only way to gain certainty on this issue would be for JEA to apply for a private letter ruling ("PLR") with the IRS.

Another possibility for excluding the application of Code Section 4960 in the context of a Recapitalization Event may be to demonstrate that the payments are not made by an ATEO or a related organization. If the Recapitalization Event is structured as a sale of JEA's assets and payments under the Plan are made by the purchaser of the assets following the consummation of the Recapitalization Event, then the payments would be made at a time when JEA is no longer an ATEO. This approach may prove unsuccessful, however, on account of the successor employer rules. Under these rules, any purchaser of JEA may be treated as a successor common-law employer and, therefore, subject to Code Section 4960. Moreover, payments under the Plan may need to be included in the pre-closing tax period (i.e., when JEA is an ATEO) because the payments are based on the sale of JEA. Further research (and possibly an IRS PLR) may be needed to gain greater certainty on this issue, but that is beyond the scope of this memorandum.

4. Code Section 280G

Under the golden parachute tax rules of Code Section 280G, a corporation may lose the right to take an income tax deduction with respect to certain compensatory payments made to a disqualified individual that are contingent upon a change in control of the corporation (these payments are referred to as "parachute payments"[30]). JEA qualifies as a corporation for these purposes.[31] A "disqualified individual" is any officer or top 1% employee when ranked by pay.[32] Code Section 4999 imposes on the recipient of a parachute payment a non-deductible 20% excise tax, which excise tax is in addition to the payment of any regular income and employment tax that may apply to the payment. A payment is generally treated as contingent on a change in control if

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[29] See IRS Notice 2019-9, Q&A-5 and Q&A-6.

[30] The definition of "parachute payments" for purposes of Code §280G differs from that of Code §4960, which defines parachute payments as compensatory payments that are contingent on a separation from employment.

[31] See Treas. Reg. Section 301.7701-2(b)(1) defines a "corporation" as "[a] business entity organized under a Federal or State statute, or under a statute of a federally recognized Indian tribe, if the statute describes or refers to the entity as incorporated or as a corporation, body corporate, or body politic". JEA was created pursuant to Article 21 of the Charter of the City of Jacksonville, Florida, which would be a "State statute" because the Charter is pursuant to the Laws of Florida. JEA's charter notes that it is a "body politic."

[32] See Treas. Reg. §1.280G-1 Q/A 15. A disqualified individual also includes a 1% stockholder, which does not apply in JEA's case unless JEA is reorganized to have stockholders.

the payment would not, in fact, have been made had no change in control occurred.[33] A payment made pursuant to an agreement entered into within one year before the date of a change in control is presumed to be contingent on the change in control, unless the contrary is established by clear and convincing evidence. This memorandum assumes that, for purposes of Code Section 280G, a Recapitalization Event would constitute a change in control and the payment of the Redemption Price in respect of the Performance Units under the Plan would be a payment contingent on a change in control.

Under Code Section 280G, a payment is a "parachute payment" only if the total amount of the contingent compensatory payments made to the service provider in connection with the change in control equals or exceeds three times the disqualified individual's base amount.[34] For these purposes, the "base amount" is the average annual compensation paid or treated as paid by the corporation during the five taxable years immediately preceding the year in which the change in control occurs (or the average annual compensation over the actual number of years of service with the corporation undergoing a change of control, if fewer than five).[35] If the total payments to a disqualified individual are less than three times the individual's base amount (his or her "parachute threshold"), the payments to that disqualified individual are not subject to the loss of tax deduction under Code Section 280G or the excise tax under Code Section 4999. In contrast, if a disqualified individual's total parachute payments equal or exceed his or her parachute threshold, then both the loss of the tax deduction and the excise tax apply to the extent such parachute payments exceed the disqualified individual's base amount. In other words, if the parachute threshold is equaled or exceeded, then the loss of tax deduction and the excise tax apply to all parachute payments to the extent they exceed the base amount, and not just to the extent they exceed the parachute threshold.

Unless an exception applies, JEA may be subject to Code Section 280G, which could result in JEA (or its successor in a Recapitalization Event) losing its tax deduction on payments made under the Plan (to the extent a tax deduction would otherwise have been available to JEA or its successor) and being obligated under the Plan to gross up Participants for excise taxes incurred by them as a result of the application of Code Sections 280G and 4999. In general, the following payments are not treated as parachute payments for purposes of Code Section 280G:[36]

- Payments made by a corporation that would qualify as a "small business corporation" immediately before the change in control (even if no election is in effect on the date of the

[33] See Treas. Reg. §1.280G-1 Q/A 22. A payment that would in fact have been made had no change in control occurred is treated as contingent on a change in control if the change in control accelerates the time at which the payment is made. As the occurrence of the Recapitalization Event will accelerate payment timing under the Plan, payments to participants under the Plan would likely be treated as contingent on a change in control.

[34] See Treas. Reg. §1.280G-1 Q/A 2.

[35] See Treas. Reg. §1.280G-1 Q/A 34.

[36] See Treas. Reg. §1.280G-1 Q/A 5(a)(1), (2), (4) and (5), respectively.

change in control). To qualify as a small business corporation, a corporation must have fewer than 100 shareholders, no entity shareholders, and only one class of stock.[37]

- Payments made by non-publicly traded corporations where the payments are approved by more than 75% of the voting power of the corporation (in accordance with the relevant shareholder approval requirements under Code Section 280G[38]).

- Payments made by a corporation which is exempt from tax under Code Section 501(c)(3), provided that such corporation is exempt from tax under that section immediately before and immediately after the change in control.

- Payments made by a corporation that a taxpayer demonstrates by clear and convincing evidence based on all the facts and circumstances are reasonable compensation for services rendered after a change in control.[39] Whether compensation is reasonable depends on, among other factors, the nature of the services rendered, the disqualified individual's historical compensation and the compensation of individuals who perform similar services outside of the change in control context.[40]

Since JEA does not have shareholders, JEA would likely not be able to utilize the shareholder approval exception described in the second bullet above. However, in an IRS PLR,[41] the IRS held that the approval of parachute payments by a bankruptcy court's order could satisfy the Code Section 280G shareholder approval requirements because the creditors' committee and the bankruptcy judge represented the shareholders' interests and the shareholders were not otherwise eligible to approve the payments. Whether some other non-shareholder approval mechanism (e.g., approval by the citizens of the City of Jacksonville) might be available to JEA would likely require a PLR from the IRS. Also, as we understand that JEA is not exempt from tax under Code Section 501(c)(3) (rather, as discussed, JEA is exempt under Code Section 115(1)), JEA would not be able to qualify for the exception described in the third bullet above. However, to the extent that JEA can qualify as a small business corporation, JEA should be able to rely on the exemption under the first bullet above. Again, to gain greater certainty as to whether JEA is exempt from the application of Code Section 280G, JEA would need to seek a PLR from the IRS or, in the case of reasonable compensation analysis under the fourth bullet above, commission a study by a third-party valuation firm (such as an accounting firm) to evaluate whether some or all of the compensation is reasonable.

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[37] See Code §1361(b)(1). Note, for purposes of Code §280G, the term "small business corporation" is determined without regard to Code §1361(b)(1)(C).

[38] See Treas. Reg. §1.280G-1 Q/A 7.

[39] See Treas. Reg. §1.280G-1 Q/A 9.

[40] See Treas. Reg. §1.280G-1 Q/A 40.

[41] See PLR 200212013. Note, a PLR can only be relied on by the taxpayer to whom it is issued, but it can be indicative of the IRS's position as to the subject matter of the PLR.

D. Summary of Federal and State Securities Laws

Because JEA is not a publicly traded entity and because the Performance Units are not securities (rather, as discussed above, they are contractual rights to receive cash payments), there should be no consequences for the Plan under applicable federal or state securities laws.

November 12, 2019

Mr. Jason Gabriel
City of Jacksonville General Counsel
117 W Duval St, Suite 400
Jacksonville, FL 32202

Re: JEA Long Term Performance Unit Plan (the "Plan")

Mr. Gabriel:

This letter pertains to the Plan approved by the JEA Board of Directors ("Board") by Resolution 2019-10 on July 23, 2019. The stated purpose of the Plan is to provide a means by which employees of JEA may be incentivized to: (i) remain at JEA, (ii) drive value for customers, (iii) drive value for the community of Northeast Florida, (iv) drive environmental value, and (v) drive financial value for JEA and the City of Jacksonville. The Board developed the Plan out of a desire to develop a long-term incentive program, in line with market standards, that furthered the Board's total compensation policy approved in January 2019. The Board reviewed the Plan framework as recommended by a third party compensation consultant, Willis Towers Watson, in June 2019. Finally, the Board adopted the Plan in July 2019 and instructed JEA executive leadership to work with the Chair of the Compensation Committees ("Plan Administrator") to implement the Plan.

This letter is to inform you that JEA leadership, in consultation with the Chair of the Board ("Chair"), the Plan Administrator and OGC, has decided to postpone indefinitely the implementation of the Plan.

As you are aware, JEA executive leadership has been diligently working to implement the Plan with the Office of General Counsel ("OGC"), Pillsbury Winthrop Shaw Pittman, LLP, Foley Lardner LLP, and relevant state and local bodies. Given the long-term nature of the Plan and the Plan obligations, JEA leadership wanted to ensure all employment, corporate, ethics, tax, and other related matters associated with the Plan were in accordance with applicable statues and regulations. To that end, JEA greatly appreciates the deliberate, methodical and meticulous work of OGC and all of its advisors.

The decision to not implement the Plan is based in the incongruity of the Plan's long-term nature and the very real potential short-term implications of the JEA's strategic planning process. As such, the Chair, Plan Administrator and JEA leadership believe the Plan would be best implemented, if ever, post decision on the strategic direction of JEA as determined by the Board.

Accordingly, the Board is expected to recommend one of the following five options as a strategic direction for JEA:

1) Scenario #1: Status Quo Plan;
2) Scenario #2: Traditional Utility Response Plan;
3) Scenario #3: Community Ownership Plan;
4) Scenario #4: Initial Public Offering (IPO) Plan; or,
5) Scenario #5: Strategic Alternative from ITN 127-19.

Should the Board choose Scenarios 3, 4, or 5 the Plan would be moot from a long-term incentive basis. Should the Board choose Scenario 1 or 2, the Plan has a more appropriate role in driving employee behavior to increase customer, community, environmental and ultimately financial value of JEA.

Please accept this letter as a final decision on this matter until further notice. As always, JEA, and specifically the Plan Administrator, welcomes OGC input and advice on how to appropriately administer the Plan absent a full implementation with its employees.

Sincerely:

Aaron F. Zahn
Managing Director & Chief Executive Officer

Cc:
JEA Board of Directors

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MEMORANDUM

TO: JEA FILE

FROM: Jason R. Gabriel, General Counsel JRG

RE: JEA Long Term Performance Unit Plan (the "PUP")

DATE: November 12, 2019

The JEA Long Term Performance Unit Plan, approved by the JEA Board on July 23, 2019 (the "PUP"), was proposed by JEA as a voluntary employee benefit program designed as a deferred compensation plan that would have allowed full-time JEA employees to personally invest in the growth of JEA in the next three years. It was developed by JEA in consultation with and reliance on outside special legal counsel (Foley & Lardner and Pillsbury Winthrop Shaw & Pittman).

At the time of Board approval on July 23, 2019, the PUP was understood by OGC in general, conceptual terms as an employee incentive program. Since enrollment in the PUP would not take place until December 2019 with possible subsequent implementation of the plan in January 2020, OGC was assured by JEA that it had the few months from the time of the Board meeting on July 23, 2019 to the enrollment date to learn of the details of the plan, review outside counsel's findings as to the validity and legality of the plan, and to independently research and provide OGC's position on the plan at the conclusion of that process.

Because of how unique this suggestion was to the government sector, it was important to OGC to conduct its own research with respect to the validity and legality of the plan under federal, state, and local law, with a special emphasis on what is permitted, required, or prohibited under the Charter. Through the course of several conferences and meetings between outside counsel for JEA, OGC attorneys, and JEA management, OGC researched and conferred on the issues related to the plan.

This internal review resulted in a final determination by OGC and a recommendation to JEA that the proposed PUP, in its current form, would not be authorized under the City Charter, and had outstanding issues and unanswered questions related to state, local, and federal law. In addition, because ultimately it is City funds that are in question, *at a minimum*, Council approval would be required for the plan to be implemented. I expressed this legal position in several conversations with JEA. OGC's review and discussions occurred during the months of September, October and into the beginning of November. OGC's final position as to the PUP prompted the need for a formal meeting with outside counsel and JEA to discuss the outstanding legal issues prior to any further implementation of the plan.

Accordingly, on November 5, 2019, I met with Aaron Zahn and Herschel Vineyard from JEA, Lawsikia Hodges and Lynne Rhode from OGC, Kevin Hyde (special legal counsel with Foley & Lardner), Steve Amdur and Jessica Lutrin by phone (special legal counsel with Pillsbury Winthrop Shaw & Pittman), to discuss OGC's issues with the PUP; to note and categorize the current legal deficiencies with the plan, and to outline minimum requirements necessary to continue with any sort of employee incentive plan or deferred compensation plan. The main purpose of the meeting was to review these ultimate legal concerns regarding the PUP, that though were brought up in some form or another to JEA over the course of the preceding several weeks, needed to be officially dealt with in the appropriate manner.

On that date, the following concerns were brought up by OGC and discussed with JEA: Upon our review, the PUP is seemingly *akin* to an employee stock option plan, and for similar size *private* multi-billion dollar corporations, employee programs like the PUP may be the norm. However, the PUP would be unique to the public sector and founded on the fundamental principle that a governmental entity, such as JEA, may underwrite and offer for sale a portion of JEA's value as an "investment product" pursuant to Section 112.215, *Florida Statutes*. This fundamental PUP principle is not only a novel concept to our Consolidated Government but is also novel to government concepts and principles in general. Further, in addition to the more fundamental issues associated with the PUP, there were other issues cited, including allowing non-JEA employees in the plan and various potential adverse tax consequences.

Accordingly, we advised that the current plan should be officially dissolved. Should JEA insist on pursuing some version of the PUP as currently proposed in the future, the following <u>minimum</u> prerequisites must be met:

1) City Council review and approval (via legislation) authorizing JEA to sell a portion of JEA's value as an "investment product" under Section 112.215, Florida Statutes;
2) An opinion in accordance with Section 112.215, Florida Statutes from an appropriate federal agency or agencies (i.e., Internal Revenue Service (IRS)) stating that any compensation deferred under the PUP would not be included in a participating employee's taxable income under federal or state law until it is actually received;
3) An opinion from the IRS indicating that JEA, as a governmental entity, will incur no negative or adverse tax consequences or penalties under the PUP;
4) Removal of any PUP requirement that directly or indirectly obligates JEA to pay any excise tax, interest or penalties under the IRS Code incurred by a participating employee under the PUP;
5) Removal of any non-JEA employees as participants in the PUP; and
6) Any other applicable requirements under state and federal law necessary to implement and administer the PUP.

Based on this advice from our office, I was informed that JEA would not proceed with the PUP.

On November 12, 2019, the JEA CEO sent a letter to me informing me officially that JEA was "postponing indefinitely" the PUP. On that same date I, in turn, sent JEA a letter reiterating that there were outstanding legal issues with the plan as currently structured.

GC-#1325603 (pdf)

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November 12, 2019

Aaron F. Zahn
Managing Director & CEO
JEA
21 W. Church Street, 19th Floor
Jacksonville, FL 32202

RE: JEA Long Term Performance Unit Plan (the "PUP")

Dear Aaron:

I greatly appreciate you meeting with our office last week and providing us with additional information and insight regarding the JEA Long Term Performance Unit Plan approved by the JEA Board on July 23, 2019 (the "PUP"). As you indicated, the PUP was proposed as a voluntary employee benefit program akin to a deferred compensation plan under Florida law that would have allowed full-time JEA employees to personally invest in the enterprise growth of JEA in the next three years. In theory, under the PUP, employees would have been encouraged to have "skin in the game" by deferring their compensation to purchase a performance unit and later redeeming such performance unit for an amount based on JEA's current year value (i.e., the redemption price). At the employee's investment risk, the redemption price for a performance unit at the end of the PUP performance period could have been zero, or more than ten times the employee's initial investment amount. You also advised that the primary purpose of the PUP was to incentivize employees to drive and increase JEA's customer, community and environmental value.

First, I laud you, the JEA senior leadership team, and the JEA Board for your efforts to find outside-the-box ways to increase JEA's value and motivate JEA employees to do their best work for JEA. I also appreciate the extensive time and effort that specialized outside counsel has dedicated to analyzing the PUP in order to achieve the Board's directive. The plan would be a novel approach to accomplishing the Board's goals in the public sector, but as currently structured contains outstanding issues under the City Charter and other law. That is not to say that

an appropriate plan under Section 215.425, Florida Statutes could not be designed and implemented. It is unnecessary, however, to go into any suggested restructure or outstanding issues at this time due to my understanding that JEA leadership, in consultation with the Chair and our office, has decided to postpone indefinitely the implementation of the PUP.

We appreciate the opportunity to have performed a detailed review of the plan and its documents. Our office continues to stand ready to assist you, JEA leadership and JEA Board should it decide in the future to move forward with an employee incentive plan.

Sincerely,

Jason R. Gabriel
General Counsel

cc: Herschel Vinyard, Chief Administrative Officer
Lynne C. Rhode, Chief Legal Officer

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