

1 Introduced by Council Member Priestly Jackson:
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4 **RESOLUTION 2019-894**

5 A RESOLUTION ENCOURAGING JEA BOARD TO TAKE
6 FORMAL ACTION TO RESCIND THE INVITATION TO
7 NEGOTIATE AT THE NEXT JEA BOARD MEETING;
8 DIRECTING THE CHIEF OF LEGISLATIVE SERVICES TO
9 FORWARD A COPY OF THIS RESOLUTION TO THE JEA
10 BOARD AND THE JEA CHIEF EXECUTIVE OFFICER;
11 REQUESTING EMERGENCY PASSAGE UPON
12 INTRODUCTION; PROVIDING AN EFFECTIVE DATE.
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14 **WHEREAS**, on July 23, 2019, the JEA Board convened to discuss
15 scenarios that could change the future of JEA; and

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

25 **WHEREAS**, after the JEA Board meeting on July 23, 2019, the
26 published board agenda was amended to include specific Strategic
27 Planning scenarios, entitled Scenario 2A: Traditional Utility
28 Response Implementation Plan, Scenario 2B: Traditional Utility
29 Response + Traditional Legislative Approach to Elimination Major
30 Business Constraints, and Scenario 3: Non-traditional utility
31 response, which included the ITN. The three proposed scenarios were

1 not timely noticed to the public in advance of the JEA Board agenda
2 and vote on Scenario 3; and

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

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

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

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

29 **WHEREAS**, since the July 23, 2019 JEA Board meeting, the
30 General Counsel has advised the JEA Board that the long term
31 performance unit plan ("PUP") approved by the JEA Board at the July

1 23 meeting as currently structured contained outstanding legal
2 issues under the City Charter and other laws. City Council
3 unanimously called for the JEA Board to take formal action to
4 rescind the JEA resolution approving the PUP plan; and

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

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

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

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

24 **Section 1. Encouraging the JEA Board to take formal**
25 **action to rescind the Invitation to Negotiate.** The Council strongly
26 encourages JEA Board to take formal action at the next JEA Board
27 meeting to rescind the Invitation to Negotiate, adopted by the JEA
28 board at the July 23, 2019 Board meeting. Further, should a change
29 to the Consolidated Government structure which includes JEA as an
30 independent authority be in the best interest of the Consolidated
31 Government, the Council encourages JEA to advise and fully engage

1 all the stakeholders, ratepayers and interested parties in such a
2 process and decision.

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

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

13 **Section 4. Effective Date.** This resolution shall become
14 effective upon signature by the Mayor or upon becoming effective
15 without the Mayor's signature.

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17 Form Approved:

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19 /s/ *Margaret M. Sidman*

20 Office of General Counsel

21 Legislation Prepared By: Margaret M. Sidman

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