

---

**From:** Hill, Miriam R. (COJ OGC) <hillmr@jea.com>  
**Sent:** Tuesday, August 6, 2019 5:04 PM  
**To:** Luster, Jill R. - Executive Staff Assistant  
**Cc:** Rhode, Lynne C. (City of Jacksonville)  
**Subject:** Further Revised Employee Agreements  
**Attachments:** JEA - First Amended Form of Employee Protection and Retention Program Agreement.docx; JEA - First Amended Form of Long-Term Performance Unit Agreement.docx; Memo - EE - Section 5(c).docx

Further revised documents are attached. Lynne, note that "Administrator" is never defined in the LTPUA. Hopefully I captured the change you wanted to the memo. I'll be in all day tomorrow and can make further changes if needed.

Thank you both,

**Miriam Hill**

Assistant General Counsel, OGC

Direct: (904) 665-6842

Mobile: (321) 202-0636

Email: hillmr@jea.com



**THIS FIRST AMENDED EMPLOYEE PROTECTION AND RETENTION PROGRAM AGREEMENT** (this “First Amended Agreement”) is made effective as of this [\_\_\_\_\_] day of [\_\_\_\_], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville (“JEA”), and [\_\_\_\_] (the “Employee”). This First Amended Agreement follows that certain Employee Protection and Retention Program Agreement (the “Original Employee Protection and Retention Program Agreement”), approved by the Board of Directors of JEA on July 23, 2019 and thereafter presented for discussion with and acceptance by employees and their representatives. Through the course of those discussions, the terms of the Original Employee Protection and Retention Program Agreement have been amended to reflect technical changes which are mutually acceptable to the parties. Modifications of the Original Employee Protection and Retention Program Agreement are indicated with new or additional language underlined and deleted or stricken language struck through.

**RECITALS:**

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

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

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

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

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

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

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

WHEREAS, the Board of Directors approved the Original Employee Protection and Retention Program Agreement on July 23, 2019 and subsequent to that approval, the parties have agreed to make certain technical changes to those terms.

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

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

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

(b) “Board” means the Board of Directors of JEA.

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

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

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

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

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

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

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

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

(or words of like import) in such collective bargaining agreement or the Civil Service Rules shall control.

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

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

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

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

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

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

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

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

respect to the third Payment Installment, the period from the first anniversary of the Closing Date through the second anniversary of the Closing Date.

**2. Agreement to Provide Retention Payment.** Subject to the terms of this Agreement (including the conditions set forth below), the Employee shall be entitled to receive a payment in the aggregate amount of \$[\_\_\_\_\_] (the “Retention Payment”). The Retention Payment shall vest in three (3) equal installments (each, a “Payment Installment”) on the Closing Date, the first anniversary of the Closing Date and the second anniversary of the Closing Date (each such date, a “Vesting Date”). The Payment Installments shall be paid to the Employee as soon as reasonably practicable after each applicable Vesting Date, but in any event no later than thirty (30) days after the applicable Vesting Date. For the avoidance of doubt, in no event shall the Employee be entitled to receive any amounts in excess of the Retention Payment under this Agreement.

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

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

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

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

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

(b) Confidentiality.

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

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

~~(c) No Public Statements. Subject to the limitations of Applicable Law, until the~~

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

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

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

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

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

**10. Arbitration.** Except for suits seeking injunctive relief or specific performance or as otherwise prohibited by Applicable Law, the parties hereby agree that any dispute, controversy or claim arising out of, connected with and/or otherwise relating to this Agreement and the arbitrability of any controversy or claim relating hereto shall be finally settled by binding arbitration. The parties hereby knowingly and voluntarily waive any rights that they may have to a jury trial for any such disputes, controversies or claim. The parties agree to resolve any dispute arising out of this Agreement before the American Arbitration Association (the "AAA") in accordance with the AAA's then existing National Rules of Resolution of Employment Disputes. The arbitration shall be administered by the AAA and the hearing shall be conducted in Duval County in the State of Florida before a neutral arbitrator, who must have been admitted to the practice of law for at least the last ten (10) years (the "Arbitrator"). Each party further agrees to

pay its or his own arbitration costs, attorneys' fees, and expenses, unless otherwise required by the AAA's then-existing arbitration rules. The Arbitrator shall issue an opinion within thirty (30) days of the final arbitration hearing and shall be authorized to award reasonable attorneys' fees to the prevailing party, which decision of the Arbitrator shall be final, conclusive, unappealable and binding on the parties. Subject to Applicable Law, the arbitration proceeding and any and all related awards, relief or findings shall be confidential, except that any arbitration award may be filed in a court of competent jurisdiction by either party for the purpose of enforcing the award.

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

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

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

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

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

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

**17. Penalties.** In the event that any payments under this Agreement to the Employee are subject to any excise tax, interest or penalties under the Code (the "Penalties"), the JEA Group shall pay to the Employee an amount equal to the full amount of the Penalties. Such payment is intended to place the Employee in the same economic position the Employee would have been in



if the Penalties did not apply and shall be calculated in accordance with such intent. Notwithstanding anything to the contrary contained herein, the JEA Group shall not make the Employee economically whole for Penalties caused by, relating to or arising from the Employee's breach of this Agreement or the Employee's failure to comply with his or her obligations under Applicable Law.

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

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

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

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

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

*[Signature page follows]*

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

**JEA**

By \_\_\_\_\_

Name: [●]

Title: [●]

**EMPLOYEE**

\_\_\_\_\_  
Name: [●]

**THIS FIRST AMENDED LONG-TERM PERFORMANCE UNIT AGREEMENT** (this “First Amended Agreement”) is made effective as of this [\_\_\_\_\_] day of [\_\_\_\_], 2019, by and between JEA, a body politic and corporate under the laws of the State of Florida and an independent agency of the Consolidated City of Jacksonville (“JEA”), and [\_\_\_\_] (the “Participant”). This First Amended Agreement follows that certain Long-Term Performance Unit Agreement (the “Original Long-Term Performance Unit Agreement”), approved by the Board of Directors of JEA on July 23, 2019 and thereafter presented for discussion with and acceptance by employees and their representatives. Through the course of those discussions, the terms of the Original Long-Term Performance Agreement have been amended to reflect technical changes which are mutually acceptable to the parties. Modifications of the Original Long-Term Performance Unit Agreement are indicated with new or additional language underlined and deleted or stricken language struck through.

**RECITALS:**

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

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

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

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

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

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

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

WHEREAS, the Board of Directors approved the Original Long-Term Performance Unit Agreement on July 23, 2019 and subsequent to that approval, the parties have agreed to make certain technical changes to those terms.

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

[ID NUMBER]

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

**2. Deferral Election.** Pursuant to the terms of the Plan, the Participant hereby elects to defer the amount of his or her pay as set forth on Schedule I attached hereto in accordance with this Agreement, which shall be used to purchase the number of Performance Units set forth on Schedule I attached hereto. The Participant's pay shall be deferred in a lump sum or equal installments during the payroll periods as selected by the Participant in the foregoing sentence and the Participant's pay-for-performance pay shall be deferred at the time such pay would have otherwise been paid but for the Deferral Election. The Participant acknowledges and agrees that (a) he or she has read and understands the terms of the Plan and this Agreement and agrees to all of its terms and conditions, (b) any amounts that Participant defers hereunder are unfunded and unsecured and subject to the claims of JEA's creditors in the event of JEA's insolvency, (c) the Participant may consult with his or her own tax advisor regarding the tax consequences of participating in the Plan and making this election and (d) the Participant may forfeit the entire amount of the Purchase Price with no consideration.

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

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

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

**THIS SECTION 5 IS NOT INTENDED TO USURP THE PARTICIPANT'S RIGHTS, DUTIES OR RESPONSIBILITIES AS A CITIZEN OF THE STATE OF FLORIDA; HOWEVER, THIS SECTION 5 IS INCLUDED TO ENSURE THAT JEA AND ITS**

**EMPLOYEES, AGENTS AND REPRESENTATIVES COMPLY WITH ITS AND THEIR CONFIDENTIALITY OBLIGATIONS UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING THE DISCLOSURE OF MATERIAL NON-PUBLIC OR CONFIDENTIAL INFORMATION.**

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

(b) Confidentiality.

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

(ii) *Definitions.* For purposes of this Agreement, "Confidential Information" means information not generally known or available outside the JEA Group and information entrusted to the JEA Group in confidence by third parties, including, without limitation, all technical data, trade secrets, know-how, research, product or service ideas or plans, software code and designs, developments, processes, formulas, techniques, biological materials, mask works, designs and drawings, hardware configuration information, information relating to employees and other service providers of the JEA Group (including, but not limited to, their names, contact information, jobs, compensation and expertise), information relating to suppliers and customers, information relating to

lenders, price lists, pricing methodologies, cost data, market share data, marketing plans, licenses, contract information, business plans, financial forecasts, historical financial data, budgets or other business information. Notwithstanding the foregoing, the JEA Group recognizes the applicability of Chapter 119, Florida Statutes.

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

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

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

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

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

provisions of this Agreement shall constitute a continuing waiver of a subsequent or other breach, failure, right or remedy, unless the writing so specifies.

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

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

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

*[Signature page follows]*

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

**JEA**

By \_\_\_\_\_

Name: [●]

Title: [●]

**PARTICIPANT**

\_\_\_\_\_  
Name: [●]



**SCHEDULE I**

**Purchase of Performance Units and Deferral Election**

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

Participant Last Name: [•]

Participant First Name: [•]

No. of Performance Units Available for Purchase (the "Available Performance Units"): [•]

Purchase Price per Performance Unit: \$10.00

No. of Performance Units Participant Purchases: (capped at the number of Available Performance Units): \_\_\_\_\_

Aggregate Purchase Price: (\$10.00 x No. of Performance Units Participant Purchases) \_\_\_\_\_

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

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

Lump sum from pay to be paid during the payroll period on [DATE] \_\_\_\_\_

Equal installments from pay to be paid over the next [TWO] pay periods commencing with the payroll period on [DATE] \_\_\_\_\_

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE



**INTER-OFFICE MEMORANDUM**

December 10, 2020

**SUBJECT:** REVISION TO EMPLOYEE PROTECTION AND RETENTION AGREEMENTS

**FROM:** Aaron F. Zahn, Interim Managing Director/CEO

**TO:** All Employees

**BACKGROUND:**

At its July 23, 2019 meeting the JEA Board approved a Long-Term Performance Agreement and an Employee Protection and Retention Program Agreement.

**DISCUSSION:**

Section 5(c) of each agreement contained provisions related to “No Public Statements.” Following the introduction of these two agreements, JEA, in consultation with affected employees or their respective bargaining units, has decided to delete Section 5(c) from each agreement. To accomplish this, JEA will do two things:

- (1) As part of the collective bargaining process, JEA will inform all representatives of respective bargaining units that JEA will withdraw Section 5(c) from each agreement.
- (2) Inform non-represented employees who have already signed a Retention Agreement that JEA will not enforce Section 5(c) of the original Long-Term Performance Agreement and original Employee Protection and Retention Program Agreement. Employees will be given the opportunity to sign an amended agreement with this term removed.

Thank you for your input. We look forward to continuing to work with all employees or their representatives to finalize these important opportunities for employees.

\_\_\_\_\_  
Aaron F. Zahn, Managing Director/CEO

AFZ/jrl