

Solicitation
For Participation in
Environmental Incident Response and Waste Management Services
for
JEA
Jacksonville, FL
Solicitation Number 1411649846

Mandatory Pre-Response Meeting via Teams on, May 13, 2024, at 11:00am

Meeting URL https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjE0YjAzODktNWUyMC00ZGFjLTg4YjltODc5ZDFiYjU1ZGFj%40thread.v2/0?context=%7b%22id%22%3a%22c0d91960-576d-4631-bc37-56584b7dc8db%22%2c%22oid%22%3a%225cb8eebd-b082-4a89-bf53-12cbd409a3e6%22%7d

Meeting ID: 252 541 300 964

Meeting Password: duSA7t

Dial In: 321-558-7338
Phone Conference ID: 215 897 981#

Those planning to attend the Teleconference should send contact information to: mcdomv@jea.com, 48 hours prior to the Pre-Response Meeting to have contact information documented.

Responses are due on June 11, 2024, by 12:00 PM EST

All Responses shall be submitted through JEA's E-Procurement and Contract Management Portal which is provided by Zycus Supplier Network which can be accessed at <https://zsn.zycus.com/guest>. Instructions on how to login to Zycus is provided below in this Solicitation. **LATE RESPONSES MAY BE REJECTED.**

JEA will publicly open all Responses received from qualified Respondents on June 11, 2024, via WebEx.

For more information, please contact the JEA Buyer at:
Marline McDonald, mcdomv@jea.com

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Solicitation

1. INVITATION FOR BID

1.1. INVITATION

1.1.1. SCOPE OF WORK

JEA is soliciting proposals to evaluate and select a vendor that can provide special waste (non-hazardous waste/hazardous waste) handling, transportation and disposal services for JEA electric facilities and field operations while providing the best value to JEA (the "Work" or "Services").

JEA's electric facilities, field operations, generating facilities and transformers produce non-hazardous waste and hazardous waste material on a daily basis that requires spill response, handling, disposal and transport services on an as needed basis. In addition, there may be the need to clean up in or near electrical energized areas.

Additional information can be found in Appendix A - Technical Specifications.

1.1.2. QUESTIONS

All questions must be submitted in writing to the JEA Buyer listed below at least five business days prior to the opening date. Questions received within five business days prior to the opening date may not be answered.

For All Questions:

JEA Buyer: Marline McDonald

E-mail: mcdomv@jea.com

1.1.3. INVITATION TO BID

Respondents that meet the Minimum Qualification stated herein are invited to submit a Response to this Solicitation to perform the Work. A complete copy of this Solicitation, the Technical Specifications, forms and all other documents referenced in this Solicitation are on JEA's E-Procurement and Contract Management Portal which is provided by Zycus Supplier Network which can be accessed at <https://zsn.zycus.com/guest/genericRegister/JEA074>. Instructions on how to login to Zycus is provided below in this Solicitation.

All Responses are due at the time indicated on the title page of this Solicitation. Section 1 of this Solicitation are the instructions for submitting a Response for this Solicitation. Section 2 of this Solicitation contain the definitions and commercial contract terms associated with this procurement.

A Contract will be presented to the Respondent awarded this Work and the Contract will incorporate by reference this entire Solicitation and all associated Addenda. A sample of the JEA Contract can be found on jea.com.

All documentation submitted with a Response must reference the Solicitation Title and Number stated herein. All Responses must be made on the appropriate forms and formats as specified by this Solicitation and uploaded to JEA's procurement platform.

All Responses should be delivered electronically to JEA via the Zycus platform. An automated, detailed auditing system provides sealed Response integrity. Responses remain sealed on the platform until the Close Date & Time (Due Date & Time).

A Respondent shall be solely responsible for timely delivery of its Response to the Zycus Supplier Network. Respondents are strongly encouraged to acquire log in credentials early as possible. Additionally, Respondents are encouraged to submit Responses early to ensure uploading process goes smoothly. **If Respondent is not able to submit its Response via Zycus, then please email the Response to the JEA Buyer identified in the Section below titled "Questions".**

Responses are due by the time and on the date stated on the cover page of this Solicitation. **LATE RESPONSES MAY BE REJECTED.**

JEA Solicitation Title: Environmental Incident Response and Waste Management Services

JEA Solicitation Number: 1411649846

To obtain more information about this Solicitation:

Download a copy of the Solicitation, PDF quality drawings (if applicable) and any required forms at jea.com.

Response Due Date: June 11, 2024

Response Due Time: 12:00 PM (noon)

To obtain more information about this Solicitation:

Download a copy of the Solicitation, PDF quality drawings (if applicable) and any required forms at jea.com, search key word “Zycus” to connect to the online sourcing platform. Or click the following link:

https://www.jea.com/about/procurement/zycus_portal/

Closing Date and Time & Bid Due Date: Per Zycus Close Date See Solicitation # on Zycus cloud-based sourcing platform for more details.

All Bid documentation must reference the IFB Title and Number noted above. All Response must be made on the appropriate forms as specified within the IFB and uploaded to a JEA’s sourcing platform. Instructions for using JEA’s sourcing platform can be found in Appendix C - Zycus Supplier Instructions.

Responses are due by the time and on the date listed above. Late Response may not be accepted.

Respondents are strongly encouraged to acquire log in credentials early as possible. Additionally, Respondents are encouraged to submit bids early to ensure uploading process goes smoothly.

1.1.4. MANDATORY PRE-BID MEETING TELECONFERENCE

There will be a Mandatory Pre-Bid meeting associated with this Solicitation. All interested Companies are encouraged to attend the Pre-Response meeting teleconference on Teams.

Those planning to attend the Pre-Response meeting should email their name and contact information to: mcdmv@jea.com, at least 24 hours prior to the Pre-Response meeting to facilitate roll call. A Respondent shall only sign in representing one company, unless otherwise specified by JEA.

1.2. SPECIAL INSTRUCTIONS

1.2.1. MINIMUM QUALIFICATIONS

Respondent shall meet the following Minimum Qualifications to be considered eligible to submit a Response to this Solicitation. Respondent must complete and submit the Minimum Qualifications Form provided in this Solicitation. It is the responsibility of the Respondent to ensure and certify that it meets the Minimum Qualifications stated below. All Respondents not meeting all the following criteria will have their Response rejected:

- I. Respondent shall have successfully self-performed at least one (1) similar project in last three (3) years, date ending the Bid Due Date.
 - o A similar project is a clean-up and transport of industrial non-hazardous / hazardous waste (non-residential) services contract valued at least \$150,000.00.
- II. Respondent’s office serving JEA must be located within fifty (50) miles of 225 North Pearl Street, Florida, 32202 and be established for at least six (6) months prior to the

Response due date. Home office must be able to support 24/7 schedule. Respondent's office, location shall be verified by Google Maps.

- III. Respondent shall have at least three (3) employees with current HAZWOPER Certification that can perform on-site cleanup as required. The Company shall provide copies of the three (3) HAZWOPER certificates with their response.

A Minimum Qualification Form is provided in Appendix B of this Solicitation.

Any Respondent whose contract with JEA was terminated for default within the last two years shall have their Bid rejected.

1.2.2. NUMBER OF CONTRACTS TO BE AWARDED

JEA intends to Award up to four (4) Contracts for the Work. JEA reserves the right to Award more or less than four Contract based on certain groupings of the Work items, or JEA may exclude certain Work items, if JEA determines that it is in its best interest to do so.

1.2.3. REQUIRED FORMS TO BE SUBMITTED WITH BID

The following forms must be completed and submitted to JEA at the timeframes stated below. The Respondent can obtain the required forms, other than the Minimum Qualifications Form, Bid Form and Bid Workbook, by downloading them from JEA.com.

A. The following forms are required to be submitted with the Bid:

- o Minimum Qualifications Form - This form can be found in Appendix B of this Solicitation
- o Bid Form - This can be found in Appendix B of this Solicitation
- o Bid Workbook - This can be found in Appendix B of this Solicitation
- o List of subcontractors/Shop Fabricators (if applicable)

If the above listed forms are not submitted with the Response by the Response Due Time and Date, JEA may reject the Response.

B. JEA also requests the following documents to be submitted prior to Contract execution. A Response will not be rejected if these forms are not submitted at the Response Due Date and Time. However, failure to submit these documents prior to Contract execution could result in Response rejection.

- o Conflict of Interest Certificate Form - This form can be found at JEA.com
https://www.jea.com/about/procurement/bid_forms/
- o Insurance certificate
- o W-9
- o Evidence of active registration with the State of Florida Division of Corporations
(www.sunbiz.org)
- o Any technical submittals as required by the Technical Specifications

1.2.4. SAFETY QUALIFICATION REQUIREMENTS

Respondents shall be approved as JEA Safety Qualified within ten business days of receiving written notice from the JEA Response Office that it is the lowest responsive and responsible Respondent. If the Respondent fails to obtain JEA approval as a JEA Safety Qualified company by 4:00 PM Eastern Time on the 10th business day, JEA will reject the company's Response, and proceed to Award to the next lowest responsive and responsible ranked Respondent.

JEA Safety Qualification information is available online at jea.com. Please note that it may take up to five (5) business days for a company to be approved as JEA Safety Qualified. It is the Respondent's responsibility to ensure it is JEA Safety Qualified. A list of the JEA's Safety Qualified vendors can be found on

https://www.jea.com/About/Procurement/Contractor_Safety/. For additional information, contact Curtis Stothers at stotct@jea.com.

1.2.5. BASIS OF AWARD - LOWEST COST TO JEA

JEA will Award a Contract to the responsive and responsible Respondent whose Bid meets or exceeds the Minimum Qualifications set forth in this Solicitation, and whose total price stated on the Bid Form is the lowest cost to JEA.

JEA will use the Respondent's total price stated on the Bid Form when making price comparisons for Award purposes.

Please note, a Bidder's total price shall not be increased during the Solicitation process.

1.3. GENERAL INSTRUCTIONS

1.3.1. COMPLETING THE RESPONSE DOCUMENTS

Respondents shall complete and submit all Response Documents with responses typewritten or written in ink.

When a blank is marked "optional" on the Response form, the Respondent shall insert the words "No Bid" in the space provided if the Respondent does not choose to submit a price for that item. Failure to complete each blank with either a price or the words "No Bid" may disqualify the Bid. The Respondent, or its authorized agent or officer, shall sign the Bid Documents. Failure to sign the Bid Documents may disqualify the Bid. JEA approved erasures, interlineations or other corrections shall be authenticated by affixing in the margin, immediately opposite the correction, the handwritten signature of each person executing the Bid. Failure to authenticate changes may disqualify the Bid. JEA may disqualify any Bids that deviate from the requirements of this Solicitation, and those that include unapproved exceptions, amendments, or erasures.

1.3.2. CALCULATION OF THE BID PRICE

JEA will use the Bidder's Total Bid Price stated on the Bid Form when making price comparisons for Award purposes.

1.3.3. MODIFICATION OR WITHDRAWAL OF BIDS

The Respondent may modify or withdraw its Response at any time prior to the Response Due Date and Time by giving written notice to JEA's Chief Procurement Officer. JEA will not accept modifications submitted by telephone, telegraph, email, or facsimile, or those submitted after the Response Due Date and Time. The Respondent shall not modify or withdraw its Response from time of Bid opening and for a period of 90 days following the opening of Bids.

1.3.4. ADDENDA

JEA may issue Addenda prior to the opening of Responses to change or clarify the intent of this Solicitation. The Respondent is responsible for ensuring it has received all Addenda prior to submitting its Response and must acknowledge receipt of all Addenda by completing the Confirmation of Receipt of Addenda. JEA will post Addenda when issued online at JEA.com. Companies must obtain Addenda from the JEA.com website. It is the responsibility of each Respondent to ensure it has received and incorporated all Addenda into its Response. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Response.

1.3.5. CONTRACT EXECUTION AND START OF WORK

Within 30 days from the date of Award, JEA will present the successful Respondent with the Contract. Unless expressly waived by JEA, the successful Respondent must execute a Contract for the Work within 10 days after receiving the Contract from JEA. If the Respondent fails to execute the Contract or associated documents as required, JEA may cancel the Award with no further liability to the Respondent and retain any bid security or bond. Upon JEA's receipt of the executed Contract, certificate of insurance, and recorded Payment and Performance bonds (if applicable), JEA will issue a PO, in writing and signed by an authorized JEA representative as acceptance of the Response and authorization for the company to proceed with the Work, unless otherwise stated in the Contract or PO. For Construction Services: In the event that JEA intends to authorize the successful Respondent to proceed with administrative work only, or with only a portion of the Work, then the PO shall state the specific limitations of such

authorization and JEA will issue a separate written Notice to Proceed to authorize the Respondent to begin Field Work, when applicable, or to perform the remainder of the Work, or any portion thereof. The Respondent shall ensure that it is prepared to begin Field Work upon receipt of Notice to Proceed. Any Work performed outside of this partial authorization shall be at the Respondent's risk and JEA shall have no obligation to pay for such Work.

1.3.6. DEFINED TERMS

Words and terms defined in the Section entitled "Definitions" of this document are hereby incorporated by reference into the entire document.

1.3.7. EX PARTE COMMUNICATION

Ex Parte Communication is defined as any inappropriate communication concerning a Solicitation between any officers, employees or other representatives of Respondent and a JEA representative during the time in which the Solicitation is being advertised through the time of Award. Examples of inappropriate communications include private communications concerning the details of the Solicitation in which a company becomes privy to information not available to the other Respondents. Social contact between companies and JEA Representatives should be kept to an absolute minimum during the Solicitation process.

Ex Parte Communication is strictly prohibited. Failure to adhere to this policy will disqualify the noncompliant Respondent. Any questions or clarifications concerning this Solicitation must be sent in writing via email to the JEA Buyer at least five business days prior to the opening date. If JEA determines that a question should be answered or a requirement should be clarified, JEA will issue an Addendum to the Solicitation.

1.3.8. AVAILABILITY OF BIDS AFTER OPENING

In accordance with the Florida Public Records Law, Florida Statute, Chapter 119, copies of all Bids are available for public inspection thirty (30) days after the opening of Bids or on the date of Award announcement, whichever is earlier. Respondents may review opened Bids once they are available for public inspection by contacting the designated JEA Buyer or JEA's Public Records custodian whose contact information can be found at jea.com. JEA will post a summary of the Bid results immediately after the Bid opening.

1.3.9. CERTIFICATION AND REPRESENTATIONS OF THE COMPANY

By signing and submitting the Response Form, the Respondent certifies and represents as follows:

A. That the individual signing the Bid Form is a duly authorized agent or officer of the Bidder. Bids submitted by a corporation must be executed in the corporate name by the President or Vice President. If an individual other than the President or Vice President signs the Bid Form, satisfactory evidence of authority to sign must be submitted upon request by JEA. If the Bid is submitted by a partnership, the Bid Form must be signed by a partner whose title must be listed under the signature. If an individual other than a partner signs the Bid Form, satisfactory evidence of authority to sign must be submitted upon request by JEA.

B. That every aspect of the Bid and the detailed schedule for the execution of the Work, are based on its own knowledge and judgment of the conditions and hazards involved, and not upon any representation of JEA. JEA assumes no responsibility for any understanding or representation made by any of its representatives during or prior to execution of the Contract unless such understandings or representations are expressly stated in the Contract and the Contract expressly provides that JEA assumes the responsibility.

C. The corporation or partnership must be in active status at the Florida Division of Corporations (www.sunbiz.org) prior to any subsequent Award of Contract.

D. That the Bidder maintains in active status any and all licenses, permits, certifications, insurance, bonds and other credentials including, but not limited to, contractor's license and occupational licenses necessary to perform the Work. The Bidder also certifies that, upon the prospect of any change in the status of applicable licenses, permits, certifications, insurances, bonds or other credentials, the Bidder shall immediately notify JEA of status change.

E. That the Bidder has read, understands, and will comply with the Section titled Ethics.

1.3.10. CONFLICT OF INTEREST

This conflict of interest policy applies to all JEA construction projects ("Project"). Any company bidding the construction phase of a Project cannot at the time of Response/bid submittal, be affiliated with or have any direct or indirect ownership interest in the architect/engineer ("Designer") of record. The company will also be prohibited from bidding if the Designer has any direct or indirect ownership interest in the Contractor. Should JEA erroneously award a contract in violation of this policy, JEA may terminate the contract at any time with no liability to company, and company shall be liable to JEA for all damages, including but not limited to the costs to rebid the Project. The purpose of this policy is to encourage bidding and eliminate any actual or perceived advantage that one bidder may have over another.

1.3.11. ETHICS

By submitting a Bid, the Bidder certifies this Bid is made without any previous understanding, agreement or connection with any other person, firm, or corporation submitting a Bid for the same Work other than as a Subcontractor or supplier, and that this Bid is made without outside control, collusion, fraud, or other illegal or unethical actions. The Bidder shall comply with all JEA and City of Jacksonville ordinances, policies, and procedures regarding business ethics.

The Bidder shall submit only one Bid in response to this Solicitation. If JEA has reasonable cause to believe the Bidder has submitted more than one Bid for the same Work, other than as a Subcontractor or subsupplier, JEA shall disqualify the Bid and may pursue debarment actions.

The Bidder shall disclose the name(s) of any public officials who have any financial position, directly or indirectly, with this Bid by completing and submitting the Conflict-of-Interest Certificate Form found at jea.com. If JEA has reason to believe that collusion exists among the Bidders, JEA shall reject any and all Bids from the suspected Bidders and will proceed to debar Bidder from future JEA Awards in accordance with the JEA Procurement Code.

JEA is prohibited by its Charter from awarding contracts to JEA officers or employees, or in which a JEA officer or employee has a financial interest. JEA shall reject any and all Bids from JEA officers or employees, as well as any and all Bids in which a JEA officer or employee has a financial interest.

In accordance with Florida Statutes Sec. 287.133, JEA shall reject Bids from any persons or affiliates convicted of a public entity crime as listed on the Convicted Vendor list maintained by the Florida Department of Management Services. JEA shall not make an Award to any officer, director, executive, partner, shareholder, employee, member, or agent active in management of the Bidder listed on the Convicted Vendor list for any transaction exceeding \$35,000 for a period of 36 months from the date of being placed on the Convicted Vendor list.

1.3.12. JEA PUBLICATIONS

Applicable JEA publications are available at jea.com.

1.3.13. MATHEMATICAL ERRORS

In the event of a mathematical error in calculation of the prices entered on the Bid, the Unit Prices will prevail. The corrected Bid Price utilizing the Unit Prices will be used to determine if the Company is Awarded the Work or the Services. Subsequently, the Unit Prices will be used throughout the term of the Contract.

1.3.14. PROHIBITION AGAINST CONTINGENT FEES

The Bidder warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Bidder, or an independent sales representative under contract to the Bidder, to solicit or secure a contract with JEA, and that it has not paid or agreed to pay any person, company, corporation, individual or Bidder, other than a bona fide employee working solely for the Bidder, or an independent sale representative under contract to the Bidder, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the Award or making of the Contract. For a breach or violation of these provisions occurs, JEA shall have the right to terminate the Contract without liability, and at its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

1.3.15. PROTEST OF SOLICITATION AND AWARD PROCESS

Any protests regarding this Solicitation must be filed in writing and in accordance with the JEA Procurement Code, as amended from time to time. The JEA Procurement Code is available online at www.jea.com.

1.3.16. RESERVATION OF RIGHTS TO JEA

This Solicitation provides potential Bidders with information to enable the submission of written offers. This Solicitation is not a contractual offer or commitment by JEA to purchase products or services.

JEA reserves the right to reject all Responses, and to waive informalities if JEA deems such action to be in its best interest. JEA may reject any Responses that it deems incomplete or irregular including, but not limited to, Responses that omit a price on any one or more items for which prices are required, Responses that omit Unit Prices if Unit Prices are required, Responses that offer equal items when the option to do so has not been stated, and Responses that fail to include a Bid Bond, where one is required.

JEA reserves the right to cancel, postpone, modify, reissue, and amend this Solicitation at its discretion.

JEA reserves the right to cancel or change the date and time announced for opening of Responses at any time prior to the time announced for the opening of Responses. JEA may Award the Contract in whole or in part. JEA may award multiple or split Contracts if it is deemed to be in JEA's best interest.

1.3.17. SUBCONTRACTORS

JEA shall specify the major Subcontractors that the Company must list is the Company intends to use a Subcontractor to perform a portion of the Work unless the Work will be self-performed by the Company. The Subcontractors that JEA requires to be listed is stated in the Section titled "Required Forms to Be Submitted with the Bid". The major Subcontractors shall be listed on the Subcontractors Form which is available at jea.com. Failure of the Company to submit the required Subcontractor information on the form with its Bid shall result in rejection of the Company's Bid.

The Company shall not use Subcontractors and subsuppliers/shop fabricators other than those shown on the Subcontractor Form unless it shows good cause and obtains the JEA Representative's prior written consent.

If the Company plans to use Subcontractors or subsupplier/shop fabricators to perform over 50% of the Work, the Company shall obtain JEA's approval at least five (5) days prior to the Bid/Proposal Due Date. • @ Failure to obtain JEA approval will disqualify the Company and result in rejection of Company's Bid/Proposal.

1.3.18. SUNSHINE LAW

General:

Article I, Section 24, Florida Constitution, guarantees every person access to all public records and Chapter 119, Florida Statutes, provides a broad definition of public records. JEA is a body politic and corporate and subject to these laws and related statutes ("Florida's Public Records Laws"). All responses to this Solicitation are public record and available for public inspection unless specifically exempt by law.

Redacted Submissions:

Article I, Section 24, Florida Constitution, guarantees every person access to all public records and Chapter 119, Florida Statutes, provides a broad definition of public records. JEA is subject to these laws and related statutes ("Florida's Public Records Laws"). All responses to this Solicitation are public record and available for public inspection unless specifically exempt by law.

If a Bidder believes that any portion of the documents, data or records submitted in response to this Solicitation are exempt from Florida's Public Records Law, Bidder must (1) clearly segregate and mark the specific sections of the document, data or records as "Confidential," (2) cite the specific Florida Statute or other legal authority for the asserted exemption, and (3) provide JEA with a separate redacted copy of its Response (the "Redacted Copy"). The cover of the Redacted Copy shall contain JEA's title and number for this Solicitation and Bidder's name and shall be clearly labeled "Redacted Copy." Bidder should only redact those portions of records that Bidder claims are specifically exempt from the Florida Public Records Laws. If Bidder fails to submit a redacted copy of information

it claims is confidential, JEA is authorized to produce all documents, data and other records submitted to JEA in answer to a public records request for such information.

In the event of a request for public records to which documents that are marked as confidential are responsive, JEA will provide the Redacted Copy to the requestor. If a requestor asserts a right to any redacted information, JEA will notify Bidder that such an assertion has been made. It is Bidder's responsibility to respond to the requestor to assert that the information in question is exempt from disclosure under applicable law. If JEA becomes subject to a demand for discovery or disclosure of Bidder's redacted information under legal process, JEA shall give Bidder prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law.) Bidder shall be responsible for defending its determination that the redacted portions of its response are not subject to disclosure.

By submitting a Response to this Solicitation, Bidder agrees to protect, defend, and indemnify JEA from and against all claims, demands, actions, suits, damages, losses, settlements, costs and expenses (including but not limited to reasonable attorney fees and costs) arising from it relating to Bidder's determination that the redacted portions of its response to this Solicitation are not subject to disclosure.

IF THE BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS SOLICITATION, CONTACT THE JEA CUSTODIAN OF PUBLIC RECORDS AT:

**Public Records Request Coordinator
JEA, 225 North Pearl Street
Jacksonville, FL 32202
Ph: 904-665-8606
publicrecords@jea.com**

1.4. JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB) PROGRAM REQUIREMENTS

1.4.1. OPTIONAL USE OF JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM

It is at the Respondent's option as to whether it chooses to subcontract to a JSEB firm. JEA encourages the use of JSEB firms; however, the Respondent is not required to utilize a JSEB to be awarded this Contract.

For more information regarding the JSEB program, please contact William Hickey, JEA, JSEB Manager, hickwj@jea.com.

2. CONTRACT TERMS AND CONDITIONS

2.1. CONTRACT DOCUMENT TERMS AND CONDITIONS

Provided below are the Contract terms and conditions that will be incorporated by reference in the Contract Document executed by the Company and JEA. The Contract Document will incorporate by reference the terms contained in the Solicitation portion of this document provided in Section 1, the Contract Terms provided in Section 2; and the Technical Specifications provided in Section 3. An example of the Contract that the Company will be required to execute is available for review at jea.com.

2.2. DEFINITIONS

2.2.1. DEFINITIONS

Words and terms defined in this section shall have the same meaning throughout all parts of this Solicitation and Contract Documents. Where intended to convey the meaning consistent with that set forth in its definition, a defined

word or term is marked by initial capitalization. The "Technical Specifications" portion of this Solicitation may define additional words and terms where necessary to clarify the Work. Unless otherwise stated in this Solicitation and/or Contract Documents, definitions set forth in the "Technical Specifications" shall apply only within the "Technical Specifications."

2.2.2. ACCEPTANCE

JEA's written notice by the Contract Administrator to the Company that all Work as specified in the Contract, or a portion of the Work as specified in a Task or Work Order, has been completed to JEA's satisfaction. Approval or recognition of the Company meeting a Milestone or interim step does not constitute Acceptance of that portion of Work. Acceptance does not in any way limit JEA's rights under the Contract or applicable laws, rules, and regulations.

2.2.3. ADDENDUM/ADDENDA

A written change or changes to the Solicitation which is issued by JEA Procurement Services and is incorporated into the Solicitation as a modification, revision and/or further clarification of the intent of the Solicitation.

2.2.4. AWARD

The written approval of the JEA Awards Committee that the procurement process for the purchase of the Work was in accordance with the JEA Procurement Code and Florida Statutes. Once an Award is approved, JEA will either issue a Purchase Order or execute a Contract with the successful company.

2.2.5. CHANGE ORDER

A written order issued after execution of the Contract to the Company signed by the Contract Administrator, or his designated representative, authorizing an addition, deletion, or revision of the Work, or an adjustment in the Contract Price or the Contract Time. Change Orders do not authorize expenditures greater than the monies encumbered by JEA, which is shown on the associated Purchase Order(s). An executed Change Order resolves all issues related to price and time for the Work included in the Change Order. A Change Order that involves a material change to the Contract may result in a Contract Amendment.

2.2.6. CONTRACT

An agreement between JEA and the Bidder, signed by both parties, which incorporates all the Contract Documents. The Contract shall not be altered without an Amendment to the Contract and executed by JEA and the Bidder, or a JEA issued Change Order.

2.2.7. CONTRACT ADMINISTRATOR

The individual assigned by JEA to have authority to administer the Contract, including the authority to negotiate all elements of the Contract with the Company, authorize Change Orders within the maximum amount awarded, terminate the Contract, seek remedies for nonperformance including termination, and otherwise act on behalf of JEA in all matters regarding the Contract. The Contract Administrator may authorize JEA Representative in writing to make minor changes to the Work with the intent of preventing Work disruption.

2.2.8. CONTRACT PRICE

The total amount payable to the Company during the initial Term of the Contract. However, this amount is not a guaranteed amount. Also referred to as the "Maximum Indebtedness" of JEA.

2.2.9. CONTRACT TIME

The number of calendar days or the period of time from when the written Purchase Order is issued to the Bidder, to the date Bidder has agreed to complete the Work, as set forth in the Contract Documents.

2.2.10. DEFECT

Work that fails to reach Acceptance, or Work that fails meet the requirements of any required test, inspection or approval, and any Work that meets the requirements of any test or approval, but nevertheless does not meet the requirements of the Contract Documents.

2.2.11. HOLIDAYS

The following days: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Juneteenth Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve Day, and Christmas Day. If any of these Holidays fall on a weekend, JEA may observe a Holiday on the nearest weekday.

2.2.12. INVITATION TO BID

The document (which may be electronic) issued by the JEA Procurement Department to solicit Bids from Companies that include, but not limited to, the Minimum Qualifications Form, samples of contract documents and addenda. Also referred to as "Solicitation".

2.2.13. INVOICE

A document seeking payment to the Company from JEA for all or a portion of the Work, in accordance with the Contract Documents, and including at a minimum the following items: the Company's name and address, a description of the product(s) or service(s) rendered, a valid JEA PO number, the amount payable, the Unit Price, the payee name and address, any associated JSEB forms and any other supporting documentation required by the Contract Documents.

2.2.14. JEA REPRESENTATIVES

The Contract Administrator, Contract Inspector, Contract Administrator's Representative, JEA Engineer, Field Engineer, Project Manager, and other persons designated by the Contract Administrator as JEA Representatives acting in a capacity related to the Work or Contract under the authority of the Contract Administrator.

2.2.15. PERFORMANCE - ACCEPTABLE PERFORMANCE/PERFORMER

The Bidder averages more than 2.80 and less than 4.0 across all performance scorecard evaluation metrics and does not receive a score of less than 2.0 on any metric.

2.2.16. PAYMENT AND PERFORMANCE BONDS

The common-law Performance Bond and the statutory Payment Bond contemplated by Section 255.05, Florida Statutes in the form required by JEA.

2.2.17. PERFORMANCE - TOP PERFORMANCE/PERFORMER

The Bidder averages 4.0 or more across all scorecard evaluation metrics and does not receive a score of less than 4.0 on any one metric.

2.2.18. PERFORMANCE - UNACCEPTABLE PERFORMANCE/PERFORMER

The Company averages less than 2.80 across all scorecard evaluation metrics or scores a 1.0 on any one metric regardless of average or receives a score of 2.0 on the same metric on two sequential performance evaluations.

2.2.19. PURCHASE ORDER (PO)

A commercial document issued by JEA, authorizing work, indicating types, quantities, and agreed prices for products or services the Company will provide to JEA. Sending a PO to a Company constitutes a legal offer to buy products or services. The words "Purchase Order" are clearly marked across the top, a PO number is used for reference and invoicing purposes, includes an authorized JEA signature, and states the dollar amount of the lawfully appropriated funds.

2.2.20. QUALITY ASSURANCE

Actions that JEA takes to assess the Company's performance under the Contract.

2.2.21. QUALITY CONTROL

Actions that the Company takes to ensure it successfully completes the Work in full accordance with the Contract Documents.

2.2.22. RESPONSE

The document describing the Company's offer submitted in Bid to this Solicitation.

2.2.23. RESPONDENT

The Respondent to this Solicitation.

2.2.24. SOLICITATION

The documents (which may be electronic) issued by JEA's Procurement Department to solicit Response from Respondents that includes, but is not limited to, the Response Documents, Bid Workbook, samples of documents, contractual terms and conditions, the Technical Specifications, and associated Addenda.

2.2.25. SUBCONTRACTOR

The legal person, firm, corporation or any other entity or business relationship that provides a portion of the work, or provides supplies and materials, to the Company which has an executed Contract with JEA. JEA is not in privity of contract with the Subcontractor.

2.2.26. TERM

The period of time during which the Contract is in force or until the Contract's Maximum Indebtedness is reached, whichever occurs first.

2.2.27. UNIT PRICES

The charges to JEA for the performance of each respective unit of Work as stated in the Bid Workbook, Bid Form, or Proposal Form, and incorporated into the Contract Documents.

2.2.28. WORK OR SCOPE OF SERVICES

Work includes as defined in the Contract Documents all actions, products, documentation, electronic programs, reports, testing, transport, administration, management, services, materials, tools, equipment, and responsibilities to be furnished or performed by the Company under the Contract, together with all other additional necessities that are not specifically recited in the Contract, but can be reasonably inferred as necessary to complete all obligations and fully satisfy the intent of the Contract.

2.3. CONTRACT DOCUMENTS

2.3.1. ORDER OF PRECEDENCE

The Contract shall consist of JEA's Contract and/or Purchase Order together with the Solicitation including, but not limited to, the executed Bid Documents, which shall be collectively referred to as the Contract Documents. This Contract is the complete agreement between the parties. Parol or extrinsic evidence will not be used to vary or contradict the express terms of this Contract. The Contract Documents are complementary; what is called for by one is binding as if called for by all. The Company shall inform JEA in writing of any conflict, error, or discrepancy in the Contract Documents upon discovery. Should the Company proceed with the Work prior to written resolution of the error or conflict by JEA, all Work performed is at the sole risk of the Company. JEA will generally consider this precedence of the Contract Documents in resolving any conflict, error, or discrepancy:

- o Executed Contract Amendments
- o Exhibits to Contract Documents
- o Executed Contract Documents
- o Addenda to JEA Solicitation
- o This Solicitation, including all Appendices, Exhibits and Attachments to this Solicitation
- o Company's Response
- o JEA's Purchase Order

The figure dimensions on drawings shall govern over scale dimensions. Contract and detailed drawings shall govern over general drawings. The Company shall perform any Work that may reasonably be inferred from the Contract as

being required whether or not it is specifically called for. Work, materials, or equipment described in words that, so applied, have a well-known technical or trade meaning shall be taken as referring to such recognized standards.

2.4. PRICE AND PAYMENTS

2.4.1. PAYMENT METHOD

JEA shall pay the Company monthly for the Work performed by the Company during the preceding month in accordance with the rates stated on the Company's Response Workbook upon receipt of a proper invoice from the Company.

2.4.2. INVOICING AND PAYMENT TERMS

Within sixty (60) days from completion of the Work, the Company shall submit all Invoices or Applications for Payment in accordance with the payment method agreed upon in these Contract Documents. Invoices shall be submitted to the following email address: acctpaycustsrv@jea.com.

JEA will pay the Company the amount requested within thirty (30) calendar days after receipt of an Invoice from the Company subject to the provisions stated below.

JEA may reject any Invoice or Application for Payment within 20 calendar days after receipt. JEA will return the Invoice or Application for Payment to the Company stating the reasons for rejection.

Upon receipt of an acceptable revised Invoice or Application for Payment, JEA will pay the Bidder the revised amount within ten (10) days.

JEA may withhold payment if the Company is in violation of any conditions or terms of the Contract Documents.

In the case of early termination of the Contract, all payments made by JEA against the Contract Price prior to notice of termination shall be credited to the amount, if any, due the Company. If the parties determine that the sum of all previous payments and credits exceeds the sum due the Company, the Company shall refund the excess amount to JEA within ten (10) days of determination or written notice.

2.4.3. JSEB - INVOICING AND PAYMENT

If the Company utilizes JSEB certified firms, regardless of whether these Contract Documents require or encourage the use of such firms, the Company shall Invoice for and report the use of JSEB certified firms according to the format and guidelines established by the City of Jacksonville.

2.4.4. COST SAVING PLAN

During the Term, JEA and Company are encouraged to identify ways to reduce the total cost to JEA related to the Work provided by the Company. JEA and Company may negotiate Contract Amendments that allow such reductions in total costs including, but not limited to, the sharing of savings resulting from implementation of cost-reducing initiatives between JEA and Company. The decision to accept any cost savings initiative shall be in the sole discretion of JEA, and JEA shall not be liable to Company for any cost that may be alleged to be related to a refusal to accept a cost savings initiative proposed by Company.

2.4.5. DISCOUNT PRICING

JEA offers any or all of the following option payment terms, one of which may be executed at the request of the Company by sending an email to the JEA Buyer listed in this Solicitation:

- o 1% 20, net 30
- o 2% 10, net 30

The Company may request alternate payment terms for JEA's consideration; however, alternate payment terms are not effective until acceptance by JEA in writing. Please note, all payment dates are calculated from the date of the Invoice receipt by JEA's Accounts Payable.

2.4.6. OFFSETS

In case the Company is in violation of any requirement of the Contract, JEA may withhold payments that may be due the Company and may offset existing balances with any JEA incurred costs against funds due the Company under this and any other Company Contract with JEA, as a result of the violation, or other damages as allowed by the Contract Documents and applicable law.

2.4.7. TAXES

JEA is authorized to self-accrue the Florida Sales and Use Tax and is exempt from Manufacturer's Federal Excise Tax when purchasing tangible personal property for its direct consumption.

2.4.8. RIGHT TO AUDIT AND FINANCIAL REPORTING

Accounting System

The Company shall establish and maintain a reasonable accounting system that enables JEA to readily identify the Company's assets, expenses, cost of goods, and use of funds.

Audited Financial Statements

The Company shall provide to JEA audited financial statements for its most recent fiscal year not later than five days after receipt of written request from JEA.

Content and Retention of Records

The Company's records shall include, but not be limited to, accounting records; written policies and procedures; subcontract files (including proposals of successful and unsuccessful Bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; invoices as support for other reimbursement; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back-charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Company shall, at all times during the term of the Contract and for a period of five years after the completion of the Contract, maintain such records, together with such supporting or underlying documents and materials.

Inspection /Audit of Records

Upon JEA's request, the Company shall allow JEA to audit, to examine, and to make copies of or extracts from its financial and operating records (in whatever form they may be kept, whether written, electronic, or other) kept by the Company, its employees, agents, assigns, successors, and subcontractors, for the purpose of determining invoice accuracy, or otherwise assessing compliance with the Contract Documents.

The Company shall at any time requested by JEA, whether during or after completion of the Contract, and at Company's own expense make such records available for inspection and audit (including copies and extracts of records as required) by JEA. Such records shall be made available to JEA during normal business hours at the Company's office or place of business in a workspace suitable for the audit on three days' prior written notice. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for JEA. The Company shall have knowledgeable personnel available to answer questions for the auditors during the time they are performing the audit and for a period of two weeks thereafter. Company shall ensure JEA has these rights with Company's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Company and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Company's obligations to JEA.

Cost of Audits

If the audit identifies (i) overpricing or overcharges of any nature by the Company to JEA in excess of one-half of one percent (0.5%) of the total billings under the Contract at the time of the audit or (ii) fraud, misrepresentation or non-performance, the Company shall reimburse JEA for the total costs of the audit.

Billing Adjustments and Recoveries

The Company shall pay JEA all amounts identified as owing to JEA as a result of any such audit or inspection of the Company's invoices and records no later than 90 days after the Company's receipt of JEA's findings.

City of Jacksonville Office of the City Council Auditor

A Company providing contractual services purchased by JEA agrees and be deemed to have agreed by virtue of doing business under contract with JEA to be subject to audit upon request by the Office of the City Council Auditor pursuant to Article 5 of the JEA Charter.

2.5. WARRANTIES AND REPRESENTATIONS

2.5.1. WARRANTY - SERVICE

The Company warrants that all items provided under the Contract shall be in accordance with the requirements of the Contract and all services shall be performed in a professional manner and with professional diligence and skill, consistent with the prevailing standards of the industry. The Company warrants that the Work will meet the service levels, functional and performance requirements defined in the Contract.

The Company warrants all Work for a period of one year following Acceptance of the Work. If any failure to meet the foregoing warranty appears during the Term or within one year after Acceptance, the Company shall again perform the Work directly affected by such failure at the Company's sole expense.

The Company represents and warrants that it has the full right, power, and authority to enter into the Contract and to perform the Work, and that the performance of its obligations and duties hereunder does not and will not violate any Contract to which the Company is a party or by which it is otherwise bound.

The Company represents and warrants that it will conduct the Work in a manner and with sufficient labor, materials, and equipment necessary to affect a diligent pursuance of the Work.

The Company represents and warrants that it has the responsibility and capacity to train and supervise its employees, Subcontractors, and suppliers to ensure the Work complies with all safety requirements of the Contract Documents.

The Company represents and warrants that its employees and Subcontractors shall exercise the degree of skill and care required by customarily accepted good practices and procedures.

2.6. INSURANCE, INDEMNITY AND RISK OF LOSS

2.6.1. INSURANCE REQUIREMENTS

Before starting and until acceptance of the Work by JEA, and without further limiting its liability under the Contract, Company shall procure and maintain at its sole expense, insurance of the types and in the minimum amounts stated below:

Workers' Compensation

Florida Statutory coverage and Employer's Liability (including appropriate Federal Acts); Insurance Limits: Statutory Limits (Workers' Compensation) \$500,000 each accident (Employer's Liability).

Commercial General Liability

Premises-Operations, Products-Completed Operations, Contractual Liability, Independent Contractors, Broad Form Property Damage, Explosion, Collapse and Underground, Hazards (XCU Coverage) as appropriate; Insurance Limits: \$1,000,000 each occurrence, \$2,000,000 annual aggregate for bodily injury and property damage, combined single limit.

Automobile Liability

All autos-owned, hired, or non-owned; Insurance Limits: \$1,000,000 each occurrence, combined single limit.

Excess or Umbrella Liability

(This is additional coverage and limits above the following primary insurance: Employer's Liability, Commercial General Liability, and Automobile Liability); Insurance Limits: \$1,000,000 each occurrence and annual aggregate.

Company's Commercial General Liability and Excess or Umbrella Liability policies shall be effective for two years after Work is complete. The Indemnification provision provided herein is separate and is not limited by the type of insurance or insurance amounts stated above.

Company shall specify JEA as an additional insured for all coverage except Workers' Compensation and Employer's Liability and Professional Liability. Such insurance shall be primary to any and all other insurance or self-insurance maintained by JEA. Company shall include a Waiver of Subrogation on all required insurance in favor of JEA, its board members, officers, employees, agents, successors and assigns.

Such insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to JEA. Prior to commencing any Work under the Contract, certificates evidencing the maintenance of the insurance shall be uploaded to JEA's ISupplier Portal which can be found at https://isuppliercloud.jea.com/OA_HTML/AppsLocalLogin.jsp.

The insurance certificates shall provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until 30 days after receipt of written notice by JEA.

It shall be the sole responsibility of Company to ensure that any Subcontractors performing work for Company are properly insured against any claim, action, loss, damage, injury, liability, cost and expense (including, but not by way of limitation, reasonable attorney's fees and court costs) to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Subcontractors.

2.6.2. INDEMNIFICATION

The Company shall hold harmless and indemnify JEA against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, reasonable attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to the negligence, recklessness or intentional wrongful misconduct of the Company and any person or entity used by Company in the performance of the Contract or Work performed thereunder. For purposes of this Indemnification, the term "JEA" shall mean JEA as a body politic and corporate and shall include its governing board, officers, employees, agents, successors and assigns. This indemnification shall survive the term of a Contract entered into pursuant to this solicitation, for events that occurred during the Contract term. This indemnification shall be separate and apart from, and in addition to, any other indemnification provisions set forth elsewhere in the Contract.

2.6.3. INDEMNIFICATION - RELEASE OF JEA CUSTOMER INFORMATION

The Company shall hold harmless and indemnify JEA against any and all claims actions, losses, damages, injuries, liability, costs and expenses of whatsoever kind or nature (including, but not by way of limitation, reasonable attorney's fees and court costs) arising out of the unwarranted disclosure of any JEA customer information that is in the possession of Company or any of its employees, agents or Subcontractors either in paper or electronic format, including disclosure caused by theft, electronic system malfunction, negligence, or any other cause for the information to become public or otherwise used for any purpose whatsoever.

2.6.4. INDEMNIFICATION FOR RELEASE OF JEA EMPLOYEES' PERSONAL IDENTIFIABLE INFORMATION (PII) DATA

The Company indemnifies, defends, and holds JEA harmless from any and all claim associated with the unwarranted disclosure of any JEA PII data that is in its possession either in paper or electronic format, including disclosure caused by theft, electronic system malfunction, negligence, or any other cause for the information to become public or otherwise used for malicious intents.

2.6.5. TITLE AND RISK OF LOSS

Ownership, risks of damage to or loss of the items shall pass to JEA only upon Acceptance. The Company shall retain the sole risk of loss to the Work up to and including the time of Acceptance. In the event of loss or damage to the Work, the Company shall bear all costs associated with any loss or damage.

2.7. ACCEPTANCE

2.7.1. ACCEPTANCE

JEA's written notice by the JEA Representative to the Company that all Work as specified for an individual service or repair has been completed to JEA's satisfaction. If Company does not receive a written notice from JEA within sixty (60) days from completion of the repair or service, the repair or service will be deemed to have reached Acceptance. Approval or recognition of the Company meeting a Milestone or interim step does not constitute Acceptance of that portion of the repair or service. Acceptance is only applicable to the entirety of the repair or service as specified in the Contract, Purchase Order, Work Order. Acceptance does not in any way limit JEA's rights under the Contract or applicable laws, rules, and regulations.

2.7.2. ACCEPTANCE OF WORK - RECEIPT, INSPECTION, USAGE AND TESTING

The Contract Administrator will make the determination when Work is completed and there is Acceptance by JEA. Acceptance will be made by JEA only in writing, and after adequate time to ensure Work is performed in accordance with Contract Documents. JEA will reject any items delivered by Company that are not in accordance with the Contract and shall not be deemed to have accepted any items until JEA has had reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the items has become apparent. JEA may partially accept the Work items. If JEA elects to accept nonconforming items, it may in addition to other remedies, be entitled to deduct a reasonable amount from the price as compensation for the nonconformity. Any Acceptance by JEA, even if nonconditional, shall not be deemed a waiver, or settlement or acceptance of any Defect.

2.8. TERM AND TERMINATION

2.8.1. TERM OF CONTRACT – DEFINED DATES

This Contract shall commence on the effective date of the Contract and continue and remain in full force and effect as to all its terms, conditions and provisions as set forth herein for five (5) years, or until the Contract's Maximum Indebtedness is reached, whichever occurs first. It is at JEA's sole option to renew the Contract.

It is at JEA's sole option to renew the Contract for an additional two (2) one (1) year periods.

This Contract, after the initial year shall be contingent upon the existence of lawfully appropriated funds for each subsequent year of the Contract.

2.8.2. TERMINATION FOR CONVENIENCE

JEA shall have the absolute right to terminate the Contract, in whole or part, with or without cause, at any time upon written notification to the Company of such termination.

In the event of termination for convenience, JEA will pay the Company for all Work performed by the Company prior to the termination date.

Upon receipt of such notice of termination, the Company shall stop the performance of the Work except as may be necessary to carry out a termination and take any other action toward termination of the Work that JEA may reasonably request, including all reasonable efforts to provide for a prompt and efficient transition as directed by JEA.

JEA shall have no liability to the Company for any cause whatsoever arising out of, or in connection with, termination including, but not limited to, lost profits, lost opportunities, or any resulting change in business condition.

2.8.3. TERMINATION FOR DEFAULT

JEA may terminate the Contract for default upon written notice to the Company if any of the following occurs (each, an "Event of Default"):

- The Company assigns or subcontracts the Work without JEA's prior written consent;
- Any petition is filed, or any proceeding is commenced by or against the Company for relief under any bankruptcy or insolvency laws;
- A receiver is appointed for the Company's properties, or the Company commits any act of insolvency (however evidenced);
- The Company makes an assignment for the benefit of creditors;
- The Company suspends the operation of a substantial portion of its business;
- The Company suspends the whole or any part of the Work to the extent that it impacts the Company's ability to meet the schedule for the Work, or the Company abandons the whole or any part of the Work;
- The Company breaches or fails to comply with any of the conditions or provisions of the Contract Documents, and, if such breach or failure is capable of cure, Company does not cure the breach or failure within 15 days after receipt of written notice from JEA;
- The Company attempts to willfully impose upon JEA items or workmanship that are, in JEA's sole opinion, defective or of unacceptable quality;
- The Company has been placed on the list maintained under Section 287.135, Florida Statutes, of companies with activities in Sudan or in Iran Petroleum Energy Sector;
- The Company is determined, in JEA's sole opinion, to have misrepresented the utilization of funds or misappropriated property belonging to JEA; or
- Any material adverse change in the financial or business condition of the Company.

If, within fifteen (15) days after service of such notice to discontinue or notice to cure upon the Company, an arrangement satisfactory to JEA has not been made by the Company for continuance of the Work or the material breach has not been remedied, JEA may declare the Company to be in default and terminate the Contract.

This Section shall in no way limit JEA's right to all remedies for nonperformance provided under law or in equity. Further, the rights and remedies available to JEA are distinct, separate, and cumulative remedies, and no one of them, whether or not exercised by a party, shall be deemed to be in exclusion of any other.

In the event of termination for nonperformance, the Company shall immediately surrender all Work records to JEA. In such a case, JEA may set off any money owed to the Company against any liabilities resulting from the Company's nonperformance.

JEA has no responsibility whatsoever to issue to the Company notices of any kind, including but not limited to deficient performance letters and scorecards, regarding its performance prior to declaring an event of Default for performance related issues.

If the Company is declared to be in default, JEA may charge the expenses of completing the Work to the Company and may deduct such expenses from monies due, or which at any time thereafter may become due, to the Company. If such expenses are more than the sum that would otherwise have been payable under the Contract, then the Company shall pay the amount of such excess to JEA upon receipt of notice of the expenses from JEA. JEA shall not be required to obtain the lowest price for completing the Work, but may make such expenditures that, in its sole judgment, shall best accomplish completion of the Work. JEA will, however, make reasonable efforts to mitigate the costs of completing the Work.

If, after an Event of Default, it is determined that an Event of Default did not occur, or that the default was excusable, the rights and obligations of the parties shall be the same as if JEA had terminated the Contract for convenience.

2.9. CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTATION

2.9.1. PUBLIC RECORDS LAWS

Access to Public Records.

All Documents, data and other records received by JEA in connection with the Contract are public records and available for public inspection unless specifically exempt by law. The Company shall allow public access to all

documents, data and other records made or received by the Company in connection with the Contract unless the records are exempt from Section 249(a) of Article I of the Florida Constitution or subsection 119.07(1), Florida Statutes. JEA may unilaterally terminate the Contract if the Company refuses to allow public access as required under the Contract.

Redacted copies of Confidential Information.

If the Company believes that any portion of any documents, data or other records submitted to JEA are exempt from disclosure under Chapter 119, Florida Statutes, the Florida Constitution and related laws ("Florida's Public Records Laws"), the Company must (1) clearly segregate and mark the specific sections of the document, data and records as "Confidential", (2) cite the specific Florida Statute or other legal authority for the asserted exemption, and (3) provide JEA with a separate redacted copy of the documents, data, or records (the "Redacted Copy"). The Redacted Copy shall contain JEA's contract name and number and shall be clearly titled "Redacted Copy". Bidder should only redact those portions of records that Bidder claims are specifically exempt from disclosure under Florida's Public Records Laws. If the Company fails to submit a redacted copy of documents, data, or other records it claims is confidential, JEA is authorized to produce all documents, data, and other records submitted to JEA in answer to a public records request for these records.

Request for Redacted Information.

In the event of a public records or other disclosure request under Florida's Public Records Laws or other authority to which the Company's documents, data or records are responsive, JEA will provide the Redacted Copy to the requestor. If a Requestor asserts a right to any redacted information, JEA will notify the Company that such an assertion has been made. It is the Company's responsibility to respond to the requestor to assert that the information in question is exempt from disclosure under applicable law. If JEA becomes subject to a demand for discovery or disclosure of the redacted information under legal process, JEA shall give the Company prompt notice of the demand prior to releasing the redacted information (unless otherwise prohibited by applicable law). The Company shall be responsible for defending its determination that the redacted portions of the information are not subject to disclosure.

Indemnification for Redacted Information.

The Company shall protect, defend, and indemnify JEA from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs, and expenses (including but not limited to reasonable attorney's fees and costs) arising from or relating to the Company's assertion that all or any portion of its information is not subject to disclosure.

Public Records Clause for Service Contracts.

If, under the Contract, the Company is providing services and is acting on behalf of JEA as contemplated by subsection 119.011(2), Florida Statutes, the Company shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by JEA in order to perform service;
 - a. Provide the public with access to public records on the same terms and conditions that JEA would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or otherwise prohibited by law;
 - b. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
 - c. Meet all requirements for retaining public records and transfer, at no cost, to JEA all public records in possession of the Company upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically shall be provided to JEA in a format that is compatible with the information technology systems of JEA.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY

**TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT,
CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

JEA

Attn: Public Records

225 North Pearl Street

Jacksonville, Florida 32202

Ph: 904-665-8606

publicrecords@jea.com

2.9.2. INTELLECTUAL PROPERTY

The Company grants to JEA an irrevocable, perpetual, royalty free and fully paid-up right to use (and such right includes, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right to sublicense all, or any portion of, the foregoing rights to an affiliate or a third party service provider) the Company's intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) that is contained or embedded in, required for the use of, that was used in the production of or is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of any applicable unit of Work.

If the Work contains, has embedded in, requires for the use of any third-party intellectual property, or if the third party intellectual property is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of the Work, the Company shall secure for JEA an irrevocable, perpetual, royalty free and fully paid-up right to use all third party intellectual property. The Company shall secure such right at its expense and prior to incorporating any third party intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) into any Work, including, without limitation, all drawings or data provided under the Contract, and such right must include, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right and a right to sublicense all or any portion of the foregoing rights to an affiliate or a third party service provider.

Should JEA, or any third party obtaining such work product through JEA, use the Work or any part thereof for any purpose other than that which is specified herein, it shall be at JEA's sole risk.

The Company will, at its expense, defend all claims, actions or proceedings against JEA based on any allegation that the Work, or any part of the Work, constitutes an infringement of any patent or any other intellectual property right, and will pay to JEA all costs, damages, charges, and expenses occasioned to JEA by reason thereof. JEA will give the Company written notice of any such claim, action or proceeding and, at the request and expense of the Company, JEA will provide the Company with available information, assistance and authority for the defense.

If, in any action or proceeding, the Work, or any part thereof, is held to constitute an infringement, the Company will, within 30 days of notice, either secure for JEA the right to continue using the Work or will, at the Company's expense, replace the infringing items with non-infringing Work or make modifications as necessary so that the Work no longer infringes.

The Company will obtain and pay for all patent and other intellectual property royalties and license fees required in respect of the Work.

2.9.3. PROPRIETARY INFORMATION

The Company shall not copy, reproduce, or disclose to third parties, except in connection with the Work, any information that JEA furnishes to the Company. The Company shall insert in any subcontract a restriction on the use of all information furnished by JEA. The Company shall not use this information on another project. All information furnished by JEA will be returned to JEA upon completion of the Work.

2.9.4. PUBLICITY AND ADVERTISING

The Company shall not take any photographs, make any announcements, or release any information concerning the Contract or the Work to any member of the public, press or official body unless prior written consent is obtained from JEA.

2.9.5. PATENTS AND COPYRIGHTS

Company shall hold harmless and indemnify JEA from and against liability or loss, including but not limited to any claims, judgments, court costs and attorneys' fees incurred in any claims, or any pretrial, trial or appellate proceedings on account of infringements of patents, copyrighted or un-copyrighted works, secret processes, trade secrets, patented or unpatented inventions, articles or appliances, or allegations thereof, pertaining to the Services, or any part thereof, combinations thereof, processes therein or the use of any tools or implements used by Company.

Company will, at its own expense, procure for JEA the right to continue use of the Services, parts or combinations thereof, or processes used therein resulting from a suit or judgment on account of patent or copyright infringement.

If, in any such suit or proceeding, a temporary restraining order or preliminary injunction is granted, Company will make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of such restraining order or temporary injunction.

If, in any such suit or proceeding, any part of the Services is held to constitute an infringement and its use is permanently enjoined, Company will, at once, make every reasonable effort to secure for JEA a license, authorizing the continued use of the Services. If Company fails to secure such license for JEA, Company will replace the Services with non-infringing Services, or modify the Services in a way satisfactory to JEA, so that the Services are non-infringing.

2.9.6. WORK MADE FOR HIRE

With the exception of Company's pre-existing intellectual capital and third-party intellectual capital as described in Intellectual Property, as stated herein, JEA shall own all right, title and interest, including ownership of copyright (limited to the extent permitted by the terms of any governing licenses), in and to any project generated by the Work including, but not limited to, software, source code, reports, deliverable, or work product developed by the Company specifically for JEA in connection with the Work, and derivative works relating to the foregoing. Such Work shall include, but shall not be limited to, those reports and deliverables specified in the Contract Documents. The Company understands and agrees that the "work made for hire", or any portion of the Work, shall be a "work made for hire" for JEA pursuant to federal copyright laws. Any software, report, deliverable, or work product as used in connection with the Work, but previously developed by the Company specifically for other customers of the Company or for the purpose of providing substantially similar services to other Company customers, generally shall not be considered "work made for hire", so long as the foregoing are not first conceived or reduced to practice as part of the Work. To the extent any of JEA deliverables are not deemed works made for hire by operation of law, the Company hereby irrevocably assigns, transfers, and conveys to JEA, or its designee, without further consideration all of its right, title and interest in such Work, including all rights of patent, copyright, trade secret, trademark or other proprietary rights in such materials. Except as provided in the foregoing sentences, the Company acknowledges that JEA shall have the right to obtain and hold in its own name any intellectual property right in and to the Work. The Company agrees to execute any documents or take any other actions as may reasonably be necessary, or as JEA may reasonably request, to perfect or evidence JEA's ownership of the Work.

2.10. LABOR

2.10.1. NONDISCRIMINATION

The Company represents that it has adopted and shall maintain throughout the Term a policy of nondiscrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, or handicap, in all areas of employee relations. The Company shall, on written request from JEA, allow JEA reasonable access to the Company's records of employment, employment advertisement, application forms and other pertinent data and records for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of the Contract; provided however, the Company shall not be required to

produce, for inspection, records covering periods of time more than one year from the effective date of the Contract.

The Company shall comply with the following:

1. The provisions of Presidential Order 11246, as amended, and the portions of Executive Orders 11701 and 11758 as applicable to Equal Employment Opportunity;
2. The provisions of section 503 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA); and
3. The provisions of the Employment and Training of Veterans Act, 38 U.S.C. 4212 (formerly 2012).

The Company agrees that if any of the Work of the Contract will be performed by a Subcontractor, then the provisions of this subsection shall be incorporated into and become a part of the subcontract.

2.10.2. LEGAL WORKFORCE

JEA shall consider the Company's employment of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for termination of the Contract for default upon thirty (30) days' prior written notice of such termination, notwithstanding any other provisions to the contrary in the Contract Documents.

2.10.3. PROHIBITED FUTURE EMPLOYMENT

It shall be unlawful and a class C offense for any person, who was an officer or employee of JEA, after his or her employment has ceased, to be employed by or enter into any contract for personal services, with a person or company who contracted with, or had a contractual relationship with JEA, while the contract is active or being completed, or within two years of the cessation, completion, or termination of the person's or company's contractual relationship with JEA, where (1) the contract with JEA had a value that exceeded \$250,000, and (2) the officer or employee had a substantial and decision-making role in securing or negotiating the contract or contractual relationship, or in the approval of financial submissions or draws in accordance with the terms of the contract; except that this prohibition shall not apply to an employee whose role is merely as a review signatory, or to contracts entered into prior to January 1, 2008, or to contracts that have been competitively procured. With respect to this subsection a contract is competitively procured if it has been obtained through a sealed low bid award. A "substantial and decision-making role" shall include duties and/or responsibilities that are collectively associated with: (i) approving solicitation or payment documents; (ii) evaluating formal bids and proposals; and (iii) approving and/or issuing award recommendations for JEA Awards Committee approval. The contract of any person or business entity who hires or contracts for services with any officer or employee prohibited from entering into said relationship shall be voidable at the pleasure of JEA. This prohibition shall not apply to any former officer or employee after two years from cessation from JEA employment.

2.10.4. HIRING OF OTHER PARTY'S EMPLOYEES

Each party recognizes that the other party has incurred or will incur significant expenses in training its own employees and agrees that it will not pursue or hire, without the other party's consent, the other party's employees, or the employees of its subsidiaries for a period of two (2) years from the termination date of this Agreement. It shall not be considered a breach of this Section for either party to make employment solicitations to the general public or groups that may include employees of the other party. Nor shall it be considered a breach of this Section for either party to respond to, act upon, or accept inquiries and applications resulting from, or make offers of employment resulting from, (i) such solicitations to the general public or groups or (ii) unsolicited employment inquiries or applications.

2.10.5. COMPANY'S LABOR RELATIONS

The Company shall negotiate and resolve any disputes between the Company and its employees, or anyone representing its employees. The Company shall immediately notify JEA of any actual or potential labor dispute that may affect the Work and shall inform JEA of all actions it is taking to resolve the dispute.

2.11. COMPANY'S RESPONSIBILITIES AND PERFORMANCE OF THE CONTRACT

2.11.1. JEA ACCESS BADGES

If the scope of work described in this Contract requires a Company to access JEA facilities over a period of time, each Company employee shall apply for a JEA access badge through JEA's Security Department. JEA will run a seven (7) year background check on all Company employee's that apply for a JEA access badge.

An appointment to obtain a JEA access badge can be made by contacting JEA Security at securitybadge@jea.com.

JEA does not allow Company employees to share JEA access badges. A Company whose employees are found to be sharing JEA access badges, will result in the Contract being terminated immediately for default. Additionally, JEA shall be notified within 6 hours of a lost or stolen JEA security badge or when an employee leaves the Company. Report badge termination notifications to JEA Security at (904) 665-8200.

2.11.2. NOTIFICATION OF SURETY

The Company shall notify its surety of any changes affecting the general scope of the Work or altering the Contract Price. The amount of the applicable bonds shall be adjusted accordingly, and the Company shall furnish proof of such adjustment to JEA within ten (10) days of date of Purchase Order.

2.11.3. COMPANY REPRESENTATIVES

The Company shall provide JEA with the name and responsibilities of the Company Representative, in writing after Award of the Contract and before starting the Work under the Contract. Should the Company need to change the Company Representative, the Company shall promptly notify JEA in writing of the change.

2.11.4. COMPANY REVIEW OF PROJECT REQUIREMENTS

The Company shall review the Work requirements and specifications prior to commencing Work. The Company shall immediately notify the Contract Administrator in writing of any conflict with applicable law, or any error, inconsistency, or omission it may discover. JEA will promptly review the alleged conflicts, errors, inconsistencies, or omissions, and issue a Change Order or Purchase Order as appropriate if JEA is in agreement with the alleged conflict, and issue revised specifications. Any Work the Company performs prior to receipt of approved Change Order will be at the Company's sole risk.

2.11.5. LICENSES

The Company shall comply with all licensing, registration and/or certification requirements pursuant to applicable laws, rules and regulations. The Company shall secure all licenses, registrations and certifications as required for the performance of the Work and shall pay all fees associated with securing them. The Company shall produce written evidence of licenses and other certifications immediately upon request from JEA.

2.11.6. PERFORMANCE OF THE WORK

The Company represents and warrants that it has the full corporate right, power, and authority to enter into the Contract and to perform the acts required of it hereunder, and that the performance of its obligations and duties hereunder does not and will not violate any Contract to which the Company is a party or by which it is otherwise bound. The Company warrants that all items provided under the Contract shall be free from Defect and services shall be performed in a professional manner and with professional diligence and skill, consistent with the prevailing standards of the industry. The Company warrants that the Work will meet the functional and performance requirements defined in the Contract.

2.11.7. SAFETY AND PROTECTION PRECAUTIONS

The Company shall comply with all applicable federal, state, and local laws, ordinances, all JEA procedures and policies including any orders of any public body having jurisdiction for the safety of persons or protection of property. The Company understands and agrees that a violation of any provision of this clause is grounds for a Termination for Default, with no requirement to provide Company with a notice to cure. Additionally, the Company shall be responsible for all JEA damages associated with such termination.

The Company understands and agrees that JEA Representatives may stop Work at any time that JEA, at its sole discretion, considers the Company's Work to be unsafe or a risk to property, and to direct the Company to, at a minimum, perform as directed in such a way as to render the Work environment safe. The Company understands and agrees that it is responsible for paying all costs associated with providing a safe work environment including, but not limited to, any costs associated with any JEA directed safety improvements. The Company further understands and agrees that it is solely responsible for the safety of personnel and property associated with the Work, and that any actions taken by JEA to prevent harm to persons or damage to equipment does not, in any way, relieve the Company of this responsibility.

The Company Representative, or alternatively, the Company Supervisor, shall be designated as the Company's individual responsible for the prevention of accidents.

2.12. VENDOR PERFORMANCE EVALUATION

Use of Vendor Performance Evaluation Scorecards

JEA may evaluate the Company's performance using the evaluation criteria shown on the vendor scorecard which are available upon request.

Scores for all metrics shown on the evaluation range from a low of 1, meaning significantly deficient performance, to a high of 5, meaning exceptionally good performance. The Company's performance shall be classified as Top Performance, Acceptable Performance, or Unacceptable Performance, as defined herein. The evaluator will be a designated JEA employee. The evaluator's supervisor and the Chief Purchasing Officer will review deficient performance letters and Unacceptable Performance scorecards, as described below, prior to issuance. When evaluating the Company's performance, JEA will consider the performance of the Company's Subcontractors and suppliers, as part of the Company's performance.

Frequency of Evaluations

JEA may conduct performance evaluations and prepare scorecards in accordance with the procedures described herein at any time during performance of the Work or soon after the completion of the Work. JEA may conduct one or more evaluations determined solely at the discretion of JEA.

Unacceptable Performance

- If at any time, JEA determines, using the criteria described on the scorecard, that the performance of the Company is Unacceptable, the Contract Administrator and Chief Procurement Officer or his designated alternate will notify the Company of such in a letter. The Company shall have 10 days to respond to the Contract Administrator. Such response shall include, and preferably be delivered in-person by an officer of the Company, the specific actions that the Company will take to bring the Company's performance up to at least Acceptable Performance.
- Within 30 days from date of the first Unacceptable Performance letter, the Contract Administrator and Chief Purchasing Officer or his designated alternate will notify the Company by letter as to whether its performance, as determined solely by JEA, is meeting expectations, or is continuing to be Unacceptable. If the Company's performance is described in the letter as meeting expectations, no further remedial action is required by the Company, as long as Company's performance continues to be Acceptable.
- If the Company's performance as described in the letter continues to be Unacceptable, or is inconsistently Acceptable, then the Company shall have 15 days from date of second letter to demonstrate solely through its performance of the Work, that it has achieved Acceptable Performance. At the end of the 15-day period, JEA will prepare a scorecard documenting the Company's performance from the start of Work, or date of most recent scorecard, whichever is latest, and giving due consideration to improvements the Company has made in its performance or has failed to make. If the scorecard shows Company's performance is Acceptable, then no further remedial action is required by Company as long as Company's performance remains Acceptable. If the scorecard shows the Company's performance is Unacceptable, JEA will take such actions as it deems appropriate including, but not limited to, terminating the Contract for breach, suspending the Company from bidding on any JEA related solicitations, and other remedies available in the JEA Purchasing Code and in law. Such action does not relieve the Company of its obligations under the Contract, nor does it preclude an earlier termination.

- In the event that the Contract Term or the remaining Term of the Contract does not allow for the completion of the deficient performance notification cycles described above for those in danger of receiving an Unacceptable Performance scorecard, JEA may choose to accelerate these cycles at its sole discretion.
- If the Company receives five or more letters of deficiency within any 12 month period, then JEA will prepare a scorecard describing the deficiencies and the Company's performance will be scored as Unacceptable.

Acceptable Performance

JEA expects the Company's performance to be at a minimum Acceptable.

Disputes

In the event that the Company wants to dispute the results of its scorecard performance evaluation, the Company must submit a letter to the Chief Procurement Officer supplying supplemental information that it believes JEA failed to take into account when preparing the scorecard. Such letter, along with supplemental information, must be submitted no later than 10 days following the Company's receipt of the scorecard. If the Chief Procurement Officer decides to change the scorecard, the Company will be notified and a revised scorecard will be prepared, with a copy issued to the Company. If the Chief Procurement Officer decides that no change is warranted, the decision of the Chief Procurement Officer is final. If the Company is to be suspended from consideration for future Award of any contracts, the Company may appeal to the Procurement Appeals Board as per JEA Procurement Code.

Public Records

There can be no expectation of confidentiality of performance-related data in that all performance-related data is subject to disclosure pursuant to Florida Public Records Laws. All scorecards are the property of JEA.

2.13. JEA RESPONSIBILITIES

2.13.1. COORDINATION OF SERVICES PROVIDED BY JEA

The JEA Representative for the Work will, on behalf of JEA, coordinate with the Company and administer this Contract. It shall be the responsibility of the Company to coordinate all assignment related activities with the designated JEA Representative. The JEA Representative will be assigned to perform day-to-day administration and liaison functions, and to make available to the Company appropriate personnel, to the extent practical, and to furnish records and available data necessary to conduct the Work. The JEA Representative will also authorize the Company to perform work under this Contract.

2.14. CHANGES IN THE WORK, CONTRACT TIME OR PRICE

2.14.1. SUSPENSION OF SERVICES

JEA may suspend the performance of the Services by providing Company with a five (5) day written notice of such suspension. Schedules for performance of the Services shall be amended by mutual agreement to reflect such suspension. In the event of a suspension of Services, the Company shall resume the full performance of the Services when directed in writing to do so by JEA.

Suspension of Services due to the Company's negligence or failure to perform, may affect the Company's compensation as outlined in the Contract and/or result in the termination of the Contract.

2.14.2. CHANGES IN THE WORK

Changes in the Work, including changes to scope, quantities, price, schedule, or completion date, may be authorized through Supplemental Work Authorizations or through a Change Order.

2.14.3. FORCE MAJEURE

No party shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; and (c) such default or

delay could not have been reasonably circumvented by the non-performing party through the use of alternate sources, work-around plans or other means. Such causes include, but are not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of JEA to secure approval, validation or sale of bonds; inability of JEA or the Company to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

In the event of any delay resulting from such causes, the time for performance of each of the parties hereunder (including the payment of monies if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay, except as provided for elsewhere in the Contract Documents.

In the event of any delay or nonperformance resulting from such causes, the party affected shall promptly notify the other in writing of the nature, cause, date of commencement and the anticipated impact of such delay or nonperformance. Such written notice, including Change Orders, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected within seven (7) calendar days.

2.15. MISCELLANEOUS PROVISIONS

2.15.1. AMBIGUOUS CONTRACT PROVISIONS

The parties agree that this Contract has been the subject of meaningful analysis and/or discussions of the specifications, terms and conditions contained in this Contract. Therefore, doubtful, or ambiguous provisions, if any, contained in this Contract will not be construed against the party who physically prepared this Contract.

2.15.2. AMENDMENTS

This Contract may not be altered or amended except in writing, signed by JEA Chief Procurement Officer, or designee, and the Company Representative, or each of their duly authorized representatives.

2.15.3. APPLICABLE STATE LAW; VENUE; SEVERABILITY

The rights, obligations and remedies of the parties as specified under the Contract will be interpreted and governed in all respects exclusively by the laws of the State of Florida without giving effect to the principles of conflicts of laws thereof. Should any provision of the Contract be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions will not be impaired. Litigation involving this Contract, or any provision thereof shall take place in the State or Federal Courts located exclusively in Jacksonville, Duval County, Florida.

2.15.4. CUMULATIVE REMEDIES

Except as otherwise expressly provided in this Contract, all remedies provided for in this Contract shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise.

2.15.5. DELAYS

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is prevented or delayed by any cause beyond the reasonable control of the affected party, and the time for performance of either party hereunder shall be extended for a period of equal to any time lost due to such prevention or delay.

2.15.6. DISPUTES

If a dispute occurs between JEA and the Company over a contractual issue that cannot be mediated by the JEA Representative, the dispute shall be handled in accordance with Article 5 of the JEA Procurement Code.

2.15.7. ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the parties. No statement, representation, writing, understanding, or agreement made by either party, or any representative of either party, which are not expressed

herein shall be binding. All changes to, additions to, modifications of, or amendment to this Contract, or any of the terms, provisions, and conditions hereof, shall be binding only when in writing and signed by the authorized officer, agent or representative of each of the parties hereto.

2.15.8. EXPANDED DEFINITIONS

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including without limitation", and the terms "include", "includes" and "included" have similar meanings. Any reference in this Contract to any other agreement is deemed to include a reference to that other agreement, as amended, supplemented, or restated from time to time. Any reference in the Contract to "all applicable laws, rules and regulations" means all federal, state, and local laws, rules, regulations, ordinances, statutes, codes, and practices.

2.15.9. HEADINGS

Headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

2.15.10. INDEPENDENT CONTRACTOR

Company is performing this Contract as an independent contractor and nothing in this Contract will be deemed to constitute a partnership, joint venture, agency, or fiduciary relationship between JEA and Company. Neither Company nor JEA will be or become liable or bound by any representation, act, or omission of the other.

2.15.11. LANGUAGE AND MEASUREMENTS

All communication between the Company and JEA, including all documents, notes on drawings, and submissions required under the Contract, will be in the English language. Unless otherwise specified in the Contract, the US System of Measurements shall be used for quantity measurement. All instrumentation and equipment will be calibrated in US System of Measures.

2.15.12. MEETINGS AND PUBLIC HEARINGS

The Company will, upon request by JEA, attend all meetings and public hearings as required, in any capacity, as directed by JEA.

2.15.13. NEGOTIATED CONTRACT

Except as otherwise expressly provided, all provisions of this Contract shall be binding upon and shall inure to the benefit of the parties, their legal representatives, successors and assigns. The parties agree that they have had meaningful discussion and negotiation of the provisions, terms and conditions contained in this Contract. Therefore, doubtful, or ambiguous provisions, if any, contained in the Contract shall not be construed against the party who physically prepared this Contract.

2.15.14. NONEXCLUSIVE

Notwithstanding anything contained herein that may appear to be the contrary, this Contract is "non-exclusive" and JEA reserves the right, in its sole discretion, to retain other companies to perform the Work, and/or JEA may self-perform the Work itself.

2.15.15. REFERENCES

Unless otherwise specified, each reference to a statute, ordinance, law, policy, procedure, process, document, drawing, or other informational material is deemed to be a reference to that item, as amended or supplemented from time to time. All referenced items shall have the enforcement ability as if they are fully incorporated herein.

2.15.16. SEVERABILITY

In the event that any provision of this Contract is found to be unenforceable under applicable law, the parties agree to replace such provision with a substitute provision that most nearly reflects the original intentions of the parties and is enforceable under applicable law, and the remainder of this Contract shall continue in full force and effect.

With regard to any provision in this agreement pertaining to damages, equitable or otherwise, it is the intent of the Parties that under no circumstances shall there be recovery for home office overhead. Any damages claimed shall be proven by discreet accounting of direct project costs and no theoretical formula or industry estimating reference manuals shall be permissible.

2.15.17. SUBCONTRACTING OR ASSIGNING OF CONTRACT

Each party agrees that it shall not subcontract, assign, delegate, or otherwise dispose of the Contract, the duties to be performed under the Contract, or the monies to become due under the Contract without the other party's prior written consent.

The assignment of the Contract will not relieve either of the parties of any of its obligations until such obligations have been assumed in writing by the assignee. If the Contract is assigned by either of the parties, it will be binding upon and will inure to the benefit of the permitted assignee. The Company shall be liable for all acts and omissions of its assignee or its Subcontractor.

In the event the Company obtains JEA approval to use Subcontractors, the Company is obligated to provide Subcontractors possessing the skills, certifications, registrations, licenses, training, tools, demeanor, motivation, and attitude to successfully perform the work for which they are subcontracted. The Company is obligated to remove Subcontractors from performing Work under this Contract when the Company recognizes that a Subcontractor is failing to work in a manner consistent with the requirements of this Contract, or when JEA notifies the Company, that JEA has determined a Subcontractor is failing to work in a manner consistent with the requirements of this Contract.

2.15.18. SURVIVAL

The obligations of JEA and the Company under this Contract that are not, by the express terms of this Contract, to be performed fully during the Term, shall survive the termination of this Contract.

2.15.19. TIME AND DATE

Unless otherwise specified, references to time of day or date mean the local time or date in Jacksonville, FL. If under this Contract any payment or calculation is to be made, or any other action is to be taken, on or as of a day that is not a regular business day for JEA, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a regular business day. Where reference is made today or days, it means calendar days. Where reference is made to workday, workdays, business day, or business days, it means regular working days for JEA Procurement.

2.15.20. WAIVER OF CLAIMS

A delay or omission by JEA to exercise any right or power under this Contract shall not be construed to be a waiver thereof. A waiver by JEA under this Contract shall not be effective unless it is in writing and signed by the party granting the waiver. A waiver by a party of a right under or breach of this Contract shall not be construed to operate as a waiver of any other or successive rights under, or breaches of, this Contract.

The Company's obligations to perform and complete the Work in accordance with the Contract shall be absolute. None of the following will constitute a waiver of any of JEA's rights under the Contract: approval of payments, including final payment; Certificate of Contract Completion; any use of the Work by JEA; nor any correction of faulty or defective work by JEA.

2.15.21. TIME OF ESSENCE

For every material requirement of this Contract, time is of the essence.

2.15.22. JEA PROJECT SECURITY PROGRAM

The JEA Project Security Program establishes a coordinated security program and assigns specific security responsibilities for which the Company and/or its Subcontractors shall be responsible at while performing services at existing JEA facilities and upon the substantial completion of new facilities. The programs objectives are 1) to direct

all project security activities toward a single goal--no breaches, thefts, or vandalism, and 2) to ensure effective coordination and communication of all project security activities with JEA Security.

In general, the Company shall provide on-site JEA security personnel at any time a JEA facility's perimeter is unsecured, including but not limited to, alarms disabled, fences or gates down, traffic flows that require gates to be opened repeatedly and/or for more than one hour of the workday. The Company shall schedule security personnel through JEA Security. Where existing lighting is disabled or otherwise impacted by the Work, the Company shall provide temporary lighting equal to or exceeding that which exists.

Further, the Company shall be responsible for complying with all applicable provisions of Chapter 12 "Security Program" of the JEA Contractor Safety Management Process Safety Requirements, a copy of which may be obtained upon request.

3. TECHNICAL SPECIFICATIONS/DETAILED SCOPE OF WORK

Technical Specifications and a Detailed Scope of Work are located in Appendix A of this document.

4. FORMS

4.1. FORMS (APPENDIX B)

- 1411649846 Appendix B - Minimum Qualifications Form
- 1411649846 Appendix B - Response Workbook
- 1411649846 Appendix B - Response Form

5. SUPPLEMENTAL DOCUMENTS

5.1. SUPPLEMENTAL DOCUMENTS (APPENDIX C)

The Supplemental Documents are in Appendix C of this Solicitation.

- Zycus Supplier Instructions