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MEMORANDUM

TO: Special Investigatory Committee on JEA Matters
Honorable Council Member Rory Diamond, Chair
Honorable Council Member Randy DeFoor
Honorable Council Member Brenda Priestly Jackson
Honorable Council President Scott Wilson

CC: Jason Gabriel, General Counsel
Smith Hulsey and Busey

FROM: Margaret M. Sidman, Deputy Legislative Affairs & Managing Deputy *MMS*

RE: **Status Report to the Special Investigatory Committee as of May 8**

DATE: May 8, 2020

I. Document protocol.

The Office of General Counsel and Smith Hulsey and Busey (SHB) have been following the Special Investigatory Committee approved protocol with respect to the JEA documents and searches. The process required days of manual and computer assisted review by OGC and has produced a set of documents that OGC is reasonably certain does not contain exempt information. The results of which rendered approximately 370,000 documents responsive and available for further review and searching by SHB (197,514 on May 8 and 171,800 on May 1).

Furthermore, as requested, the documents collected through targeted searches from JEA are being included in the workspace. Documents identified in the future through targeted searches will be loaded directly into Relativity rather than being forwarded by download link, as they have in the past, which allows for immediate SHB access.

As a result of this successful process, Smith Hulsey and Busey are refining searches and are identifying a number of targeted documents relevant to their review and are communicating same with OGC for immediate review and clearance. Because of the significant work done in the screening process, it should make final review and approval for release of the documents very

efficient. Finally, SHB has engaged a third-party consultant for project management, which should assist in the document analysis and expedite the process.

II. Witness Interviews.

At the May 5, 2020 Special Investigatory Committee agenda meeting, the Committee was informed that Ms. Burch had declined to be voluntarily deposed. The Committee authorized the drafting of a letter to the Mayor's office requesting that Ms. Burch testify before the Special Investigatory Committee or agree to a sworn deposition with special counsel. A copy of the Special Investigatory Committee letter dated May 6, 2020 is attached hereto as **Exhibit 1**. In a letter from Brian Hughes to Ms. Burch, the Mayor's office has directed Ms. Burch to appear for a sworn interview before SHB in their capacity as counsel to the Special Investigatory Committee. A copy of the letter to Ms. Burch from the Mayor's office dated May 6, 2020 is attached hereto as **Exhibit 2**.

At the May 5, 2020 Special Investigatory Committee meeting, it was reported that Ms. Dykes had agreed, through her attorney, to give a sworn deposition to SHB within the next two weeks.

At the April 21, 2020 Special Committee meeting, the Special Investigatory Committee also asked SHB to interview Lynne Rhode, Joseph Orfano, Randall Barnes, and Robin Smith, and invite them first to appear voluntarily to testify under oath. As of this writing, Smith Hulsey and Busey has been in touch with each of the above mentioned and are working on scheduling the requested under oath interviews.

III. Subpoena for documents to the Bidders and the Banks. On April 21, 2020, subpoenas were issued to all the ITN bidders and two financial institutions to produce documents or in alternative to appear at the May 18 Special Investigatory Committee meeting. Specifically the subpoenas asked for i.) a list of all lobbyists, attorneys and consultants employed by the Company; and ii.) any documents showing that the company was or was not given an opportunity to physically inspect JEA assets at any time after January 1, 2018. Of the 22 subpoenas issued, 18 have been served. To date there have been five responses:

- a. Argo Infrastructure Partners responded that the company employed no lobbyist, attorney or consultant in conjunction with ITN, and that they did not communicate with JEA to have a physical inspection of JEA assets, nor did they have a physical inspection of JEA assets.
- b. Duke Energy responded that they employed the following attorneys and consultants: Shutts & Bowen LLP (Attorneys); Hunton Andrews & Kurth LLP (Attorneys); Citigroup Global Markets Inc (consultants); PricewaterhouseCoopers LLP (consultants); Willis Towers Watson PLC (consultants); No lobbyists were employed. Duke Energy provided one document regarding physical inspections which indicates that physical inspections would have taken place the week of January 20, 2020.

- c. Hargray Communications Group Inc. provided several documents which appears to be documents received by Hargray from JEA including ITN 127-19 Addendum #4 with the related attachments.
- d. Veolia Water North America – South, LLC responded that the company does not have any records for the information requested in the subpoena.
- e. American Water Works Company, Inc. responded that they had jurisdictional concerns regarding aspects of the subpoena and the authority of the City Council Special Investigatory Committee on JEA Matters to issue any valid subpoena to American Water pursuant to Fla. Stat. §166.021 and related provisions of the Municipal Home Rule Powers Act. Subject to objections and understandings, American Water identified the following outside counsel and consultants retained in connection with the ITN: McGuire Woods Consulting; McGuire Woods LLP; RBC Capital Markets; Beggs & Lane; and Willis Towers Watson. American Water provided one document related to an opportunity to physically inspect JEA assets.

Exhibit 1



OFFICE OF THE CITY COUNCIL

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JACKSONVILLE, FLORIDA 32202

May 6, 2020

Dear Mayor Curry:

Recently, the Jacksonville City Council's Special Investigatory Committee on JEA requested that Stephanie Burch voluntarily appear for an interview before the Committee, or alternatively before the Special Counsel for the Committee, Smith Hulsey & Busey, regarding her service as lead negotiator for the JEA Invitation To Negotiate process. The Committee believes that she has knowledge relevant to the Committee investigation. The Committee has been informed, however, that she has declined to be interviewed, absent "parameters" unacceptable to the Committee, specifically she requested the interview not be under oath.

On Tuesday, May 5th, the Committee voted unanimously, pursuant to Jacksonville Municipal Ordinance Code §602.1205 and 602.1206, to request that Ms. Burch's supervisor direct her to comply with the Committee's request. Please consider this letter a formal request from the Committee that you or your designee direct Ms. Burch to forthwith make arrangements to be interviewed by Special Counsel for the Committee at their mutual earliest convenience, and further directing her to testify truthfully, honestly, and completely at that interview. We recognize that Ms. Burch has responsibilities with respect to the COVID-19 emergency, but we are confident that our Special Counsel can make arrangements to conduct the interview of Ms. Burch that will not interfere with her other duties. The Committee respectfully requests your response to the Committee's direction by close of business Thursday, May 7th. The Committee has scheduled a meeting for Friday, May 8th to consider additional action.

If Ms. Burch voluntarily agrees to be interviewed as described above and under oath prior to close of business Thursday, May 7th, the request contained in this letter will be moot.

Thank you very much in advance for your cooperation and assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rory Diamond".

Rory Diamond
Chair, Special Investigatory Committee on JEA



OFFICE OF MAYOR LENNY CURRY

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May 6, 2020

Stephanie Burch
Deputy Chief Administrative Officer
City of Jacksonville
117 West Duval Street, Suite 400
Jacksonville, FL 32202

Dear Stephanie,

First and foremost, thank you for your outstanding work and leadership as you spearhead the distribution of the City's Mortgage, Rent, and Utility Relief Program. 40,000 households facing economic hardship will have resources they need as a direct result of the work you are doing.

As your supervisor, and on behalf of Mayor Curry, this correspondence confirms that pursuant to our directive to you to do so, you have agreed to appear for a sworn interview before attorneys of Smith, Hulsey & Busey in their capacity as counsel to the Special Investigative Committee (SIC). This action is pursuant to the request of the SIC made to the Mayor via letter this day.

This directive to you is issued pursuant to the instructions set forth in paragraph 2 of the "options for Special Investigation Committee to obtain testimony" dated April 17, 2020 by Assistant General Counsel Christopher Garrett, as well as applicable City Ordinance found in Sec. 602.1205 and 602.1206. As Mr. Garrett states in his memo, we agree that the Garrity Rights are applicable to you regarding this testimony.

Thank you for your cooperation with the committee on this matter, and, again, thank you for the exceptional service you provide this community.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Hughes", written over a circular stamp.

Brian Hughes
Chief Administrative Officer