

**ARTICLE 21. - JEA**

**Section 21.01. - JEA created and continued; audits.**

(a) Creation. There is hereby created and established a body politic and corporate to be known as JEA, which is authorized to own, manage and operate for the City of Jacksonville a utilities system and a separate system providing fiber optic and telecommunications offerings within and without the City of Jacksonville. JEA is created for the express purpose of acquiring, constructing, operating, financing and otherwise having plenary authority with respect to electric, water, sewer, natural gas and such other utility systems and a separate system providing fiber optic and telecommunications offerings as may be under its control now or in the future. Such utilities and such separate system providing fiber optic and telecommunications offerings may be owned, operated or managed by JEA for the City of Jacksonville separately or in such combined or consolidated manner as JEA may determine and JEA may use such name or names in the conduct of its business in connection therewith as it may determine. It is the specific purpose of this article 21 to repose in JEA all powers with respect to electric, water, sewer, natural gas and such other utilities and such separate system providing fiber optic and telecommunications offerings which are now, in the future could be, or could have been but for this article, exercised by the City of Jacksonville. JEA created and established by this article is the same Jacksonville Electric Authority previously created and established by chapter 67-1569, Laws of Florida, as amended, (including as added to Chapter 67-1320, Laws of Florida by Chapter 78-538, Laws of Florida and, as amended and readopted by Chapters 80-515, and 92-341, Laws of Florida) and, except as otherwise provided or authorized by this article, JEA shall continue to function under this article the same as it previously functioned under chapter 67-1569, Laws of Florida, as amended (including as added to Chapter 67-1320, Laws of Florida by Chapter 78-538, Laws of Florida and, as amended and readopted by Chapters 80-515 and 92-341, Laws of Florida).

(b) Audits. JEA's records may be audited at any time by the council auditor pursuant to the council auditor's duties set forth in Article 5 of this charter.

**Section 21.02. - Definitions.**

In the interpretation of this article, unless the context otherwise requires:

- (a) ~~(a)~~—The term "utilities systems" means the electric utility system and the water and sewer utility system now operated by JEA which shall include, except where inconsistent with Chapter 80-513, Laws of Florida, as amended, or where the context otherwise requires, any "system" or "project" authorized pursuant to the provisions of Chapter 80-513, Laws of Florida, as amended and any natural gas utility system to be operated in the future by JEA together with any other additional utility systems as may be hereafter designated as a part of the utilities systems operated by JEA as provided in section 21.04(v) herein.
- (b) ~~(b)~~—The term "member" means a member of ~~JEAJEA~~ JEA's governing body.
- (c) ~~(c)~~—The term "managing director" means the ~~managing director~~ chief executive officer of JEA.

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

(d) ~~(d)~~—The term "utility system" shall mean any of the separate utility systems operated by JEA such as its electric utility system, its water utility system, its wastewater utility system ~~or~~, its natural gas utility system ~~– or any other additional utility systems as may be hereafter designated as a part of the utilities systems operated by JEA.~~

(e) ~~(e)~~—The terms "sewer utility system" and "wastewater utility system" shall each have the same meaning as the other and these terms shall be interpreted as meaning the same.

(f) The terms “fiber optic and telecommunications system” shall mean the separate system providing fiber optic and telecommunications offerings.

(g) The terms “governing body of JEA” shall mean the appointed and confirmed members of JEA.

**Section 21.03. ~~–~~ Composition; compensation; officers; meetings; post-member restrictions.**

(a) ~~—~~ Composition; qualifications; removal. The governing body of JEA shall consist of 7 members, ~~appointed by the mayor, subject to confirmation by the council, each of whom shall serve~~ for a term of 4 years or until such member's successor has been appointed and has qualified. ~~Four members shall be nominated by the council president and confirmed by the council and three members shall be appointed by the mayor, and shall be confirmed by the council. With regard to one member appointed by Council through open application, the council president shall nominate an applicant who has one of the following qualifications: was a former JEA employee, or person recommended by an employee, union or group of current or former JEA employees.~~ Each member of JEA shall have been a resident and elector of the city for at least 6 consecutive months prior to such member's appointment. No member of JEA shall hold any other public office or position. If at any time during a member's tenure on JEA, such member shall cease to possess the qualifications required for membership on JEA, such member shall cease to be a member and a vacancy shall exist on JEA. Any vacancy on JEA, however created, shall be filled for the unexpired term in the same manner as the position was originally filled, and the person filling the vacancy shall have and retain all the qualifications prescribed for membership on JEA. Any member appointed to JEA for 2 consecutive full terms shall not be eligible for the succeeding term. The members appointed by the mayor may be removed by the mayor at any time with or without cause, but a removal must be approved by a two-thirds vote of the council. The members appointed by the council may be removed by the council at any time with or without cause, but a removal must be approved by a two-thirds vote of the council.

(b) ~~—~~ Compensation; applicable laws. JEA members ~~of JEA~~ shall not be entitled to ~~compensation, pension, or other retirement benefits on account of service on JEA, but members and employees~~ shall be entitled to payment ~~of or reimbursement for~~ reasonable expenses incurred as provided by the council. ~~Members of~~ Additionally, JEA members shall be subject to ~~the provisions of s.all relevant and applicable laws and ordinances, including but not limited to, Chapter 286.012, (Public Business: Miscellaneous Provisions), Florida Statutes, relating to voting at meetings of JEA, and to the provisions of ss.Chapter 112.311 through 112.3175, inclusive, Part III (Code of Ethics for Public Officers and Employees), Florida Statutes, as from~~

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

~~time to time amended, relating to financial disclosure and conflicts of interest and Chapter 602 (Jacksonville Code of Ethics), Ordinance Code.~~

~~(e)~~

~~(c) Officers; meetings; quorum; governing documents. JEA shall elect a chairperson, vice-chairperson and secretary and may elect one or more assistant secretaries, each of whom shall serve for one year or until such officer's successor is chosen. JEA may meet at such times and places designated by it ~~but~~and shall hold regular meetings as necessary, ~~and generally.~~ Generally, JEA shall meet once a month, and no less than eight (8) times a year. Special meetings may be held upon the call of the chairperson or any three (3) members of JEA. JEA meetings shall be subject to Florida Open Meetings Laws. A majority of the membership shall constitute a quorum for the purpose of meeting and transacting business. Each member of JEA shall have one vote. JEA ~~may~~shall adopt governing documents, including, but not limited to, bylaws, a board policy manual, and ~~makesuch other~~ rules and regulations not inconsistent with this article or general law. JEA shall annually review and update its governing documents.~~

~~(d) Office-holding; oath. JEA membership shall be considered an office and limited by the office holding provisions as provided for under the Florida Constitution. No JEA member shall be eligible to serve as a member of JEA while holding another office or being an employee of JEA. All JEA members shall be required by council to take an oath of office consistent with the oath of office taken by other public officials serving on City boards and commissions.~~

~~(e) Transparency in meetings. JEA should hold its meetings in the most open and transparent manner practicable for the benefit of the general public and citizens of the City of Jacksonville. JEA shall adopt procedural rules regarding the publication of meeting agendas, meeting materials, meeting minutes, and public participation during meetings. At a minimum, such procedural rules should require JEA to (i) publish an agenda and any meeting materials for its regular meetings in a conspicuous place on JEA's official website and (ii) promptly post meeting minutes (generally within 72 hours) after each meeting. Such rules should provide the timeframe for when an agenda and any meeting materials must be made available to the public in advance of regular meetings. Such rules should also require JEA to deliver copies of its regular meeting agendas and any meeting materials to the council auditor in substantially the same timeframe and content as provided to JEA members. Nothing in this subsection shall prohibit JEA from amending previously published meeting agendas and meeting materials in accordance with its bylaws or board policy manual.~~

~~(f) Post-member restrictions. No JEA member shall be employed by JEA or have a contractual relationship with JEA for a two (2) year period following a member's date of termination, resignation, vacation, or expiration of JEA membership.~~

**Section 21.04. - Powers.**

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

- (a) ~~(a)~~—To construct, own, acquire, establish, improve, extend, enlarge, reconstruct, reequip, maintain, repair, finance, manage, operate and promote the utilities system— and the fiber optic and telecommunications system.
- (b) ~~(b)~~—To acquire for the use of the utilities system by grant, purchase, gift, devise, condemnation by eminent domain proceedings, exchange, lease or in any other manner,

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

all property, real or personal, or any estate or interest therein, including without limitation, property used:

- (1) ~~—~~ In connection with the generation, transmission and distribution of electric power and energy;
- (2) ~~—~~ In connection with the collection, storage, treatment, processing, disposal, transmission and distribution of water and wastewater including, but not limited to, raw water, potable water, non-potable water, chilled water and reused water; however, JEA shall have no power or authority for the function of stormwater runoff and drainage management;
- (3) ~~—~~ In connection with the production, procurement, extraction, manufacture, transmission, transportation, distribution, and storage of natural gas;
- (4) ~~—~~ In connection with the production of steam, the mining, extraction, development, production, manufacture, procurement, transportation, handling, storage, processing or reprocessing of fuel of any kind, to likewise acquire any facility or rights with respect to the supply of water, any rights with respect to minerals, including but not limited to coal, petroleum coke, natural gas and oil and bio-mass facilities for the processing of by-products derived from the operation of the utilities system, solid waste disposal and environmental protection facilities, communication and computer facilities, and any other property, equipment, facilities or property rights whatsoever determined by JEA to be necessary or convenient in connection with the operation, promotion, financing, construction, management, improvement, extension, enlargement, reconstruction, re-equipment, maintenance, repair, decommissioning or disposal of the utilities system or any part thereof, and to sell, lease or otherwise transfer, with or without consideration, any such property when in JEA's discretion it is no longer needed or useful, or such sale, lease or transfer otherwise is in the best interest of JEA, all upon such terms and conditions as JEA shall by resolution fix and determine; and
- (5) In connection with the production, procurement, distribution of fiber optic and telecommunications offerings.

The right of eminent domain conferred herein shall be exercised by JEA in the manner provided by law. If JEA leases any real property to another agency, firm, corporation, entity, or individual, it shall cause a memorandum of said lease or leases to be recorded in the official records with the clerk of the circuit court where the property is located. ~~For any real property that exceeds an appraised valued of \$50,000 as a matter of public record determined by property appraiser,~~ JEA shall not sell such real property for less than the appraised value as ~~recorded~~certified by ~~the property~~an MAI certified appraiser ~~for Duval County,~~ unless approved by the council. ~~If there is no recorded appraised value, then JEA shall request the property appraiser for Duval County to provide an appraisal prior to the sale of the real property.~~

~~(e)~~ Regarding any real property interests acquired or disposed of by JEA pursuant to this subsection, the governing body of JEA shall approve real estate rules and procedures and any amendments thereto governing the reporting, acquisition, sale, purchase, lease, license, transfer, and disposition of real property. Such real estate rules and procedures shall not be inconsistent with this article and shall be reviewed by the

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

governing body of JEA no less than biennially. The governing body of JEA may not delegate its approval of the real estate rules and procedures, including any amendments thereto, to another officer, employee or agent of JEA.

- (c) To furnish electricity, water, sanitary sewer service, natural gas and other utility services and fiber optic and telecommunications offerings as authorized herein to any person or entity, public or private, within or without the city and for said purposes shall have the right to construct and maintain electric lines, pipelines, water and sewer mains, natural gas lines and related facilities in and along all public highways and streets within or without the city.
- (d) ~~(d)~~—To sell power and energy, water, sanitary sewer service, natural gas and other utility services and fiber optic telecommunications offerings as authorized herein at wholesale and retail and/or to provide transmission or other services of any kind to any person or entity, public or private, within or without the State of Florida, directly by JEA, indirectly through other entities and jointly through associations with other utilities or entities engaged in these activities.
- (e) ~~(e)~~—To 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, except as otherwise limited in this article.
- (f) ~~(f)~~—To fix, pledge to establish or establish, levy, regulate, impose and collect rates, assessments, fees and charges for the use or benefit of the utilities system and to alter and amend same from time to time, which rates, assessments, fees and charges shall result in JEA receiving or possessing an amount which, together with accumulated balances from prior years available therefore is not less than is required to operate and maintain a self-liquidating or self-sustaining utilities system. When establishing or altering rates, assessments, fees or charges for retail service, JEA shall first give notice of and hold a public hearing in the City of Jacksonville. The notice shall be published not less than one (1) week in advance in at least one (1) newspaper of general circulation in the city. Said notice shall be at least one-fourth page in size, inviting the public to be present and heard. JEA shall have the power to impose sanctions to enforce compliance with any rule or regulation which JEA may adopt in the management and operation of, or the sale or use of any utility service provided by JEA from the utilities system including, without limitation, electricity, water, sewer and natural gas services. The city and other public bodies shall be required to pay for any utility services provided by JEA upon the same basis as other users.
- (g) ~~(g)~~—To sue and be sued, implead and be impleaded, complain and defend in all courts, to adopt and use a corporate seal, to apply for, hold and own patents and copyrights, to sell or license patents, copyrights, patented or copyrighted materials to other public or private entities. Prices or fees for such sales or licensing may be based upon market considerations. JEA may designate how proceeds from such sales or licensing shall be used. Prices or fees for the sale of copyrighted data processing software, as defined in

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

section 119.~~083011~~, Florida Statutes, shall be established pursuant to section 119.~~08307~~, Florida Statutes.

(h) ~~(h)~~ — To make or cause to be made such surveys, investigations, studies, borings, maps, drawings and estimates of cost and revenues as it may deem necessary, and to prepare and adopt a comprehensive plan or plans for the location, relocation, construction, improvement, revision and development of the utilities system.

~~(i)~~ — (

(i) (1) — To issue revenue bonds or revenue certificates of JEA for the purpose of financing or refinancing the utilities system, including without limitation the financing of any one or more enlargements, expansions, developments, replacements, acquisitions or modernization of the utilities system, any expenses of the utilities system, any reserves deemed necessary or desirable by JEA and any other purpose not otherwise prohibited by law, and retiring any bond, note or revenue certificate issued under this article, or any bond, note or revenue certificate issued by or on behalf of the city to finance the water and sewer utilities previously owned or operated by the city, and for any combination of one or more such purposes in any single issue of revenue bonds or revenue certificates. At the discretion of JEA, such bonds or revenue certificates may be issued for any one or more of the several utility systems of JEA (or any combination thereof).

(2) — The bonds or revenue certificates of each issue shall be authorized by resolution of JEA, which resolution shall contain such provisions relating to the protection and security of the holders of the bonds or revenue certificates, including their rights and remedies, and the rights, powers, privileges, duties and obligations of JEA with respect to the same. Such resolution may also contain provisions providing for the pledge of all or any part of the revenues of the utilities system, to which may, at JEA's discretion, be limited to the revenues of one or more of the several utility systems, to secure the payment of the bonds or revenue certificates of any issue and may provide for the pledge of other funds and accounts of JEA. Such resolution also shall determine the timing and manner of sale, which may be public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times as provided or in accordance with a specified formula or method of determination (subject to any legal limitations on interest, as established by s. 215.84, Florida Statutes, or according to said section as it may from time to time be amended); and other terms and conditions of the bonds or revenue certificates, provided that JEA may delegate to the chairperson, managing director or other officer or employee of JEA designated by JEA the power to determine any such terms or conditions. However, the amounts and maturities of such bonds or revenue certificates and the interest rate or rates of such bonds or revenue certificates shall be within the limits prescribed by JEA and its resolution delegating to the chairperson, managing director or such other officer or employee of JEA the power to authorize the issuance and sale of such bonds or revenue certificates, and, in the case of the total aggregate amount of bonds or revenue certificates issued by JEA, within the limits prescribed by ordinance of the council. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or revenue certificates shall cease to be such officer before the delivery of such bonds or

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

revenue certificates, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. All bonds and revenue certificates issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The issuance of such bonds and revenue certificates shall not be subject to any limitations or conditions contained in any other law.

- (3) —      Bonds or revenue certificates and refunding bonds or refunding revenue certificates issued pursuant to this article if sold by bid shall be sold to the bidder whose bid produces the lowest true interest cost to JEA. JEA may restrict the bidders in any sale by pre-qualification or otherwise and may reserve the right to reject any or all bids. Prior to any sale by bid of bonds or revenue certificates JEA shall cause notice to be given in such manner and at such time as JEA shall determine. Said notice shall specify such matters relating to the bonds or revenue certificates offered for sale as JEA shall determine and shall state the manner in which bids shall be given. JEA may reserve the right to waive any informalities or irregularities if JEA determines that such actions are in its best interest. In no event shall said bonds or revenue certificates be sold at a net interest cost to JEA in excess of the legal limit, as established by s. 215.84, Florida Statutes, or according to said section as it may from time to time be amended.
- (4) —      In no event shall general obligation bonds be issued hereunder.
- (5) —      Bonds or revenue certificates may be issued by resolution of JEA, subject only to the approval by ordinance of the council of the aggregate principal amount of such bonds or revenue certificates.
- (j) ~~(i)~~ — To borrow money and to issue notes for any purpose or purposes for which bonds or revenue certificates may be issued under the provisions of this article, in accordance with the provisions of this article relating to the issuance of bonds or revenue certificates, and to refund the same and to issue notes in anticipation of the receipt of the proceeds of the sale of any such bonds or revenue certificates.
- (k) ~~(k)~~ — To borrow money from the city, for any period not to exceed one year, to provide JEA with working capital to meet routine or emergency cash requirements and to maintain adequate inventories, at such interest rates and upon such conditions concerning the method of borrowing, the time and manner of payment and the maximum amount that may be on loan at any time, as are determined by ordinance of the council; to lend money from one of its utilities operations to another of its utilities operations for such period, at such interest rates and upon such other conditions concerning the method of borrowing, the time and manner of payment and the maximum amount that may be on loan at any time, all as determined by JEA; and to borrow money from lending institutions, including, without limitation, borrowing as part of a commercial paper or other short-term note financing program which may include provision for payment upon demand by the purchaser or purchasers, as authorized by resolution of JEA. When authorized by resolution of JEA, such notes, including renewals thereof, may be sold or placed by officers of JEA at public or private sale and delivered by such officers to the purchaser or purchasers thereof within the limitations and restrictions contained in such

## Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

resolution. Such loans between utility systems and such borrowings from lending institutions, or between one or more of the utility systems, including borrowing as part of a commercial paper or other short-term note financing program, will not require the approval of the council.

- (l) ~~(l)~~—To enter into contracts determined by JEA to be necessary or desirable for the prudent management of JEA's funds, debt or fuels, and any and all other commodities used for the several utility systems including, without limitation, interest rate swaps, option contracts, futures contracts, contracts for the future delivery or price management of power, energy, natural gas or other related commodities, hedging contracts, other risk management techniques, securities lending agreements and forward purchase contracts.
- (m) ~~(m)~~—To invest money of JEA not required for immediate use, including proceeds from the sale of any bonds, revenue certificates or notes, in such obligations, securities, and other investments as JEA shall deem prudent, subject to any agreement with bondholders, revenue certificate holders or note holders.
- (n) ~~(n)~~—To enter into joint project agreements as provided by part II of chapter 361, Florida Statutes, for the purpose of implementing a project, as such term is defined in Part II of Chapter 361, Florida Statutes. A copy of all such joint project agreements shall be filed with the council, the council auditor, the council secretary, and the mayor at least thirty days prior to the effective date of the agreement. Anything in this provision to the contrary notwithstanding, (i) any joint project agreement that involves a transfer of any function or operation that ~~comprises more than ten percent of the total of the utilities system by sale, lease or otherwise to any other utility, public or private~~ is subject to the requirements of s. 21.11, or (ii) any joint project agreement that involves the issuance of debt not previously authorized by s. 21.04(i)(2), shall require prior approval of the council.
- (o) ~~(o)~~—To enter into agreements with one or more other electric utilities, public or private, and related contracts with respect to joint electric power projects as provided in section 2 of chapter 80-513, Laws of Florida, as amended. The provisions of said chapter 80-513, Laws of Florida, as amended, shall govern and control JEA in all respects in the carrying out of a joint electric power project authorized thereunder notwithstanding any provision of the charter or of the Ordinance Code of the City of Jacksonville which may be in conflict therewith.
- (p) ~~(p)~~—To provide, transfer, sell, finance, ~~or~~ lease ~~or otherwise provide~~ services or products, or by-products, developed or used by JEA incident to the exercise of the powers conferred by this article, including but not limited to, energy performance contracting, water, sewer and natural gas (and any other utility service hereafter provided by JEA) contracting, power marketing services, the testing and maintenance of customer-owned facilities such as transformers, capacitors, lighting, HVAC systems, water cooling and heating systems, energy management systems, etc.; the temporary leasing of JEA facilities such as oil storage tanks; the supply of steam or other thermal energy; the provision of specially conditioned power on the premises of customers and



Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

the provision of services or products to build, transfer, lease, finance, operate or sell cogeneration facilities, small power production facilities, specially conditioned power, energy conservation, energy efficiency and dispersed generation to other electric utilities both within and without the state or to any wholesale or retail customers of JEA, upon such terms and conditions as JEA shall by resolution fix and determine; and to provide, transfer, sell, finance, ~~or lease or otherwise provide~~ services, products or by-products developed or used by JEA incident to the exercise of the powers conferred by this article, in the delivery of water, wastewater and natural gas services, including but not limited to the financing, testing, maintenance and operation of customer owned facilities used in water, wastewater and natural gas functions; ~~provided, however, that JEA will not enter into any activity pursuant to this section in addition to those activities listed herein without first providing written notice of such activities to the council auditor no less than 30 days before the commencement of such activity. Nothing in this article shall authorize or be construed to authorize JEA to transfer any function or operation which comprises more than ten percent of the total of the utilities system by sale, lease or otherwise to any other utility, public or private without approval of the council; provided, however, that no approval by the council shall become effective without subsequent referendum approval of the terms and conditions of the sale. So long as there are outstanding any of the city's "Capital Project Revenue Bonds" as originally authorized pursuant to Ordinance 97-1054-E, the council may approve only such transfer which does not materially adversely affect future receipts of JEA contributions as defined therein.~~ However, JEA will not provide, supply, transfer, sell, finance or lease any new service, product or by-product (collectively, "new service or product") to any person or entity under this subsection without first providing written notice of such new service or product to the mayor, council and council auditor no less than 60 days prior to JEA contracting with a person or entity to provide, supply, transfer, sell, finance or lease such new service or product. JEA's notice to the council auditor shall include the following information regarding the new service or product: (i) a product description; (ii) business plans; (iii) proposed contracts, if any; (iv) financial analysis, including projected revenues and expenses; and (v) any other relevant or useful information developed by JEA or third party consultants. JEA shall provide a comprehensive annual report to the council and mayor summarizing all services, products, or by-products developed or used by JEA pursuant to this subsection.

~~(q) —~~

(q) (1) — To collect from customers and ratepayers monthly or one-time voluntary contributions to be deposited into an elderly and/or handicapped or low income customer emergency trust fund administered by JEA. The proceeds of such trust fund may be expended periodically by JEA for the purpose of providing financial assistance to elderly and/or handicapped or otherwise needy low income residents living within the service area of JEA for the payment of their utilities needs. The method of administration of such trust fund, including the collection and distribution thereof, shall be as provided by ordinance of the council. The results of such giving program shall be reported annually each July 1st to the council.

(2) — Upon the unanimous approval of ~~the Board~~ JEA's governing body, and a two-thirds vote of the ~~City~~ council, to collect monthly or one-time voluntary

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

contributions from customers and ratepayers, for a charitable, scholastic, or public service community giving program. —Contributions from any such program shall be passed through to an appropriate non-profit entity for administration and distribution and shall not be administered by JEA. The results of such giving program shall be reported annually each July 1st to the council.

- (3) — Upon approval of the Board, to collect monthly or one-time voluntary contributions from customers, ratepayers or other contributors for other customer assistance programs directly related to services or utilities provided by JEA. ~~The results of such giving program(s) shall be reported annually each July 1st to the Council.~~ Contributions from any such program shall be passed through to an appropriate non-profit entity for administration and distribution and shall not be administered by JEA. The results of such giving program(s) shall be reported annually each July 1st to the council.
- (r) ~~(r)~~—To jointly or separately plan, finance, operate, use, share costs of, sponsor, publicize or otherwise participate in projects, systems, programs or measures to promote or implement electric and natural gas energy, electrotechnologies, water, wastewater and natural gas conservation and efficiency, power conditioning and load management, including, but not limited to, energy, water and wastewater conservation, energy efficiency and conditioning or load reducing or load shaping modifications to the maintenance and operating procedures and facilities of a building or facility or in the installation therein; energy, water and wastewater conserving and energy efficiency modifications to windows and doors, pipes, pumps and motors; caulking and weatherstripping; insulation; automatic energy control systems; load management systems; hot water systems; replacements or modifications of lighting fixtures; and energy recovery and recycling systems; and research and development relating thereto within or without the state.
- ~~(s)~~  
(s) Except as otherwise provided herein, to delegate any act authorized pursuant to this article to any officer, employee or agent of JEA as it may deem necessary or desirable for the prudent management of JEA.
- (t) ~~(t)~~—To 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.
- (u) ~~(u)~~—Express authority is given JEA to enter into any contracts, leases or other agreements with other governmental bodies (either local, state or federal) for the purpose of carrying out any of the provisions, powers or purposes of this article. JEA is expressly prohibited from appropriating or expending any of its funds for payments, contributions or transfer to any non-profit organization or any other group, association or entity other than those whose primary purpose directly involves the electric, water, wastewater and natural gas utility, (or any other utility which may, in the future, be operated by JEA) industries, or electric energy, water, wastewater ~~and,~~ natural gas and fiber optic or telecommunications (or any other utility which may, in the future, be operated by JEA) related matters.

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

- (v) ~~(v)~~—If JEA determines that it is necessary or appropriate for it to provide, operate or maintain any other utility system or function other than electric, water wastewater and natural gas, JEA shall by resolution identify such additional utility system or systems or function or functions and indicate its desire to provide such utility service or services or function or functions to the council. The JEA resolution to be provided to council for adoption and approval shall address relative real property tax treatment of JEA providing, operating or maintaining the additional utility system. Upon the adoption and approval of this resolution by JEA and the council, voting as separate entities, JEA, with respect to the specified system or systems, shall be vested with all powers set forth herein or in general law that would, but for the provisions of this article, apply to such specified utility system or systems.
- (w) ~~(w)~~—To exercise all powers granted to the city with regard to sewage collection and disposal and to water supply pursuant to chapters 170 and 180, Florida Statutes, including the issuance of bonds or notes in anticipation thereof payable from special assessments under said chapter 170, Florida Statutes.
- (x) ~~(x)~~—To coordinate carefully with the Department of Public Works of the City of Jacksonville ~~and~~, the Jacksonville Transportation Authority, and other independent agencies, the planning and execution of engineering and construction projects involving underground work and streets and highways to seek to minimize the total cost of such projects and to reduce disruption to the citizens of the city to the maximum extent possible.
- (y) ~~(y)~~—To expend JEA funds up to one ~~and one~~ half ~~(1.5%)~~ percent of the prior year's gross revenues to promote the efficient use of JEA's services through public education including exhibits, conferences, displays, tours and other events customary to the utilities industry and also to publicize, advertise and promote the objects of this article and to promote the objectives of JEA in the manner set forth by resolution of JEA. Accordingly, JEA may expend its funds to make known to the users, potential users and public in general the advantages, facilities, resources, products, attractions and attributes of the services provided by JEA and to further create a favorable climate of opinion concerning the activities and projects authorized and indicated by this article. JEA may also, to the extent permitted by the laws of the State of Florida, expend funds in cooperative efforts to and with other agencies, both public and private, in accomplishing the purposes enumerated and indicated by this article; and in furtherance thereof. JEA may also authorize reasonable expenditures for ~~any and all of the purposes herein enumerated, including but not limited to, snacks or meals, hospitality and entertainment of persons made generally available to the public~~ in the interest of promoting and engendering good will toward the activities and projects herein authorized. Whenever an expenditure of funds for any of the foregoing purposes is made by a member or employee of JEA, JEA may reimburse such member or employee therefor, but only after such expenditures have been duly authorized by JEA or its managing director if so delegated to do so. JEA will provide a list of proposed promotional expenditures each year to the council auditors. All funds expended by JEA as reimbursement for travel

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

expenses shall be subject to Chapter 106, Part 7, of the City of Jacksonville Ordinance Code.

- (z) ~~(z)~~—To allocate costs between the electric, water, sewer, natural gas and any other utility system operated now or in the future by JEA on a cost accounted basis.
- (aa) ~~(aa)~~—To assist the City of Jacksonville and any of its departments and independent agencies in the development of joint financing programs for the purpose of financing capital improvement programs for the City of Jacksonville and any of its departments and independent agencies.
- (bb) ~~(bb)~~—To enter into such interlocal agreements authorized by, and to become a member of such separate legal entity or entities created pursuant to chapter 163, Florida Statutes, as JEA shall determine by resolution are necessary or desirable to accomplish the purposes enumerated and indicated by this article; and, to the extent permitted by the laws of the State of Florida, to enter into such joint ventures, partnerships, joint ownership arrangements, or other similar arrangements with other persons or entities, public or private, as JEA shall determine by resolution are necessary or desirable to accomplish the purposes enumerated and indicated by this article.
- (cc) ~~(cc)~~—To allocate and allot the sums appropriated by the council in JEA's annual budget for more specific purposes and to transfer from time to time during the fiscal year, without further council approval, appropriated funds including capital outlay funds from one of the purposes for which funds are appropriated to another of such purposes, if, in the discretion of JEA, such transfer is necessary to carry out all of the purposes for which funds were appropriated, subject to applicable law; provided however, nothing in this section shall authorize JEA to transfer appropriated funds from its operating budget to its capital outlay budget or vice versa, without prior approval of the council. This includes the financing of power conditioning and energy conservation equipment for both residential and nonresidential customers providing that the receivables at any point in time will not exceed ten (10) percent of the prior year's utilities system's revenues. A written summary of all budget transfers shall be provided to the council auditor at the end of each quarter.
- (dd) ~~(dd)~~—To the extent permitted by the laws of the State of Florida, to have ownership and membership in separate organization entities, including but not limited to corporations, to conduct utility related activities and functions. A copy of all such ownership agreements, and any amendments thereto, shall be filed with the council and the mayor at least thirty (30) days prior to the effective date of the agreement.
- (ee) ~~(1)~~ —    To shut off and discontinue the supplying of services of one utility system, to any and all users of the utilities system, for the nonpayment, when due, of the rates, assessments, fees or charges, for facilities or services of that particular utility system, or for facilities or services of any other utility system.
- (2) —To deny any application for services of one utility system, to any and all users or potential users of the utilities system for the nonpayment, when due, of rates,

## Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

assessments, fees or charges for facilities or services of that particular utility system, or for facilities or services of any other utility system.

(ff) JEA is authorized to transfer any function or operation which comprises less than ten percent of \_\_\_\_\_ to any other public or private utility or entity without approval of the council. JEA shall report such transfers to the council auditor and council secretary within \_\_\_\_\_ days of such transfer.

### **Section 21.05. – Construction.**

~~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~~The express powers granted to JEA in this article shall be strictly construed for purposes of determining JEA's authority pursuant to this article. In addition to the express powers granted herein, JEA shall have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which JEA is created. However, any such implied power of JEA shall be strictly construed in relation to the relevant and applicable express power or express purpose granted to JEA in this article. 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.

### **Section 21.06. - Bonds and revenue certificates eligible for legal investments.**

Notwithstanding any provisions of any other law or laws to the contrary, all revenue bonds and revenue certificates including refunding bonds and refunding revenue certificates, issued pursuant to this article shall constitute legal investments for savings banks, trust companies, executors, administrators, trustees, guardians, and other fiduciaries, and for any board, body, agency or instrumentality of the State of Florida, or of any county, municipality, or other political subdivision of the State of Florida; and shall be eligible as security for deposits of state, county, municipal and other public funds.

### **Section 21.07. - Fiscal and budgetary functions.**

JEA shall have fiscal and budgetary functions, subject to the limitations herein expressed:

- (a) ~~(a)~~—The fiscal year of JEA shall commence on October 1 of each year and end on the following September 30.
- (b) ~~(b)~~—JEA shall prepare and submit its budget for the ensuing year to the city on or before July 1 of each year, setting forth its estimated gross revenues and other available funds, and estimated requirements for operations and maintenance expenses, capital outlay, debt service, and depreciation and reserve account. The council and the mayor shall approve or disapprove such budget in the manner provided in article 14 for budgets of independent agencies.
- (c) ~~(c)~~—As consideration for the unique relationship between the City of Jacksonville and JEA, as a tax-exempt entity within the consolidated government, and in recognition of the shared attributes with the consolidated City of Jacksonville in connection with its

## Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

electric, water, and sewer distribution systems, there shall be assessed upon JEA in each fiscal year, for the uses and purposes of the city, from the revenues of the electric system and the water and sewer system operated by JEA available after the payment of all costs and expenses incurred by JEA in connection with the operation of such electric system and water and sewer system (including, without limitation, all costs of operation and maintenance, debt service on all obligations issued by JEA in connection with such electric system and water and sewer system and required reserves therefore and the annual deposit to the depreciation and reserve account required pursuant to section 21.07(g)), an amount as provided herein. Effective October 1, 2016, consistent with the provisions of this section 21.07(c), JEA shall pay the city combined assessment for the electric system and the water and sewer system. The combined assessment for the electric system and the water and sewer system shall equal, but not exceed the greater of (A) the sum of (i) the amount calculated by multiplying 7.468 mills by the gross kilowatt-hours delivered by JEA to retail users of electricity in JEA's service area and to wholesale customers under firm contracts having an original term of more than one year (other than sales of energy to Florida Power and Light Company from JEA's St. Johns River Power Park System, exception ending December 31, 2017) during the twelve-month period ending on April 30 of the fiscal year immediately preceding the fiscal year for which such assessment is applicable plus (ii) the amount calculated by multiplying 389.20 mills by the number of K-Gals (1=1000 gallons) potable water and sewer service, excluding reclaimed water service, provided to consumers during the twelve-month period ending on April 30 of the fiscal year immediately preceding the fiscal year for which such assessment is applicable, or (B) a minimum calculated amount which increases by 1% per year from fiscal year 2016-2017 through fiscal year 2022-2023 using the fiscal year 2015-16 combined assessment of \$114,187,538 as the base year. The amounts applicable to clause (B) above are: for fiscal year 2016-2017 - \$115,329,413; for fiscal year 2017-2018 - \$116,482,708; for fiscal year 2018-2019 - \$117,647,535; for fiscal year 2019-2020 - \$118,824,010; for fiscal year 2020-2021 - \$120,012,250; for fiscal year 2021-2022 - \$121,212,373; and for fiscal year 2022-2023 - \$122,424,496.

- (d) ~~(d)~~ — The assessment calculations for the electric system and the water and sewer system shall be in effect until September 30, 2023. The council may reconsider the assessment calculations after October 1, 2022 and changes, if any, shall become effective October 1, 2023. The council may change the assessment calculations by ordinance within the provisions of this section 21.07. Should the council not reconsider the assessment calculations, the assessments shall be calculated using the existing formulas specified in Section 21.07(c), including a minimum calculated amount in clause (B) therein, which increases by one percent per year for each fiscal year computed as provided in Section 21.07(c). In addition to the annual assessment as calculated in Section 21.07(c), JEA pursuant to the terms of an Interagency Agreement (as amended) with the City, agreed to provide total nitrogen water quality credit to the City to assist the City in meeting its Basin Management Action Plan load reduction goal (BMAP Credit). If JEA cannot provide the BMAP Credit pursuant to the terms of the Interagency Agreement dated March 22, 2016 (as amended), council and JEA shall work cooperatively to address the BMAP Credit shortfall or council may reconsider the assessment calculations.

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

- (e) ~~(e)~~—The council shall have the power to appropriate annually a portion of the available revenues of each utility system (other than the electric, water and sewer systems) operated by JEA for the uses and purposes of the city. This appropriation shall be based on a formula to be agreed upon by JEA and the council. Any covenants or pledges to lenders associated with such proposed additional utility system which impair council's ability to appropriate revenues from that additional utility system, other than a pledge of gross revenues to bondholders, shall be included in the JEA resolution required in s. 21.04(v) or any future resolution allowing for financing of activities associated with that additional utility system.
- (f) —JEA shall pay over to the city (i) the amounts assessed upon JEA pursuant to section 21.07(c) and (ii) such portions of the funds actually appropriated by the council pursuant to section 21.07(e) at such time as the council may request, but not in advance of collection. Although the calculation for (i) the amounts assessed upon JEA pursuant to section 21.07(c) and (ii) the annual transfer of available revenue from JEA to the city pursuant to section 21.07(e) is based upon formulas that are applied specifically to the respective utility systems operated by JEA, JEA, in its sole discretion, may utilize any of its revenues regardless of source to satisfy its total annual obligation to the city mandated by said sections 21.07(c) and (e).
- (g) —JEA shall be required to set aside each year in a depreciation and reserve account established for each utility system it operates, an amount equal to not less than 10 percent of its annual net revenues for the previous year attributable to each such system. For such purpose, "annual net revenue" shall mean annual gross revenues derived by JEA from the operation of such system reduced by expenses for operation and maintenance allocable to such system and debt service allocable to such system. Funds set aside in each such depreciation and reserve account shall be used exclusively for enlargements, extensions, improvements and replacements of capital assets of the utility system for which such account was established or to pay or provide for the payment of JEA's bonds, notes or revenue certificates relating specifically to such system; provided, however, that if JEA by resolution determines that it is in the best interests of JEA to use all or any portion of the funds set aside in the depreciation and reserve account established with respect to a particular utility system for the purposes of another utility system, then such funds may be so applied.
- (h) —JEA shall not be required to utilize the personnel, motorpool, purchasing, communication or information systems services of the city. By mutual agreement of JEA and the city such services may be provided from one party to the other but only on a cost-accounted basis. JEA shall be required to use the legal services of the city on a cost-accounted basis except in those cases when the chief legal officer of the city determines that the city legal staff cannot or should not provide legal services in the required legal area. JEA shall appropriate the funds necessary to meet the obligations for outside legal services as determined by the chief legal officer of the city. Such chief legal officer shall consult with JEA before he or she selects outside counsel.
- (i) — Unless otherwise determined by JEA, all revenues and service charges receivable by JEA as payment for the sale of utilities services shall be collected and received by the

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

tax collector. The tax collector shall deposit to the account of or otherwise turn over to JEA such funds at such times and in such manner as JEA may from time to time designate by resolution. JEA may provide for the collection of such revenues and service charges directly by JEA, provided that the council auditor shall be notified in writing of any proposed change from the current collection process utilizing the Tax Collector and that such change shall not take place until the next fiscal year after such notice is given.

~~(j) — JEA shall employ and fix the compensation of the managing director, who shall manage the affairs of the utilities system under the supervision of JEA. The entire working time of such managing director shall be devoted to the performance of the duties of such office and the managing director shall have no outside employment or business. The managing director shall be a graduate of an accredited college or university, or have at least ten years' managerial experience in a consumer-oriented industry or comparable enterprise. JEA may appoint and fix the compensation of 48 staff assistants to the managing director, to serve at the pleasure of JEA. JEA shall employ and fix the compensation of the department heads, deputy directors of departments, division chiefs and assistant division chiefs of the utilities system. JEA may adopt position titles different from those recited herein, consistent with utility industry practice. The managing director, department heads, deputy directors of departments, staff assistants, division chiefs and assistant division chiefs shall not be included within the civil service system of the city. JEA may employ such certified public accountants, consultants and other employees for special purposes, not within the civil service system, as it may require, and fix and pay their compensation. Whenever used in this s. 21.07(i), "compensation" shall mean both salary and benefits, exclusive of city pension benefits. All personnel appointed by JEA pursuant to this s. 21.07(i) shall participate in the City of Jacksonville pension plan in the same manner as other employees of JEA who participate in such plan. However JEA shall have the option to establish an employee deferred compensation program separate from the city's employee deferred compensation program.~~

~~(k) — (j) Reserved.~~

(k) JEA is authorized to pay over to other local governmental units outside the city annually a portion of available revenues derived from operations in such local governmental units' territories, for the uses and purposes of such local governmental units, an amount not to exceed that which would be calculated using the procedures in Sections 21.07(c) and (e), but only to the extent that JEA is able to, and does, include in the rates imposed only upon the customers in such local governmental units' territories the total amounts in respect of such payments.

(l) — In addition to all other sums paid by JEA to the City of Jacksonville, JEA shall pay to the City of Jacksonville a franchise fee in an amount equal to three percent (3%) of the revenues of the electric system and the water and sewer system as set forth in Section 21.07(c) herein. The franchise fee will commence for revenues derived effective April 1, 2008 and shall be paid monthly with the first payment payable on June 1, 2008. The franchise fee shall be limited to (1) revenues derived within Duval County not including Urban Service Districts 2-5, and (2) per customer, total water and sewer rate revenues, and (3) up to a per customer maximum of \$2,400,000 per fiscal year of



electric rate revenues. The franchise fee shall be calculated each month by multiplying three percent (3%) by the sum of JEA's base rate electric revenues, fuel rate revenues, water rate revenues and sewer rate revenues for that month excluding unbilled revenues and uncollectible accounts. The franchise fee shall be calculated on revenues derived from the sale of gross kilowatt-hours and number of cubic feet of potable water and cubic feet of sewer service as set forth in Section 21.07(c). Notwithstanding the foregoing, no franchise fee shall be paid on franchise fees, state utility taxes, fuel related interchange sales, sales for resale, City of Jacksonville accounts, JEA accounts, investment income and other revenues. JEA shall be authorized to pass-through the amount of the franchise fees set forth herein and associated charges resulting from the stated three percent (3%) franchise fee calculation on rate revenues notwithstanding the \$2,400,000 limit set forth herein to the customers of JEA, in accordance with the customers' proportionate share of rate revenues as calculated above. This franchise fee is in consideration of the administrative costs incurred by the City to coordinate functions and services with JEA, for the exclusive right to serve electric, water and sewer customers, for use by JEA of the public rights-of-way used by it in connection with its electric distribution system and its water and sewer distribution and collection system, and in further consideration of the unique relationship of JEA and the City, in which JEA is a wholly owned public utility, and such other good and valuable consideration that has been agreed to between JEA and the City of Jacksonville. The gross franchise fee and the amount of the pass-through set forth herein may be increased by ordinance, initiated by the Mayor and approved by two-thirds supermajority of the City Council, but the franchise fee shall not exceed six percent (6%) of the gross utility revenues as calculated above. The JEA and the City shall enter into a Franchise Fee Agreement for the administration of the Franchise Fee.

(m) When JEA is in receipt of a request for information from the council auditor pursuant to the authority of the council auditor under Section 5.10, Charter of the City of Jacksonville, it shall, within two business days of receipt of the request, 1) acknowledge receipt of the request by electronic mail to the council auditor, and 2) submit to the council auditor an estimated timeframe for which the information requested will be available to the council auditor for review. If the information requested by the council auditor is not within the purview of JEA or JEA is unsure of the request or unfamiliar with the information that is requested, it should provide such explanation in its response to the council auditor.

**Section 21.08. – Employees; managing director; managing director employment contract.**

- (a) Generally. 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,

## Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

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. JEA, at its expense, shall provide accidental death benefits for all employees engaged in hazardous duty as determined by JEA, in the amount of \$50,000 payable to the beneficiary named by the employee, or as otherwise provided, in the event said employee dies as a result of an accident occurring to any employee in the course of his/her employment. Nothing contained in this section 21.08 shall be construed to supersede or repeal any provision of section 12 of Chapter 80-513, Laws of Florida, as amended.

### ~~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~~
- ~~(b) Managing Director. The governing body of JEA shall employ and fix the compensation of the managing director, who shall serve at the pleasure of JEA. The managing director shall manage the affairs of the utilities system under the supervision of JEA. The entire working time of such managing director shall be devoted to the performance of the duties of such office and the managing director shall have no outside employment or business. The managing director shall be a graduate of an accredited college or university, and have at least five years executive experience within the utilities industry. The managing director shall have a fiduciary duty of loyalty, fidelity, and allegiance to act at all times in the best interests of JEA and will act in a manner consistent with the responsibilities of this Article 21 and other policies, rules and regulations established by JEA's governing body regarding the conduct of JEA employees. The managing director's employment agreement, if any, shall be subject to the provisions of subsection (e) below.~~
- ~~(c) Other Employees. The governing body of JEA may appoint and fix the compensation of 48 staff assistants to the managing director, to serve at the pleasure of JEA. JEA shall employ and fix the compensation of the department heads, deputy directors of departments, division chiefs and assistant division chiefs of the utilities system. JEA may adopt position titles different from those recited herein, consistent with utility industry practice. The managing director, department heads, deputy directors of departments, staff assistants, division chiefs and assistant division chiefs shall not be included within the civil service system of the city. The managing director may employ such certified public accountants, consultants and other employees for special purposes, not within the civil service system, as it may require, and fix and pay their compensation. Whenever used in this s. 21.08, "compensation" shall mean both salary and benefits, exclusive of city pension benefits.~~

(d) Pension and Deferred Compensation Plan. All personnel appointed by JEA pursuant to this s. 21.08 shall participate in the City of Jacksonville pension plan in the same manner as other employees of JEA who participate in such plan. JEA is authorized to establish one deferred compensation program for its employees separate from the city's employee deferred compensation program known as the "JEA 457 Deferred Compensation Plan". The JEA 457 Deferred Compensation Plan shall be subject to all federal and state laws applicable to deferred compensation programs for public or government employees, including, but not limited to, Section 112.215, Florida Statutes, as amended.

(e) Limitation on employment contracts. JEA may only enter into and execute an employment contract with the managing director. At a minimum, the managing director's contract shall satisfy the following requirements:

- (1) The contract term, including any renewal term, shall not exceed five (5) years;
- (2) The amount of severance pay, if any, shall not exceed the amounts allowed under Florida law and shall not be permitted if the managing director is terminated for cause;
- (3) The contract shall not contain a mandatory consulting, separation and transition, or similar agreement that is triggered due to the managing director's termination under the contract;
- (4) JEA shall not be required to release, indemnify or hold harmless the managing director against any claims except as otherwise required by law;
- (5) JEA shall not be required to pay for or provide legal counsel to the managing director beyond the legal counsel required of the Office of General Counsel pursuant to the City Charter or Florida law;
- (6) The contract shall contain a provision that the managing director serves at the pleasure of the JEA members and may be terminated with or without cause;
- (7) The contract shall not contain a reasonable and customary definition of cause consistent with Florida case law;
- (8) All compensation terms shall be reasonable and customary and similar to other public utilities comparable to JEA when taking into account the size of JEA's territory area, employee size, and utility systems; and
- (9) The contract must be reviewed and approved as to form and substance by the Office of General Counsel.

Any managing director employment contract entered into by JEA that does not satisfy the minimum requirements above shall be null and void.

(f) Employee Bonus or Incentive Programs. JEA shall not implement or adopt an employee bonus plan or program for appointed employees pursuant to Section 215.425(3), Florida Statutes, without prior annual approval by the governing body of JEA and the council.

**Section 21.09. – Procurement; contracts generally.**

Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

(a) Procurement.

(1) Applicability. This subsection (a) shall only apply to contracts awarded by the JEA Awards Committee.

(2) Open and Fair Competition. To the greatest extent reasonably practicable, JEA should use open and fair competitive procurement methods that seek to encourage the most competition and best price for the purchase of supplies and contractual services. JEA should adhere to all applicable state procurement laws, including, but not limited to, laws governing the purchase of construction services and professional design services.

(3) Procedures; board approval. JEA shall not be required to follow the City's procurement procedures. JEA may establish its own procurement procedures regarding the purchase of goods, supplies, equipment, and services, subject to applicable state law. JEA's procurement procedures, including any amendments thereto, shall be reviewed and approved by the governing body of JEA. The governing body of JEA may not delegate its approval of the procurement procedures, including any amendments thereto, to another officer, employee or agent of JEA. In the absence of JEA established procurement procedures, JEA shall follow the City's procurement procedures. JEA shall adhere to its procurement procedures in entering into procurement contracts, including but not limited to, 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 and fiber optic telecommunications 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 or incidental to the absence of~~ operation of such specific authority, rules, regulations or procedures, the utilities systems and the fiber optic telecommunications system.

(4) Jacksonville Small Emerging Business Program; Minority Business Enterprises. JEA shall ~~follow the provisions of Chapter 126 of the Ordinance Code of~~ adhere to 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. - Jacksonville Small Emerging Business Program in~~ its procurement procedures. 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

## Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

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 (5) Certain solicitation specifications and standards prohibited; rejection of bids, proposals, and replies. JEA should not develop solicitation specifications or standards that are so narrowly tailored to one entity that other qualified entities (i.e., bidders, respondents and vendors) are precluded from participating in a solicitation. JEA shall have the right to reject any and all bids, proposals, or replies, in whole or in part, in the best interests of JEA.~~

~~(6) Annual bidder/respondent/vendor survey. JEA shall annually survey procurement bidders, respondents, and vendors on a survey form approved by JEA to ascertain feedback from such bidders, respondents, and vendors regarding various aspects of JEA's procurement process (e.g., information accessibility, pre-conferences, bid submittal packages, evaluations, and awards). JEA may consider such survey results from procurement bidders, respondents, and vendors and make any necessary amendments to JEA's procurement procedures based on such survey results.~~

~~(7) Biennial review; Annual report. JEA shall biennially review its procurement procedures. JEA shall also prepare and deliver a report to the council and mayor on or before December 31<sup>st</sup> of each fiscal year summarizing the procurement contract awards for the immediately prior fiscal year. Such report shall contain at a minimum the following information:~~

- ~~(i) The number of contract awards for the reporting fiscal year;~~
- ~~(ii) A detailed listing of all contract awards categorized by service type (e.g., construction, engineering, supplies, professional) and award type (e.g., single source, emergency, request for proposal, invitation to negotiate, piggyback, etc.);~~
- ~~(iii) A brief description of each contract award containing the contractor name, contract amount and procurement method used;~~
- ~~(iv) The number of JSEB contract awards categorized by service type (e.g., construction, engineering, supplies, professional) and award type (e.g., single source, emergency, request for proposal, invitation to negotiate, piggyback, etc.);~~
- ~~(v) The number of bid protests for the reporting fiscal year and the outcome of each protest (i.e., whether JEA prevailed); and~~
- ~~(vi) Such other information as may be determined by the council.~~

~~(b) Contracts Generally.~~

## Attachment 1 – Proposed JEA Article 21 Charter Changes 4/29/2020

(1) *Applicability.* This subsection shall apply to all contracts entered into by JEA pursuant to this article.

(2) *Maximum indebtedness.* All contracts of any kind entered into by JEA pursuant to this article, including, but not limited to, procurement contracts, joint project contracts, and interlocal agreements shall contain a provision clearly specifying a fixed, maximum monetary indebtedness of JEA thereunder. Such contracts may, however, provide for a lesser variable indebtedness of JEA upon a reasonable basis, subject to such fixed, maximum monetary indebtedness.

(3) *Public records; ethics training.* All contracts and related documents entered into by JEA shall contain a provision clearly stating that such vendor or contractor shall comply with the provisions of Chapter 119 (Public Records Law), Florida Statutes, as amended. All employees that are officers, senior leadership members, directors and managers of JEA shall be trained by the Office of General Counsel, in consultation with the Ethics Office, at least annually on Florida's open meetings laws, public records and ethics laws in accordance with policies and procedures established by JEA.

(4) *Access to and examination of records.* JEA shall require a person or entity providing contractual services (e.g., construction services, professional design services, or other contractual services) purchased by JEA to agree and be deemed to have agreed by virtue of doing business under contract with JEA to allow access and examination at all reasonable times by the council auditor or any duly authorized representative of the council auditor to business records directly pertinent to the transaction pursuant to the council auditor's duties set forth in article 5 of this charter. Additionally, JEA shall include a provision in any contract entered into pursuant to this article that such vendor or contractor shall comply with all applicable federal, state and local laws, rules and regulations as the same exist or as may be amended from time to time.

(5) *Confidentiality agreements.* The use of confidentiality, nondisclosure or similar agreements by government agencies are contrary to open and transparent government. Except regarding information or records deemed by JEA to be confidential or exempt information or records or information by law, JEA should not enter into confidentiality or nondisclosure agreements with third parties and should use confidentiality, nondisclosure or similar agreements sparingly in the conduct and operation of JEA. Additionally, JEA should not require a member, officer or employee of JEA to execute any type of confidentiality or nondisclosure agreement that would require such member, officer or employee to maintain the confidentiality of information that is not confidential or exempt by law.

(6) *No financial interest.* No member, officer or employee of JEA 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.

(c) *No limitation. Nothing in this section shall be construed to limit the power of JEA to construct, repair, or improve the utilities system and the fiber optic telecommunications system, or any part thereof, or any addition, betterment or extension thereto.*

**Section 21.10. - Execution of instruments; examination of claims; funding through revenue bonds or revenue certificates.**

All instruments in writing necessary to be signed by JEA shall be executed by the chairperson and secretary or assistant secretary, or by such officer, agent or employee of JEA as it may by resolution designate. JEA shall provide for the examination of all payrolls, bills, and other claims and demands against JEA to determine before the same are paid that they are duly authorized, in proper form, correctly computed, legally due and payable, and that JEA has funds on hand to make payment. Funds on hand to make payment shall be deemed to have been provided when revenue bonds or revenue certificates of JEA (or notes issued in anticipation thereof) to finance the acquisition and construction of plants and facilities for the production and/or transmission of electricity, the production and transmission of water, the transmission and treatment of wastewater and the transmission of natural gas, costing in excess of \$10,000,000.00 have been duly authorized as provided in this article whereupon JEA may enter into instruments in writing for the acquisition and construction of such plants and facilities and may sell such revenue bonds or revenue certificates (or notes issued in anticipation thereof) in the manner provided in this article in installments to provide funds as obligations of JEA under such instruments in writing become due.

**Section 21.11 – Prohibited transactions.**

(a) *Definitions. For purposes of this section, the following definitions shall apply:*

“assets”

“entity”

“net capital assets”

(b) *Prohibited asset transfer.*

(c) *Prohibited service territory transfers.*

(d) *Prohibited transfer of existing Duval county customers.*

(e) *Prohibited reorganization, privatization or sale.*

**Section 21.12 – Public engagement.**

JEA should seek to fully engage and inform its ratepayers, the general public, interested stakeholders, and other interested parties in any strategic planning discussions regarding the future of JEA to enable its ratepayers, the general public, interested stakeholders and other interested parties to fully participate in such strategic planning discussions to the greatest extent reasonably practicable. Examples of ways for JEA to fully engage and inform its ratepayers, the

general public, interested stakeholders, and other interested parties pursuant to this section may include, but not be limited to, hosting town hall meetings and JEA workshops and proactively making information regarding such discussions available to its ratepayers, the general public, interested, and other interested parties.

**Section 21.13. - Legislative authority of council.**

Notwithstanding any provision of this charter to the contrary, the council may repeal or amend any portion of this article, by two-thirds vote of the membership of the council. A public hearing on the adoption of the ordinance shall be advertised in substantially the same manner as the council is required to advertise its intention pursuant to s. 200.065, Florida Statutes, and held not earlier than 30 days after the introduction of the ordinance into the council. The council shall take final action on the ordinance only after the expiration of 60 days after the advertised public hearing, and no ordinance shall be enacted except by a two-thirds vote of the entire council. If the mayor disapproves the ordinance, the council may enact it notwithstanding such disapproval only by a four-fifths vote of the entire council.

**Section 21.1214. - Severability.**

If any provisions of this article or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.