

**REQUEST FOR QUOTE (RFQ)**  
**FOR PARTICIPATION IN**  
**CUBICLE BUILDOUT AND FURNITURE INSTALLATION**  
**FOR**  
  
**JACKSONVILLE, FL**

**JEA REQUEST FOR QUOTE NUMBER: 95725**

**OPTIONAL PRE-BID MEETING**

**PRE-BID MEETING/CONFERENCE CALL-IN MONDAY,  
OCTOBER 22, 2018 @ 10:00 AM EST  
CALL IN NUMBER: 1-888-714-6484  
PASSCODE: 992663**

**LOCATION: JEA CUSTOMER CENTER, PROCUREMENT BID OFFICE  
21 W. CHURCH STREET, 1<sup>ST</sup> FLOOR, ROOM 002  
JACKSONVILLE, FL 32202**

**BID DUE DATE: OCTOBER 29, 2018  
BID DUE TIME: 12:00 P.M. EST**

**BID EMAILED TO:  
SHEREA HARPER AT  
[HARPSB@JEA.COM](mailto:HARPSB@JEA.COM)  
JEA PROCUREMENT SERVICES**

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## Solicitation

### 1. SOLICITATION

#### 1.1. INVITATION

##### 1.1.1. SCOPE OF WORK

This contract is executed between JEA and the Contractor to perform services including, but not limited to: furnishing management, installation, removal, and relocation, including all management, labor, tools, equipment, transportation, materials, and incidentals necessary to complete space planning services. Bid workbook represents estimated quantity and is to be used as a guideline and not a guarantee of work. JEA may take action to perform work in house and, thereby, reduce Contractor workload. These specifications are not intended to supersede Federal, State, or local regulations to which the Contractor must comply.

The Technical Specifications are located in Appendix A of this document.

##### 1.1.2. OPTIONAL PRE-BID MEETING IN PERSON OR BY TELECONFERENCE

There will be an optional Pre-Bid meeting. All interested parties may attend or call into the Pre-Bid meeting. A roll call will be taken at the beginning of the meeting.

**PRE-BID MEETING TIME: 10:00 A.M. EST**

**PRE-BID MEETING DATE: OCTOBER 22, 2018**

**DIAL IN: 1-888-714-6484**

**PASSCODE: 992663**

##### 1.1.3. INVITATION - REQUEST FOR QUOTE

You are invited to bid on the Solicitation noted below:

**JEA Solicitation Title: CUBICLE BUILDOUT AND FURNITURE INSTALLATION**

**JEA Solicitation Number: 95725**

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](http://jea.com).

**Bid Due Time: 12:00 P.M. EST**

**Bid Due Date: October 29, 2018**

All Bids must reference the JEA Solicitation title and number noted above. All Bids must be made on the appropriate Bid forms as specified within this Solicitation, and **emailed to Sherea Harper at [harpsb@jea.com](mailto:harpsb@jea.com)** .

**Bids are due by the time and on the date listed above.**

#### 1.1.4. QUESTIONS

All questions must be submitted in writing to the JEA Buyer listed below at least three (3) business days prior to the Bid due date. Questions received within three (3) business days prior to the Bid due date will not be answered.

For Procurement Related Questions:

Buyer: Sherea Harper  
E-mail: [harpsb@jea.com](mailto:harpsb@jea.com)

For Technical Questions:

Contact: Adam Moody  
E-mail: [moodah@jea.com](mailto:moodah@jea.com)

#### 1.2. SPECIAL INSTRUCTIONS

##### 1.2.1. MINIMUM QUALIFICATIONS FOR SUBMISSION

Bidder shall have the following Minimum Qualifications to be considered eligible to submit a Bid in response to this SOLICITATION. **JEA reserves the right to ask for additional back up documentation or additional reference projects to confirm the Respondent meets the requirements stated below.** A Bidder not meeting all of the following criteria will not have their Bid submissions considered for Award.

- **The Contractor will ensure that adequate staffing coverage will be available. JEA considers adequate to consist of at least two (2) technicians available for necessary repairs that are located within the JEA Service area.**
- **Contractor must have successfully performed these services for two (2) commercial clients within the last three (3) years (ending September 30, 2018). The services performed must have been valued at \$25,000 annually or greater. Only one (1) of the two (2) projects can be work performed by JEA.**
  - The account references for these projects must include the referenced company name, contact person, phone number, email address and a summary of the scope of work provided. JEA will contact and verify the account references.
- **Bidder must have at least two (2) full time employees that are able to perform these services as described in the technical specifications. Evidence of certification(s) must be submitted with the bid by completing the affidavit located in Appendix B – Minimum Qualification Form.**

**Please note, any Bidder whose contract with JEA was terminated for default within the last two (2) years shall not be determined to be a responsible Bidder and will not be identified on the bid list.**

##### 1.2.2. REQUIRED FORMS TO SUBMIT WITH BID

To submit a Bid in response to this Solicitation, all of the forms listed below must be completed and submitted as part of the Bid. The Bidder must obtain the required forms, other than the forms provided in the solicitation, by downloading them from JEA.com. If the Bidder fails to complete or fails to submit one or more of the required forms, the Bid shall be rejected.

The following forms are required to be submitted at the time of Bid:

- o Bid Form (including acknowledgements of all addenda) - This form can be found in Appendix B
- o Bid Workbook – This form can be found in Appendix B
- o Minimum Qualification Form – This form can be found in Appendix B

If the above listed forms are not submitted with the Bid by the Bid Due Time on the Bid Due Date, JEA shall reject the Bid.

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

- o Conflict of Interest Certificate Form
- o Insurance Certificate
- o W-9
- o Evidence of active registration with the State of Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org))
- o Any technical submittals as may be required by the Technical Specifications.

## **2. GENERAL INSTRUCTIONS**

### **2.1. NUMBER OF CONTRACTS TO BE AWARDED**

JEA intends to Award ONE (1) Contract(s) for the Work. JEA reserves the right to Award more than one 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.

### **2.2. ADDENDA**

JEA may issue Addenda prior to the Bid opening date to revise, in whole or in part, or clarify the intent or requirements of the Solicitation. The Bidder shall be responsible for ensuring it has received all Addenda prior to submitting its Bid and shall acknowledge receipt of all Addenda by indicating where requested on the Bid Form. JEA will post all Addenda when issued online at [jea.com](http://jea.com). The Bidder must obtain Addenda from the JEA website. All Addenda will become part of the Solicitation and any resulting Contract Documents. It is the responsibility of each Bidder to ensure it has received and incorporated all Addenda into its Bid. Failure to acknowledge receipt of Addenda may be grounds for rejection of the Bid.

### **2.3. COMPLETING THE BID DOCUMENTS**

Bidders shall complete and submit all Bid Documents with responses typewritten or written in ink. ALL BIDS SUBMITTED LATE WILL BE REJECTED.

When a blank is marked "optional" on the bid form, the Bidder shall insert the words "No Bid" in the space provided if the Bidder 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 Bidder, 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.

#### **2.4. SUBMITTING THE BID FORM**

The Bidder shall email its Bid in response to this **Request for Quote** (RFQ) no later than the Bid Due Date and Time. JEA will subsequently review Bids to determine that they meet the minimum qualifications set forth in this RFQ. JEA will Award the work to the lowest responsive and responsible Bidder whose Bid meets or exceeds minimum qualifications.

**NO EXCEPTIONS ARE ALLOWED IN THIS REQUEST FOR QUOTE. IF THE BIDDER OBJECTS IN ANY MANNER TO THE TERMS AND CONDITIONS OR TECHNICAL SPECIFICATIONS, THE OBJECTION MUST BE ADDRESSED IN WRITING THREE (3) DAYS PRIOR TO THE BID OPENING DATE, AND THE OBJECTION MAY BE ADDRESSED IN AN ADDENDUM IF JEA CHOOSES TO MAKE A CLARIFICATION OR IF A CHANGE TO THE BID FORM IS NECESSARY. ANY MODIFICATIONS, EXCEPTIONS OR OBJECTIONS STATED WITHIN THE BID DOCUMENT SHALL SUBJECT THE BID TO BE REJECTED.**

#### **2.5. BASIS OF AWARD**

JEA will Award this Contract to the responsive and responsible Bidder whose Bid meets or exceeds the Minimum Qualifications set forth in this Solicitation, and the Bidder's price represents the lowest cost to JEA.

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

The Bidder shall include the price for travel, shipment of materials and equipment in its pricing shown on the Bid Form or Bid Workbook unless otherwise stated herein. The shipment of all materials shall be F.O.B. Destination.

#### **2.6. CONFLICT OF INTEREST**

A person or company who receives a Contract which was not procured pursuant to public bidding procedures to perform a feasibility study, or who participated in the drafting of an invitation to bid or request for proposals, or who developed a program for future implementation shall not be eligible to contract with JEA for any other contracts dealing with that specific subject matter.

Should JEA erroneously Award a Contract in violation of this policy, JEA may terminate the Contract at any time with no liability to Bidder, and Bidder shall be liable to JEA for all damages, including but not limited to the costs to rebid the Work. The purpose of this policy is to encourage bidding and eliminate any actual or perceived advantage that one Bidder may have over another.

#### **2.7. CONTRACT EXECUTION AND START OF WORK**

Within thirty (30) days from the date of Award, JEA will present the successful Bidder with the Contract Documents. Unless expressly waived by JEA, the successful Bidder shall execute a Contract for the Work or Services within ten (10) days after receiving the Contract from JEA. If the Bidder fails to execute the Contract or associated documents as required, or if it fails to act on a JEA-issued Purchase Order (PO), JEA may cancel the Award with no further liability to the Bidder, retain the bid security or bond (if applicable), and Award to the next-ranked company.

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 Bid and authorization for the company to proceed with the Work, unless otherwise stated in the Contract or PO.



## **2.8. DEFINED TERMS**

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

## **2.9. EX PARTE COMMUNICATION**

Ex Parte Communication is strictly prohibited. Ex Parte Communication is defined as any inappropriate communication concerning a Solicitation between a firm submitting a Bid 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 Solicitation in which a Bidder becomes privy to information not available to the other bidders. Social contact between Bidders and JEA representatives should be kept to an absolute minimum during the solicitation process.

Failure to adhere to this policy will disqualify the noncompliant Company's Bid. Any questions or clarifications concerning a Solicitation must be sent in writing via email to the JEA Buyer at least five (5) business days prior to the opening date. If determined by JEA, that a question should be answered or an issue clarified, JEA will issue an addendum to all Bidders.

For more information on Ex Parte communications, see JEA Procurement Code, Article 1-110, which is available at [www.jea.com](http://www.jea.com).

## **2.10. JEA PUBLICATIONS**

Applicable JEA publications are available at [jea.com](http://jea.com).

## **2.11. SUNSHINE LAW**

### **General**

Article I, Section 24, Florida Constitution, guarantees every person access to all public records and Chapter 119, Florida Statutes, provide 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 records and available for public inspection unless specifically exempt by law.

### **Redacted Submissions**

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 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 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, liabilities, losses, settlements, costs and expenses (including but not limited to reasonable attorney fees and costs) arising from or relating to Bidder's determination that the redacted portions of its response to this Solicitation are not subject to disclosure.

## **2.12. SUBCONTRACTORS**

The Bidder shall list the names of the major Subcontractors that it intends to use for this Work, unless the Work will be self-performed by the Bidder. The Subcontractors shall be listed on the Subcontractors Form which is available at [jea.com](http://jea.com). • Failure to submit this form with the Response shall result in rejection of company's Response. The Bidder shall not use Subcontractors other than those shown on the Subcontractor Form unless it shows good cause and obtains the JEA Representative's prior written consent.

If the Bidder plans to use Subcontractors to perform over fifty percent (50%) of the Work, the Bidder shall obtain JEA's approval at least five (5) days prior to the Response Due Date. Failure to obtain JEA approval shall result in rejection of the company's Response.

## **2.13. JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB) PROGRAM REQUIREMENTS**

### **2.13.1. OPTIONAL USE OF JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB) PROGRAM**

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

JSEB firms that qualify for this Contract are only those shown on the current City of Jacksonville JSEB directory appearing at [www.COJ.net](http://www.COJ.net). Certification of JSEB firms must come from the City of Jacksonville. No other agency or organization is recognized for purposes of this Contract.

In no case shall the Bidder make changes to the JSEB firms listed in its Response, revise the JSEB Scope of Work or amount of Work as stated in its Response without prior written notice to the JEA Contract Administrator, and without subsequent receipt of written approval for the JEA Contract Administrator.

Any subcontractors of Bidder shall procure and maintain the insurance required of Bidder hereunder during the life of the subcontracts. Subcontractors' insurance may either be by separate coverage or by endorsement under insurance provided by Bidder. Note: Any JSEB firms identified by Bidder for this Solicitation are considered "Subcontractors" under the direct supervision of the Prime or General Contractor (herein referred to as Bidder in this Solicitation). Bidders should show good faith efforts in providing assistance to JSEB firms in the securing of Subcontractors' insurance requirements stated in this section. Bidder shall submit subcontractors' Certificates of Insurance to JEA prior to allowing subcontractors to perform Work on JEA's job sites.

All question and correspondence concerning the JSEB program should be addressed to the following contact: Rita Scott, JSEB Manager, JEA, [scotrl@jea.com](mailto:scotrl@jea.com).

#### **2.14. PROHIBITION AGAINST CONTINGENT FEES**

The Company warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Company, or an independent sales representative under contract to the Company, to solicit or secure a contract with JEA, and that it has not paid or agreed to pay any person, company, corporation, individual or Company, other than a bona fide employee working solely for the Company, or an independent sale representative under contract to the Company, 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.

#### **2.15. RESERVATIONS OF RIGHTS TO JEA**

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

Bids shall be good for a period of ninety (90) days following the opening of the Bids.

JEA reserves the right to reject any or all Bids, or any part thereof, and/or to waive informalities if such action is in its best interest. JEA may reject any Bids that it deems incomplete, obscure or irregular including, but not limited to, Bids that omit a price on any one or more items for which prices are required, Bids that omit Unit Prices if Unit Prices are required, Bids for which JEA determines that the Bid is unbalanced Bids that offer equal items when the option to do so has not been stated, Bids that fail to include a Bid Bond, where one is required, and Bids from Companies who have previously failed to satisfactorily complete JEA contracts of any nature or who have been scored by JEA as "Unacceptable" and as a result, are temporarily barred from bidding additional work.

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 Bids at any time prior to the time announced for the opening of Bids. JEA may Award the Contract in whole or in part. In such cases whenever JEA exercises any of these reservations, JEA will make a commercially reasonable effort to notify, in writing, all parties to whom Solicitations were issued. JEA may award multiple or split Contracts if it is deemed to be in JEA's best interest.

#### **2.16. ETHICS**

By signing the 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 (1) Bid in response to this Solicitation. If JEA has reasonable cause to believe the Bidder has submitted more than one (1) Bid for the same Work, other than as a Subcontractor or subsupplier, JEA shall disqualify the Bid and may pursue debarment actions.

The Company 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](http://jea.com). Failure to fully complete and submit the Conflict of Interest Certificate will disqualify the Bid. If JEA has reason to believe that collusion exists among the Companies, JEA will reject any and all Bid s from the suspected Company and will proceed to debar Company from future JEA Awards in accordance with the JEA Purchasing Code.

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

In accordance with Florida Statutes Sec. 287.133, JEA will reject Bid s 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 Company listed on the Convicted Vendor list for any transaction exceeding \$35,000 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor list.

If the Company violates any requirement of this clause, the Bid may be rejected and JEA may debar offending companies and persons.

#### **2.17. MATHEMATICAL ERRORS**

In the event of a mathematical error in calculation of the prices entered on the Bid Form, the Unit Prices will prevail. The corrected total 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.

#### **2.18. MODIFICATION OR WITHDRAWAL OF BIDS**

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

#### **2.19. 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. Bidders may review opened Bids once they are available for public inspection by contacting the designated Buyer or JEA's Public Records custodian whose contact information can be found at [jea.com](http://jea.com). JEA will post a summary of Bid opening results at [www.jea.com](http://www.jea.com).

#### **2.20. PROTEST OF BID AND AWARD PROCESS**

Companies shall file any protests regarding this Solicitation in writing and in accordance with the JEA Procurement Code, as amended from time to time. The JEA Procurement Code is available online at [jea.com](http://jea.com).

#### **2.21. CERTIFICATION AND REPRESENTATIONS OF THE COMPANY**

By signing and submitting a Bid, the Bidder certifies and represents as follows:

- A. That it has carefully examined all available records and conditions, including sites if applicable, and the requirements and specifications of Solicitation prior to submitting its Bid. Where the Bidder visits sites, no Work or other disturbance is to be performed while at the site without written permission by JEA in advance of the site visit. The Bidder shall comply with all safety requirements described in the Bid and shall be prepared to show proof of a minimum of \$1 million of general liability insurance or the amount specified in this Solicitation (whichever is greater).
- 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. That the individual signing the Bid is a duly authorized agent or officer of the firm. 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, satisfactory evidence of authority to sign must be submitted upon request by JEA. If the Bid is submitted by a partnership, the Bid must be signed by a partner whose title must under the signature. If an individual other than a partner signs the Bid, satisfactory evidence of authority to sign must be submitted upon request by JEA.
- D. The corporation or partnership must be in active status at the Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)) prior to Award.
- E. That the firm 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.
- F. That it has read, understands and will comply with these instructions and the Section titled Ethics.

### **3. CONTRACT TERMS AND CONDITIONS**

#### **3.1. CONTRACT DOCUMENT AND 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](http://jea.com).

#### **3.2. DEFINITIONS**

##### **3.2.1. 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."

##### **3.2.2. 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.

##### **3.2.3. ANNIVERSARY DATE**

The date which is twelve (12) months after the effective date of the Contract, and each date which is twelve (12) months after an Anniversary Date that occurs while the Contract is in effect.

#### **3.2.4. 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 bidder or proposer.

#### **3.2.5. BID DOCUMENTS**

The forms required to be submitted to JEA as the Company's offer to perform the Work or Services described herein. The Bid Documents can include, but is not limited to, the Bid Form, Bid Workbook, Minimum Qualifications Form, certifications and/or other required submittals. The Bid Documents may also be referred to as the "Bid Form".

#### **3.2.6. BID**

The document describing the Bidder's offer submitted in response to this Solicitation

#### **3.2.7. BID PRICE**

The total dollar amount of the Bidder's offer to successfully perform the Work or Services in accordance with the Contract Documents.

#### **3.2.8. BIDDER**

The bidder to this Solicitation.

#### **3.2.9. 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.

#### **3.2.10. COMPANY**

The legal person, firm, corporation or any other entity or business relationship with whom JEA has executed the Contract. Where the word "Company" is used it shall also include permitted assigns. Prime Contractor, Contractor, Vendor, Supplier and Company shall be considered synonymous for the purpose of the Contract.

#### **3.2.11. COMPANY REPRESENTATIVE**

The individual responsible for representing the Company in all activities concerning the fulfillment and administration of the Contract.

#### **3.2.12. COMPANY SUPERVISOR**

The individual, employed or contracted by the Company, to manage the Work on a day-to-day basis and ensure the Work is performed according to the Contract. The Company Supervisor may be authorized by the Company Representative to act on Contract matters. Such authorization shall be in writing and delivered to the Contract Administrator and shall clearly state the limitations of any such authorization. In the event that the Company Supervisor and the Company Representative is the same person, the Company shall notify the Contract Administrator of such situation.

### **3.2.13. CONTRACT**

An agreement between JEA and the Company, 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 Company, or a JEA issued Change Order.

### **3.2.14. CONTRACT AMENDMENT**

A written document signed by JEA and the Company issued after the execution of the original Contract which authorizes an addition, deletion or revision of the Scope of Work, or an adjustment in the Contract Price or the Term of the Contract. Contract Amendments do not authorize expenditures greater than the monies encumbered by JEA, which is stated on the associated Purchase Order(s). An executed Contract Amendment resolves all issues related to the Contract Price and the Term of the Contract.

### **3.2.15. 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.

### **3.2.16. CONTRACT DOCUMENTS**

Contract Documents, also referred to as the "Contract" means the executed Contract, all Solicitation documents and Bid Documents as further described in the Section of the Solicitation titled "Contract Documents", and any written Change Orders, amendments or Purchase Orders executed by JEA, and insurance and/or bonds as required by the Contract.

### **3.2.17. 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.

### **3.2.18. DEFECT**

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.

### **3.2.19. DELIVERY**

The time at which JEA receives the Work at the JEA site specified in the Purchase Order or Work Order,

### **3.2.20. HOLIDAYS**

The following days: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve Day, and Christmas Day.

### **3.2.21. INVOICE**

A document seeking payment to 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.

### **3.2.22. JEA**

JEA on its own behalf, and when the Work involves St. Johns River Power Park (SJRPP), as agent for Florida Power and Light Company (FPL). JEA and FPL are co-owners of SJRPP.

### **3.2.23. 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.

### **3.2.24. 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.

### **3.2.25. SOLICITATION**

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

### **3.2.26. SUBCONTRACTOR**

A provider of services performing Work under contract for the Company.

### **3.2.27. TERM**

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

### **3.2.28. UNIT PRICES**

The Bidder's charges to JEA for the performance of each respective unit of Work as defined on the Bid Documents, Bid Workbook, Bid Form or in the Contract Documents.

### **3.2.29. WORK ORDER**

A document that describes the Work or describes a series of tasks that the Company will perform in accordance with the Contract Documents. A Work Order may be issued as an attachment to a Purchase Order.

### **3.2.30. 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.



### **3.3. CONTRACT DOCUMENTS**

#### **3.4. 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 Purchase Order(s)
- o Addenda to JEA Solicitation
- o Drawings associated with this Solicitation
- o Exhibits and Attachments to this Solicitation
- o Technical Specifications associated with this Solicitation
- o This Solicitation
- o Bid Documents
- o References

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.

### **3.5. PRICE AND PAYMENTS**

#### **3.5.1. PAYMENTS**

#### **3.5.2. PAYMENT METHOD**

For individual Work Orders, the Company shall submit an Invoice to JEA upon successful completion and JEA's Acceptance of the specific Work Order.

For reoccurring Work, the Company shall submit an Invoice to JEA once per month upon successful completion and JEA's Acceptance of the reoccurring Work that occurred during the previous month.

JEA may elect to make a partial payment or no payment if JEA determines, at its sole discretion, and after due consideration of relevant factors, that either all, or part of the Work being invoiced is not in accordance with the Contract Documents.

#### **3.5.3. 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 address:

JEA Accounts Payable  
P.O. Box 4910  
Jacksonville, FL 32201-4910

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 twenty (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 Company 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.

#### **3.5.4. COST SAVINGS PLAN**

During the Term of this Contract, JEA and Company are encouraged to identify ways to reduce the total cost to JEA related to the Work provided by the Company ("Cost Savings Plan"). JEA and Company may negotiate Amendments to this Contract that support and 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 plan 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 Plan proposed by Company.

#### **3.5.5. 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

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.

#### **3.5.6. LABOR, EQUIPMENT, AND MATERIAL (L.E.M.) UNIT PRICE**

During the Term of the Contract, JEA may assign additional Work for which Unit Prices were not included in the original Bid Documents. If such an instance arises, the Company will submit a Unit Price L.E.M. quote to JEA for approval. Upon JEA approval, the agreed upon Unit Price(s) will become a L.E.M. Unit Price which will be utilized for the remaining Term of the Contract. L.E.M. Unit Prices shall only be considered for Work that is similar in scope to the original Contract.

### **3.5.7. 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.

### **3.5.8. 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.

### **3.6. REPORTING REQUIREMENTS**

The Company shall provide the reports as defined in the Contract Documents.

Where the reporting frequency is daily, reports shall be submitted by noon of the following workday. Where the reporting frequency is weekly, reports are due by Monday at noon, covering the prior workweek. Where Monday is a Holiday, the reports are due at noon on the next workday. Where reports are due monthly, reports are due by noon on the first business day of each month. Sample forms for reports may be included in the Contract Documents. Where they are included they are to be used. Where they are not included, the Company shall provide a sample of its proposed report format for each report to the Contract Administrator at least one-week prior to its initial due date. The Contract Administrator will review and either approve or reject use of the report. Where proposed report is rejected, Company shall resubmit revised report formats, until Contract Administrator approves format. Reporting cycle shall begin upon PO date, or, if used, date of Notice to Proceed.

Where the Contract calls for reports to be submitted by Company, such reports shall be in both paper and electronic format, with the electronic version submitted electronically via email to the Contract Administrator.

### **3.7. WARRANTIES**

#### **3.7.1. WARRANTY**

The Company represents and warrants that it has the full corporate 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 Services.

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.

The Company warrants that all items provided under the Contract shall be in accordance with the requirements of this Contract 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.

The Company warrants all Work and equipment for a period of one (1) year following Acceptance of the Work and the Company shall extend the manufacturer warranty on all parts to JEA. If any failure to meet the foregoing warranty appears within one (1) year after Work is Accepted, the Company shall again perform the Work directly affected by such failure at the Company's sole expense.

### **3.8. INSURANCE, INDEMNITY AND RISK OF LOSS**

#### **3.8.1. INSURANCE**

##### **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: \$2,000,000 each occurrence and annual aggregate.

Company's Commercial General Liability and Excess or Umbrella Liability policies shall be effective for two (2) 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. 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 this Contract, certificates evidencing the maintenance of the insurance shall be furnished to JEA for approval. Company's and its subcontractors' Certificates of Insurance shall be mailed to JEA (Attn. Procurement Services), Customer Care Center, 6th Floor, 21 West Church Street, Jacksonville, FL 32202-3139.

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

### **3.8.2. INDEMNIFICATION**

### **3.8.3. TITLE AND RISK OF LOSS**

Risks of damage to or loss of the Work shall pass to JEA upon Acceptance. The Company shall assume all risk of loss or damage to the Work while items are in transit and/or in the Company's custody until such time that JEA issues written notice of Acceptance. . In the event of loss or damage to the Work, the Company shall bear all costs associated with any loss or damage until Acceptance by JEA.

For equipment and materials removed from JEA sites or the Work locations for repairs, service or duplication, JEA will retain the title to equipment and materials removed.

### **3.8.4. INDEMNIFICATION (JEA STANDARD)**

For ten dollars (\$10.00) acknowledged to be included and paid for in the contract price and other good and valuable considerations, 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 this 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 this Contract.

## **3.9. TERM AND TERMINATION**

### **3.10. TERM OF CONTRACT – DEFINED DATES**

The Contract shall commence on the effective date, and continue and remain in full force and effect as to all its terms, conditions and provisions as set forth herein for three (3) years, (the "Initial Term"), or until the Contract's Maximum Indebtedness is reached, whichever occurs first. It is at JEA's sole option to renew the Contract for two (2) optional one (1) year renewals.

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

#### **3.10.1. TERMINATION FOR CONVENIENCE**

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

In the event of termination for convenience, JEA will pay the Company for all disbursements and expenses that the Company has incurred, or has become obligated prior to receiving JEA's notice of termination.

Upon receipt of such notice of termination, the Company shall stop the performance of the Work hereunder except as may be necessary to carry out such 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 will 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, resulting change in business condition, except as expressly stated within these Contract Documents.

### **3.10.2. TERMINATION FOR DEFAULT**

JEA may give the Company written notice to discontinue all Work under the Contract in the event that:

- o The Company assigns or subcontracts the Work without prior written permission;
- o Any petition is filed or any proceeding is commenced by or against the Company for relief under any bankruptcy or insolvency laws;
- o A receiver is appointed for the Company's properties or the Company commits any act of insolvency (however evidenced);
- o The Company makes an assignment for the benefit of creditors;
- o The Company suspends the operation of a substantial portion of its business;
- o The Company suspends the whole or any part of the Work to the extent that it impacts the Company's ability to meet the Work schedule, or the Company abandons the whole or any part of the Work;
- o The Company, at any time, violates any of the conditions or provisions of the Contract Documents, or the Company fails to perform as specified in the Contract Documents, or the Company is not complying with the Contract Documents;
- o The Company attempts to willfully impose upon JEA items or workmanship that are, in JEA's sole opinion, defective or of unacceptable quality;
- o The Company breaches any of the representations or warranties;
- o The Company is determined, in JEA's sole opinion, to have misrepresented the utilization of funds or misappropriate property belonging to JEA; or
- o Any material change in the financial or business condition of the Company.

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

Once Company is declared to be in default, JEA will charge the expenses of completing the Work to the Company and will 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 under the Contract, but may make such expenditures that, in its sole judgment, shall best accomplish such completion. JEA will, however, make reasonable efforts to mitigate the excess costs of completing the Work.

The Contract Documents shall in no way limit JEA's right to all remedies for nonperformance provided under law or in equity, except as specifically set forth herein. 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 notices of any kind, including but not limited to deficient performance letters and scorecards, to the Company regarding its performance prior to default by Company for performance related issues.

JEA shall have no liability to the Company for termination costs arising out of the Contract, or any of the Company's subcontracts, as a result of termination for default.

### **3.11. DATA PROTECTIONS**

#### **3.11.1 DATA OWNERSHIP, PROTECTION AND LOCATION**

JEA shall own all right, title and interest in all data of JEA and JEA's customers that is related to the services provided by the Company under the Contract. The Company shall only access JEA's data and JEA's customer's accounts and data (1) in the course of providing the services contemplated by the Contract, (2) in response to service or technical issues, (3) as required by the express terms of the Contract or (4) at JEA's written request.

Protection of personal privacy and data shall be an integral part of the services to be provided by the Company under the Contract to ensure that there is no inappropriate or unauthorized use of data of JEA or JEA's customers at any time. The Company shall safeguard the confidentiality, integrity and availability of all data of JEA and its customers and comply with the following conditions:

- a. The Company shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. For purposes of the Contract, "Personal Data" shall mean data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information: government-issued identification numbers {e.g., Social Security, Driver's license, passport); financial account information, including account number, credit or debit card numbers; or protected health information relating to a person. Non-Public Data means data, other than Personal Data, that is not subject to distribution to the public as public information and is deemed to be sensitive and confidential because it is exempt by statute, ordinance or administrative rule from access by the general public as public information.
- b. All data obtained by the Company under the Contract shall become and remain the property of JEA.
- c. All Personal Data and Non-Public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise agreed in writing between JEA and Company, Company shall be responsible for encryption of the Personal Data and Non-Public Data.
- d. At no time shall any Personal Data or Non-Public Data of JEA or its customers be copied, disclosed or retained by the Company or any party related to the Company for subsequent use in any transaction that is not a part of the services to be provided under the Contract
- e. The Company shall not use any Personal Data, Non-Public Data or any other information collected in connection with the Contract or this Solicitation for any purpose other than providing the services to be provided under the Contract.

The Company will prevent employees of the Company other than employees with a need to know from gaining access to JEA's data and information. The Company will direct and take all reasonable steps to insure that any Company employee who encounters any such information during the course of performing the Company's responsibilities under the Contract Documents shall maintain the confidentiality of such information, which shall not be passed onto other Company employees or any other person. The Company shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of JEA data to that which is absolutely necessary to perform job duties.

The Company shall provide its services to JEA and JEA's customers solely from data centers in the United States. Storage of JEA data at rest shall be located solely in data centers in the United States. The Company shall not allow its personnel or its subcontractors to store JEA and JEA's customer data on portable devices, including personal computers, except for devices that are used and kept only at its data centers in the United States. The Company shall permit its personnel and subcontractors to access JEA's and JEA's customer data remotely only as required to provide technical support.

The Company shall deploy reasonable steps and safeguards as part of a network security program in accordance with accepted industry practices including but not limited to Purchasing Card Industry -Data Security Standards (PCI-DSS), to prevent unlawful hacking to gain surreptitious access into JEA's and JEA's customer data. The Company shall promptly notify JEA of any breaches or issues regarding the security of Systems that maintain JEA data or JEA's data, provided, however, that any such notification by the Company shall not affect Company's obligations to secure JEA's data as provided under the Contract Documents.

The Company shall notify JEA within six (6) hours if it learns that data of JEA or JEA's customers has been, or may have been, the subject of a Security Incident of any kind which may compromise data of JEA or its customers. In any such event, the Company shall (1) investigate the incident and provide a report to JEA within twenty-four (24) hours; (2) conduct a forensic investigation to determine a cause and what data/systems are implicated; (3) provide daily updates of its investigation to JEA and permit JEA reasonable access to the investigation; (4) communicate and cooperate with JEA concerning communications with outside parties such as law enforcement and media; (5) cooperate with JEA in determining whether and how notices, if any, will be provided to JEA's customers, and the content of any such notices, and (6) take commercially reasonable measures to address the possible Security Incident in a timely manner in accordance with all applicable laws and regulations. The term "Security Incident" means the potentially unauthorized access by non-authorized persons to Personal Data or Non-Public Data that the Company believes could reasonably result in the use, disclosure or theft of unencrypted Personal Data or Non-Public Data of JEA or its customers within the possession or control of the Company.

If a Data Breach with respect to Personal Data has occurred, the Company shall promptly implement necessary remedial measures and document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary. If a Data Breach is a result of the Company's breach of its contract obligation to encrypt Personal Data or otherwise prevent the release of Personal Data or the Company's failure to comply with any of the security requirements contained in the Contract, the Company shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) a credit monitoring service required by state or federal law; (4) a website or toll-free number and call center for affected individuals required by state law and (5) Completing all corrective actions as reasonably determined by the Company based on the root cause. The term "Data Breach" means the unauthorized access by a non-authorized person or persons that results in the use, disclosure or theft of the unencrypted Personal Data of JEA or JEA's customers.

### **3.11.2 DATA OBLIGATIONS ON TERMINATION OR SUSPENSION OF SERVICE**

In the event of a termination of the Contract, the Company shall implement an orderly return of JEA's data in a mutually agreeable format at a time agreed to by JEA and the Company and the subsequent secure disposal of all JEA data. During any period of service suspension, the Company shall not take any action to intentionally erase any data of JEA or its customers. In the event of termination of any services or the Contract in its entirety, the Company shall not take any action to intentionally erase any data of JEA or its customers except as mutually agreed upon in writing by the Company and JEA. The Company shall securely dispose of all requested data in all its forms.



### **3.12. CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTATION**

#### **3.12.1. 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.

#### **3.12.2. 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.

### **3.13. LABOR**

#### **3.13.1. NONDISCRIMINATION**

For the Term of the Contract, the Company represents that it has adopted and will maintain a policy of nondiscrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, handicap, disability, creed, color, political affiliation, gender, pregnancy condition, citizenship, marital status, genetic information, sexual orientation, gender identity, or any other protected characteristics established by law. The Company agrees that on written request, it will 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 this Contract; provided however, the Company shall not be required to produce, for inspection, records covering periods of time more than one (1) year before the Effective Date or expiration date of this Contract.

Additionally, the Company shall comply with the following executive orders, acts, and all rules and regulations implementing said orders or acts, which are by this reference incorporated herein as if set out in their entirety:

- The provisions of Presidential Order 11246, as amended, and the portions of Executive Orders 11701 and 11758 as applicable to Equal Employment Opportunity;
- The provisions of section 503 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA); and
- 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 this Contract will be performed by a Subcontractor, then the provisions of this subsection shall be incorporated into and become a part of the subcontract.

#### **3.13.2. LEGAL WORKFORCE**

JEAs 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.

### **3.13.3. 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 (2) 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.

### **3.13.4. 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 Contract.

## **3.14. 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 of 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"), 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 questions 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:

- Keep and maintain public records that ordinarily and necessarily would be required by JEA in order to perform service;
- 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;
- 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
- 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**

**21 West Church Street**

**Jacksonville, Florida 32202**

**Phone: 904-665-8606**

**[publicrecords@jea.com](mailto:publicrecords@jea.com)**

### **3.15. COMPANY'S RESPONSIBILITIES AND PERFORMANCE OF THE CONTRACT**

#### **3.15.1. 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.

#### **3.15.2. BACKGROUND CHECKS AND OTHER INFORMATION SECURITY POLICIES**

The Company, if required, shall conduct appropriate background checks and screen each individual who will provide services to JEA as a part of the Work or who will have access to JEA's computer systems, either through on-site or remote access. The minimum background screening process shall include, but not be limited to, the following checks:

- **Social Security Number (SSN) Trace;**
- **Criminal Records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal);**
- **Background checks undertaken by JEA for its own employees who have duties similar to the duties of the Company's employee(s); and**
- **Background checks which may be required pursuant to applicable background screening policies adopted by JEA from time to time.**

The background screening, if required, must be conducted prior to the employee providing any services or performing any work for JEA. JEA has the right to require more regular background checks and has the right to require that the Company provide background check results to JEA. JEA shall have the right to audit the Company's background check process to ensure compliance with JEA standards. If, at any time, the Company discovers that an individual providing services to JEA as a part of the Work has a criminal record that includes a felony or misdemeanor, the Company shall immediately inform JEA and JEA will assess the circumstances surrounding the conviction, time frame, nature, gravity and relevancy of the conviction to the job duties. JEA, in its sole discretion, shall determine whether the individual will be placed on, or terminated from, a JEA assignment. Additionally, all individuals providing services to JEA shall have the responsibility to self-disclose any misdemeanor or felony conviction that occurs while assigned to JEA within three (3) business days of the conviction. If the Company learns of any such conviction, the Company shall notify JEA immediately. The Company shall comply with all applicable laws and regulations governing the conduct of background checks, including but not limited to the Fair Credit Reporting Act (FCRA). Failure of the Company to comply with the terms of this paragraph may result in immediate termination of its contract with JEA.

#### **3.15.3. JEA ACCESS BADGES**

If the scope of work described in this Contract requires a Company to access JEA facilities, each Company employee shall apply for a JEA access badge through JEA's Security Department. An appointment to obtain a JEA access badge can be made by contacting JEA Security at [securitybadge@jea.com](mailto:securitybadge@jea.com). Finally, 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 six (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.

### **3.16. 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.

### **3.17. VENDOR PERFORMANCE EVALUATION**

#### **3.17.1. 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 available online at JEA.com.

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 ten (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 thirty (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 fifteen (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 fifteen (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 (5) or more letters of deficiency within any twelve (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 ten (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.

### **3.18. SAFETY & EMERGENCY EVENTS**

#### **3.18.1. SAFETY REQUIREMENTS**

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.

### **3.18.2. EMERGENCY EVENTS**

In the event that a system-wide emergency arises during the Term for which JEA requires assistance from the Company including, but not limited to, severe storms, large-scale fires, floods, and terrorist attacks, the Company acknowledges the importance of JEA infrastructure and agrees to support, with all its resources, skills and capabilities, and the maximum extent possible, all restoration efforts of JEA. The Contract Administrator shall notify the Company when an emergency event occurs and the Company agrees to mobilize its full resources immediately. In the event conditions are such that an emergency event is likely in progress, but the Company has not been notified by the Contract Administrator, the Company shall make all efforts to contact a JEA Representative to determine if and how it should respond. JEA agrees to reimburse the Company for its actual costs incurred as a result of supporting JEA during the emergency event, plus overhead and profit, not to exceed twelve percent (12%) of such costs.

### **3.18.3. STORM PREPAREDNESS**

In the event of a Hurricane Warning, Tropical Storm Warning, or other large storm affecting the Work Location, the Company shall secure, or shall remove and store all equipment and materials at the Work Location including, but not limited to, cones, barricades, lights and signs. The Company shall begin taking such precautions as necessary to secure the Work Location upon official issuance of mandatory evacuation of the area of the Work Location and no later than twenty-four (24) hours prior to predicted arrival of tropical storm or hurricane force winds, or when notified by a JEA Representative to do so. These activities are considered a regular part of the Work; regardless of the frequency they are required.

## **3.19. MISCELLANEOUS PROVISIONS**

### **3.19.1. 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.

### **3.19.2. 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.

### **3.19.3. 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.

### **3.19.4. 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.

### **3.19.5. 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.

### **3.19.6. 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.

### **3.19.7. HEADINGS**

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

#### **3.19.7.1. 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.

### **3.19.8. 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.

### **3.19.9. 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.



### **3.19.10. 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.

### **3.19.11. 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.

### **3.19.12. RELATIONSHIP OF THE PARTIES**

The Company agrees that it shall perform the Work as an independent contractor and that it does not (a) have the power or authority to bind JEA or to assume or create any obligation or responsibility, express or implied, on JEA's part or in JEA's name, except as may be authorized by JEA under a separate written document, or (b) represent to any person or entity that it has such power or authority except as may be authorized by JEA under a separate written document.

### **3.19.13. 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.

### **3.19.14. 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.

### **3.19.15. 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 to day 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.

### **3.19.16. TIME OF ESSENCE**

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

### **3.19.17. USE OF JEA CONTRACTS BY THE CITY OF JACKSONVILLE**

Where the City of Jacksonville's or its other independent agencies' or political subdivisions' procurement codes all use of JEA contracts, the Company agrees to extend any pricing and other contractual terms to such entities.

### **3.19.18. 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.

## **4. TECHNICAL SPECIFICATIONS/DETAILED SCOPE OF WORK**

### **4.1. TECHNICAL SPECIFICATIONS/DETAILED SCOPE OF WORK (APPENDIX A)**

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

## **5. FORMS**

### **5.1. FORMS (APPENDIX B)**

Forms required to be submitted with this solicitation are provided in Appendix B or can be obtained on the JEA website at [www.jea.com](http://www.jea.com).