

## TECHNICAL SPECIFICATIONS

### XXX-18 - HVAC REPAIR AND INSTALLATION FOR UP TO 20 TON UNITS

#### 1. SCOPE

The purpose of this solicitation is to establish pricing for ad – hoc HVAC repair and installation for units up to 20-ton split, package cooling and heat pump systems, and supply/exhaust ventilation fans. JEA owns approximately 450 systems located primarily in Duval County, with some additional systems in St Johns, Clay, and Nassau. Less than ten (10) percent of these systems are rooftop package units which may require lifts to perform the work. The work to be performed by the Contractor includes all labor, supervision, materials (when requested), tools and equipment, as necessary for repair and installation.

#### 2.0 REPAIRS AND INSTALLATION OF HVAC UNITS

2.0.1. Installation of HVAC units shall be approved by written and/or verbal authorization from the JEA Contract Administrator (or his/her designee). Prior to the start of work, Contractor will provide JEA with a cost and time estimate to complete the installation. The estimate must include unit labor and/or parts and markups as provided in the bid workbook.

2.0.2. HVAC units shall be selected by the JEA Contract Administrator to meet JEA site-specific requirements. JEA will provide HVAC units and associated assets via direct purchase, when advantageous. Installation of HVAC units by contractors shall be conducted in accordance with manufacturer's recommended requirements, and under the guidance of the JEA Contract Administrator.

2.0.3. Repairs to HVAC units shall meet or exceed original manufacturer's recommended requirements for the size, type, usage, and location of all units.

2.0.4. Contractor will perform necessary emergency repairs discovered only after written and/or verbal authorization from the JEA Contract Administrator (or his/her designee) in Facilities Operations and Maintenance. Contractor will provide JEA with a cost and time estimate to complete the repairs prior to JEA approval. The estimate must be at the unit labor prices, as bid.

#### 2.1. HOURLY RATES

2.1.1 Repair or installation costs will be on a per-hour basis with a minimum of one (1) hour. Hourly rates shall begin when craftsperson arrives at the job site. Contractor shall make arrangements for all work as defined in this contract to be completed during regular operating hours, normally 7:00 AM – 6:00 PM, Monday through Friday (except JEA holidays), unless other hours are authorized by the JEA Contract Administrator.

2.1.2. Hours for Regular Time are 7:00 AM to 6:00 PM, Monday through Friday except JEA holidays.

2.1.3. Hours for Overtime are 6:01 PM to 6:59 AM, Monday through Friday, weekends, and JEA holidays.

#### 2.2. PARTS AND MATERIALS

2.2.1. JEA will provide equipment via direct purchase, if advantageous. The JEA Contract Administrator will make the decision if equipment will be provided by JEA or the Contractor. Equipment provided by JEA will not be subject to a parts markup.

2.2.2 If deemed necessary by the JEA Contract Administrator, then the cost of Parts and Materials supplied by the Contractor shall be based on a cost plus markup (identified in the bid workbook). For example, if the mark-up stated on the bid form is fifteen percent (15%) and the manufacturer's published list price is \$100, JEA will pay the Contractor \$115 for that part.

### **3. GENERAL REQUIREMENTS**

- 3.1. The Contractor shall repair and install HVAC as specified herein.
- 3.2. All parts and materials shall be new unless refurbished is specifically called for by JEA.
- 3.3. All repairs and installation services in this specification shall be furnished through one Contractor who shall be responsible for the satisfactory testing of repaired/installed units.
- 3.4. The Contractor will confirm that all work complies with accepted practices as specified in the National Electric Code, North American Technical Excellence (NATE), and acceptable industry practices.
- 3.5. Contractor will be accountable for timely clean-up and remediation associated with any containment spills, accidental or otherwise, including, but not limited to diesel fuel, gasoline, lubricants, and cleaning fluids.
- 3.6. JEA reserves the right to add/delete quantities, as required. The Bid Workbook is a three (3) year estimate based on annual expected needs and is to be used as a guideline and is not a guarantee of work. Pricing for added HVAC systems will be set at the bid price. JEA may take action to perform work in house and, thereby, reduce Contractor workload.
- 3.7. A listing of current HVAC system components with locations is shown in Attachment A – HVAC Assets Under 20 Tons.
- 3.8. Cooling in certain areas of JEA must be maintained at all times. JEA will inform the Contractor of conditions where this is required and will coordinate JEA temporary measures to cool with the Contractor prior to commencement of work.
- 3.9. JEA will notify the contractor about the disposition of removed equipment prior to obtaining quotes for each project.
- 3.10. JEA reserves the right to obtain additional quotations when an estimate furnished by Contractor exceeds the JEA estimate for the work.

### **4. DISPOSAL OF WASTE GENERATED DUE TO CONTRACTOR WORK**

- 4.1. The Contractor must dispose of all waste generated as a result of the contract at an officially permitted location.
- 4.2. Any fees and/or charges associated with this disposal should be included in bid price of work. JEA will not pay additional charges/fees for waste disposal.
- 4.3. The Contractor shall conform to environmental regulations of public agencies, including local jurisdiction.

### **5. SITE CONDITIONS**

- 5.1. The Contractor shall prevent access by the public to materials, tools, and equipment during the course of the work.
- 5.2. All doors, lids, and gates shall be locked and secured at all times when unattended.

### **6. SPECIAL WEATHER EVENT**

In anticipation of a weather event where damage to JEA facilities could occur, the Contractor will take steps to

ensure that JEA will be a priority for repairs and that adequate staffing coverage will be available. JEA considers adequate to consist of at least one (1) HVAC journeyman level technician available for necessary repairs.

## **7. PERMITS**

The Contractor shall obtain all permits required by local agencies and pay all fees which may be required for the performance of the work and removal/disposal of hazardous materials.

## **8. ADMINISTRATIVE COST AND PROFIT**

8.1. The administrative cost, profit and other indirect Contractor costs will not be permitted as separate billable costs. These costs must be included in the Bid Price.

8.2. Time spent by the Contractor developing an estimate for a job will not be permitted as separate billable costs.

8.3. JEA will pay for actual hours worked. Travel costs and travel time will not be paid by JEA.

8.4. Unit prices shall include all labor expenses including, but not limited to, small tools and consumables needed to perform the repairs, supplies needed, travel, meals, per diem, salaries, benefits, overheads, etc.

8.5. There shall be no call-out fee, truck fee, trip fee, or fuel adjustment.

## **9. INVOICING AND REPORTS**

9.1. Annotated on the Contractor's letterhead invoice (containing company name and address) will be JEA purchase order and work order numbers. Included on the invoice will be the date and location of service provided, amount payable, and JSEB forms, if applicable, and detailed unit cost including unit types and quantities.

9.2. No invoice will be paid without the required information.

9.3. Invoiced pricing must agree with the contract bid pricing.

9.4. Receipt from Contractor purchase must be attached to the invoice to document price paid for parts mark-up calculation.

9.5. The Contractor shall provide a monthly Microsoft Excel spreadsheet report, Attachment (B) – Monthly Report that lists all data associated with repairs and installation for all units and related equipment. The Contractor shall list and track all units including date of work, work order number, site name, model number, serial number, address and building number, description of the work, and comments related to warranty coverage, warranty dates and inspection dates. Contractor shall submit this report by email to the JEA Contract Administrator on a monthly basis by the fifth (5th) business day after end of month.

## **10. SAFETY**

10.1. The Contractor shall familiarize all technicians with all fire and safety regulations recommended by OSHA and other industry or local governmental groups and maintain a safe working environment at all times.

10.2. The Contractor shall adhere to current JEA Safety and Training regulations as referenced in the contract documents.

10.3. Contractors must wear proper Personal Protective Equipment (PPE). PPE minimums include safety footwear, hard hat, and safety glasses. Hearing protection is required while operating machinery or equipment (including saws). Footwear must have steel toe caps.

10.4. Contractor must maintain an EPA refrigerant log that will be made available to JEA while working on JEA property.

10.5. The Contractor shall furnish JEA with safety data sheets (SDS) on all products utilized.

## **11. CONTRACTOR PERSONNEL**

11.1. Contractor must be in possession of a current Class B Air Conditioning Contractor License in accordance with the Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation (DBPR).

11.2. Technicians performing the services required must possess a universal EPA CFC 608 Certification, pursuant to 40 CFR Part 82, Subpart F, and have at least two (2) years or more experience servicing commercial or industrial HVAC equipment.

11.3. Contractor must employ at least three (3) HVAC technicians with a Journeyman license (or higher) within the JEA service territory at the time of bid submission.

11.4. Craftspeople performing the services required herein must have a minimum of the following:

11.5. Contractors must check in and check out with the JEA Contract Administrator daily by phone when working on a JEA project/repair.

11.6. Under the terms and conditions of this contract, ALL services rendered shall be by uniformed employees (company identified shirts and hard hats) of the Contractor. Ripped jeans, shorts, tennis shoes, sleeveless shirts, and shirts with offensive logos or messages are not acceptable.

11.7. Parking is the responsibility of the Contractor. Parking on JEA property may be approved at the sole discretion of the JEA Contract Administrator.

11.8. Work requiring system shut down or power outages may need to be performed after hours or on weekends.

11.9. Any worker employed by the Contractor, who exhibits inadequate experience and knowledge or is incapable in his/her field, shall be removed from the work site at the discretion of the JEA Contract Administrator.

11.10. JEA will pay the Contractor for hours worked at the Unit Bid Price for Labor.

## **12. ACTIVATION OF FIRE ALARM (SMOKE, HEAT OR WATER FLOW):**

The nature of the work to be performed may produce heat, smoke, steam, dust or vapors, which may result in the activation of an alarm. To avoid Contractor caused alarms, the Contractor will notify the JEA's designated representative who will issue a hot work permit (permit valid for one day only) before any procedure. After such procedures are concluded, the Contractor shall notify the JEA designated representative who will inspect and re-arm the alarm system.

12.1. Fire alarms: Cutting, sanding and general work will generate dust, smoke and vapors that may activate the Fire Alarm. The Contractor must check in with Facilities and have the fire alarm system turned off before beginning work.

12.2. Clean Agent: If the contractor's negligence results in a release of the Clean Agent (eg FM 200), the contractor will be responsible for all costs incurred to refill and restore the suppression system.

### **13. CONTRACTOR RESPONSIVENESS**

13.1 The Contractor must respond to the JEA Contract Administrator's call within twenty-four (24) hours.

**APPENDIX B**  
**BID FORM FOR SOLICITATION #045-18**  
**HVAC Repair and Installation for up to 20 Ton Units**

Submit an **original, three (3) copies and one (1) CD** along with other required forms in a sealed envelope to: JEA Procurement Dept., 21 W. Church St., Bid Office, Customer Center, 1<sup>st</sup> Floor, Room 002, Jacksonville, FL 32202-3139.

Company Name: \_\_\_\_\_

Company's Address \_\_\_\_\_

License Number \_\_\_\_\_

Phone Number: \_\_\_\_\_ FAX No: \_\_\_\_\_ Email Address: \_\_\_\_\_

**BID SECURITY REQUIREMENTS**

- ☒ None required  
☐ Certified Check or Bond Five Percent (5%)

**TERM OF CONTRACT**

- ☐ One Time Purchase  
☒ Annual Requirements – Five (5) Yrs. w/One (1) Renewal  
☐ Other, Specify- Project Completion

**SAMPLE REQUIREMENTS**

- ☒ None required  
☐ Samples required prior to Bid Opening  
☐ Samples may be required subsequent to Bid Opening

**SECTION 255.05, FLORIDA STATUTES CONTRACT BOND**

- ☐ None required  
☒ Bond required 100% of Bid Award

**QUANTITIES**

- ☐ Quantities indicated are exacting  
☒ Quantities indicated reflect the approximate quantities to be purchased Throughout the Contract period and are subject to fluctuation in accordance with actual requirements.

**INSURANCE REQUIREMENTS**

**Insurance required**

**PAYMENT DISCOUNTS**

- ☐ 1% 20, net 30  
☐ 2% 10, net 30  
☐ Other \_\_\_\_\_  
☐ None Offered

Item No.	ENTER YOUR BID FOR THE FOLLOWING DESCRIBED ARTICLES OR SERVICES: <b>HVAC Repair and Installation for up to 20 Ton Units</b>	TOTAL BID PRICE
3	Enter <b>TOTAL BID PRICE</b> from Appendix B- Bid Workbook	\$ _____

☐ **I have read and understood the Sunshine Law/Public Records clauses contained within this solicitation. I understand that in the absence of a redacted copy my proposal will be disclosed to the public “as-is”.**

**RESPONDENT'S CERTIFICATION**

By submitting this Response, the Respondent certifies that it has read and reviewed all of the documents pertaining to this Solicitation, that the person signing below is an authorized representative of the Responding Company, that the Company is legally authorized to do business in the State of Florida, and that the Company maintains in active status an appropriate contractor's license for the work (if applicable). The Respondent also certifies that it complies with all sections (including but not limited to Conflict Of Interest and Ethics) of this Solicitation, and that the Respondent is an authorized distributor or manufacturer of the equipment that meets the Technical Specifications stated herein.

We have received addenda \_\_\_\_\_

\_\_\_\_\_ through \_\_\_\_\_

\_\_\_\_\_ Handwritten Signature of Authorized Officer of Company or Agent \_\_\_\_\_ Date

\_\_\_\_\_ Printed Name and Title

**Appendix B - Minimum Qualifications Form**  
**045-18 - HVAC Repair and Installation for up to 20 Ton Units**

**GENERAL**

**THE MINIMUM QUALIFICATIONS SHALL BE SUBMITTED ON THIS FORM. IN ORDER TO BE CONSIDERED A QUALIFIED RESPONDENT BY JEA YOU MUST MEET THE MINIMUM QUALIFICATIONS LISTED BELOW, AND BE ABLE TO PROVIDE ALL THE SERVICES LISTED IN THIS SOLICITATION/TECHNICAL SPECIFICATION.**

**THE RESPONDENT MUST COMPLETE THE RESPONDENT INFORMATION SECTION BELOW AND PROVIDE ANY OTHER INFORMATION OR REFERENCE REQUESTED. THE RESPONDENT MUST ALSO PROVIDE ANY ATTACHMENTS REQUESTED WITH THIS MINIMUM QUALIFICATIONS FORM.**

**PLEASE SUBMIT THE ORIGINAL AND THREE (3) COPIES AND ONE (1) CD OF THIS FORM AND ANY REQUESTED ADDITIONAL DOCUMENTATION WITH THE BID SUBMISSION.**

**RESPONDENT INFORMATION**

COMPANY NAME: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP CODE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

PRINT NAME OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

**MINIMUM QUALIFICATIONS:**

Bidder shall have the following Minimum Qualifications to be considered eligible to submit a Bid in response to this Solicitation.

- Respondent shall have a current Class B Air Conditioning Contractor License in accordance with the Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation (DBPR).  
**Bidder shall input Class B Air Conditioning Contractor License information where indicated on Appendix B – Bid Form**

AND

- Respondent must provide three (3) successfully completed similar contracts within five (5) years of the Bid Due date.
  - A similar contract is defined as a Commercial or Industrial HVAC service contract in the amount of at least \$35,000 or more per year.

**Bidder shall input solicited information where indicated on Appendix B – Minimum Qualifications Form.**

**Appendix B - Minimum Qualifications Form**  
**045-18 - HVAC Repair and Installation for up to 20 Ton Units**

**PROJECT REFERENCE (1)**

Company Name \_\_\_\_\_

Company Contact Name \_\_\_\_\_

Company Contact Phone Number \_\_\_\_\_

Company Contact E-Mail Address \_\_\_\_\_

Contract Completion Date \_\_\_\_\_

Contract Annual Value \_\_\_\_\_

Project Type:

☐ Commercial HVAC    ☐ Industrial HVAC

Description of Project \_\_\_\_\_

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**Appendix B - Minimum Qualifications Form**  
**045-18 - HVAC Repair and Installation for up to 20 Ton Units**

**PROJECT REFERENCE (2)**

Company Name \_\_\_\_\_

Company Contact Name \_\_\_\_\_

Company Contact Phone Number \_\_\_\_\_

Company Contact E-Mail Address \_\_\_\_\_

Contract Completion Date \_\_\_\_\_

Contract Annual Value \_\_\_\_\_

Project Type:

☐ Commercial HVAC    ☐ Industrial HVAC

Description of Project \_\_\_\_\_

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**Invitation to Negotiate (ITN) to Acquire  
HVAC Repair and Installation for up to 20 Ton Units**



**Jacksonville, FL**

**Solicitation Number #045-18**

**Mandatory Pre-Response Meeting on December 11, 2017 at 10:30 am EST**

**Pre-Response location: JEA Customer Center, 1<sup>st</sup> Floor Bid Office Room 002,  
21 West Church Street, Jacksonville, FL 32202**

**OR**

**Dial In 1.888.714.6484**

**Passcode: 992663**

**Responses are due on January 9, 2018 by 12:00 pm  
Direct delivery or mail to JEA Bid Office, Customer Center 1<sup>st</sup> Floor, Room 002  
21 W. Church Street, Jacksonville, FL 32202**

**JEA will publicly open all Responses received from qualified Respondents on January 9, 2018 at  
2:00 p.m. in the JEA Customer Center 1<sup>st</sup> Floor, Room 002, 21 W. Church Street, Jacksonville, FL 32202  
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## **Solicitation**

### **1. SOLICITATION**

#### **1.1. INVITATION**

##### **1.1.1. SCOPE OF WORK**

###### **1. SCOPE**

The purpose of this solicitation is to establish pricing for ad – hoc HVAC repair and installation for units up to 20-ton split, package cooling and heat pump systems, and supply/exhaust ventilation fans. JEA owns approximately 450 systems located primarily in Duval County, with some additional systems in St Johns, Clay, and Nassau. Less than ten (10) percent of these systems are rooftop package units which may require lifts to perform the work. The work to be performed by the Contractor includes all labor, supervision, materials (when requested), tools and equipment, as necessary for repair and installation.

More details for this Scope of Work are contained within Appendix A – Technical Specifications

##### **1.1.2. INVITATION TO NEGOTIATE (ITN)**

You are invited to submit a Response on the Solicitation noted below:

JEA Solicitation Title: HVAC Repair and Installation for up to 20 Ton Units

JEA Solicitation Number: 045-18

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).

Response Due Time: 12:00 P.M. - ALL LATE RESPONSES WILL BE RETURNED UNOPENED

Response Due Date: January 9, 2018

All Responses must reference the JEA Solicitation title and number noted above. All Responses must be made on the appropriate Response forms as specified within this Solicitation, and placed in an envelope marked to identify the Solicitation and delivered or mailed to:

JEA Procurement, Bid Office, Customer Center 1<sup>st</sup> Floor, Room 002, Jacksonville, FL 32202

The Respondent shall be solely responsible for delivery of its Response to the JEA Bid Office. Please note, JEA employs a third party courier service to deliver its mail from the local U.S. Postal Service (USPS) which could cause a delay of Response delivery if mailed through the USPS. Therefore, JEA recommends direct delivery to the JEA Bid Office. Reliance upon the USPS, the courier service employed by JEA to make pick-ups from the local USPS, or public carriers is at the Respondent's risk.

Responses are due by the time and on the date listed above. ALL LATE RESPONSES FOR WHATEVER REASON WILL BE REJECTED.

### **1.1.3. QUESTIONS**

All questions must be submitted in writing to the JEA Buyer listed below at least five (5) business days prior to the opening date. Questions received within five (5) business days prior to the opening date will not be answered.

#### For Procurement Related Questions:

Buyer: Nickolas Dambrose

E-mail: dambnc@jea.com

#### For Technical Questions:

Contact: Candace Dorn

E-mail: dorncl@jea.com

### **1.1.4. MANDATORY PRE-RESPONSE MEETING**

There will be a mandatory Pre-Response meeting. All interested Respondents must attend the Pre-Response meeting. Each Respondent will be required to sign in at the beginning of the meeting. A Respondent shall only sign in representing one company, unless otherwise specified by JEA. Respondents not attending the Pre-Response meeting shall have their Responses opened, however, the Response will be rejected and JEA will send the Respondent a disqualification letter.

Respondents shall be on time to the Pre-Response meeting and Respondents must be present at the starting time of the meeting. Respondents not arriving on time for the meeting will have their Responses rejected.

**PLEASE BE AWARE DUE TO JEA SIGN IN AND/OR SECURITY PROCEDURES IT MAY TAKE UP TO FIFTEEN MINUTES TO OBTAIN ACCESS TO A JEA FACILITY. PLEASE PLAN ACCORDINGLY SO AS TO ARRIVE TO THE PRE-RESPONSE MEETING ON TIME.**

Pre-Response Meeting Time: 10:30 am EST

Pre-Response Meeting Date: December 11, 2017

Pre-Response Location: JEA Bid Office, Customer Center 1<sup>st</sup> Floor, Room 002  
21 W. Church Street, Jacksonville, FL 32202

### **1.1.5. OPENING OF RESPONSES**

All Responses shall be publicly opened, read aloud and recorded at 2:00 PM on January 9, 2018 at the JEA Bid Office, 21 W. Church Street, Customer Center First Floor, Room 002, Jacksonville, FL 32202.

At the opening of Responses, a JEA Representative will publicly open and announce each Response that was received on time. Responses that have been properly withdrawn will not be opened. JEA has the right to waive any irregularities or informalities in the Response Document.

## **1.2. SPECIAL INSTRUCTIONS**

### **1.2.1. MINIMUM QUALIFICATIONS FOR SUBMISSION**

Respondent shall have the following Minimum Qualifications to be considered eligible to submit a Response in response to this Solicitation. A Minimum Qualification Form which is required to be submitted with the Response Form is provided in Appendix B of this Solicitation.

It is the responsibility of the Respondent to ensure and certify that it meets the Minimum Qualifications stated below. JEA reserves the right to request back up documentation to confirm the Respondent meets the requirements stated herein. A Respondent not meeting all of the following criteria will have their Responses rejected:

- Respondent shall have a current Class B Air Conditioning Contractor License in accordance with the Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation (DBPR).  
**Respondent shall input Class B Air Conditioning Contractor License information where indicated on Appendix B – Response Form**

AND

- Respondent must provide three (3) successfully completed similar contracts within five (5) years of the Response Due date.
  - A similar contract is defined as a Commercial or Industrial HVAC service contract in the amount of at least \$35,000.00 or more per year.

**Respondent shall input solicited information where indicated on Appendix B – Minimum Qualifications Form.**

Please note, any Respondent whose contract with JEA was terminated for default within the last two (2) years shall have their Response rejected.

#### **1.2.2. BASIS OF AWARD - LOWEST RESPONSE**

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

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

#### **1.2.3. COMPETITIVE SEALED RESPONSE (INVITATION TO NEGOTIATE)**

JEA will use the evaluation criteria listed in the section entitled "Selection Criteria" to evaluate the information contained in the Response submitted by each Respondent. Therefore, it is in the best interest of Respondent to provide informative, concise, well-organized technical and business information relative to the proposed Scope of Work (Appendix B).

JEA will Award based on an evaluation of how well each Response meets the Selection Criteria.

##### **1.2.3.1. EVALUATED AND NEGOTIATION PROCESS (ITN)**

JEA will make an Award a of a Contract to the Respondent that is able to demonstrate that it can successfully meet the requirements of this ITN, and can provide the best value to JEA.

JEA intends to select up two (2) to four (4) Respondents (the "Short-list") with which to commence negotiations. A selection committee (hereinafter referred to as the "Selection Committee"), will be appointed by the Chief Procurement Officer (the "CPO"), or his designee, to review and evaluate each Response submitted. The CPO's office will distribute a copy of each Response to each member of the Selection Committee, and the members of the Selection Committee will separately and independently evaluate and rank the Responses using the "Selection Criteria" as stated below in this ITN. JEA will use this ranking to develop the Short-list of companies in which to proceed with contract negotiations.

Prior to developing the Short-list, JEA may request that the Respondents provide additional information to clarify their Response. JEA will NOT allow Respondents to submit additional reference projects or change said reference projects that were initially submitted for the purposes of meeting the Minimum Qualifications stated in this ITN. However, JEA may request clarification of submitted documentation so that JEA may make an accurate assessment in developing the Short-list. JEA must be satisfied that the successful Respondent has the necessary technical expertise, experience, and resource capabilities to satisfactorily perform the Services described in this ITN.

JEA reserves the right to Award a Contract based on the Selection Committee's initial evaluation of the Responses if JEA deems the Responses demonstrate adequate competition, compliance, and responsiveness to this ITN. If JEA determines the previously stated criteria have not been met, JEA will finalize the Short-list and proceed with contract negotiations.

**Respondents are cautioned to present the best possible pricing offer in their initial Responses. Failing to do so may result in a Respondent not making the Short-list, and will not be allowed to proceed with contract negotiations. Additionally, the prices submitted with the initial Response cannot be increased during the ITN process.**

Once a Short-list is developed, the CPO, or his designee, will appoint a negotiating team (the "Negotiating Team"). The Negotiation Team may be comprised of the same individuals as were members of the Selection Committee. JEA reserves the right to negotiate concurrently or separately with the Short-list Respondents. JEA reserves the right to seek clarifications, to request Response revisions, and to request any additional information deemed necessary for proper evaluation of the Responses. JEA reserves the right to incorporate value added services or industry standard innovations recommended by a Respondent into the Contract's scope of work.

A Respondent that is included on the Short-list may be required, at the sole option of JEA, to make an oral presentation, provide additional written clarifications to its Response, or JEA may require site visits to Respondent's facilities. Oral presentations hand-outs and written clarifications will be attached to the Respondent's Response and will become a part of the Response as if originally submitted. The CPO or his designee will initiate and schedule a time and location for any presentations which may be required.

As a part of the negotiation process, JEA may contact the references provided by the Respondent for the purpose of independently verifying the information provided in the Response, and to assess the extent of success of the projects associated with those references. JEA also reserves the right to contact references not provided by Respondents. Respondents may be requested to provide additional references. The results of the reference checking may influence the final negotiation, ranking, and Award recommendation.

After written clarifications, oral presentations, site visits, and any other negotiations deemed by JEA to be in its best interest, the Short-list Respondents will be given a deadline to submit their best and final offer (the "Best and Final Offer" or "BAFO"). The negotiation process will stop upon submission of the BAFO. Respondents will not be allowed to make further adjustments to their BAFO or communicate further with JEA, except to respond to requests for clarification from the Negotiating Team.

The JEA Negotiating Team will adjust and calculate the final rankings of the Short-list based on the BAFO submissions. A description of which Selection Criteria will be re-evaluated based upon the BAFO will be explained in JEA's written request for the BAFOs. JEA does not anticipate reopening negotiations after receiving the BAFOs, but reserves the right to do so if it believes doing so will be in the best interests of JEA. In the event that JEA reopens negotiations, any final rankings will be revised accordingly.

Negotiations will not be open to the public, but will be recorded. All recordings of negotiations and any records,

documents, and other materials presented at negotiation sessions are public records and can be released pursuant to a public records request after a notice of intended decision for this ITN is posted, or thirty (30) days after the opening of the Responses, whichever occurs earlier.

The Award recommendation of the Negotiating Team will be based upon the scoring of the BAFOs. The Respondent with the highest score will be submitted to the CPO for approval. Once approved, the CPO will then present an Award to the JEA Awards Committee for final approval.

In its sole discretion, JEA reserves the right to withdraw this ITN either before or after receiving Responses, to reject any and all Responses either in whole or in part, with or without cause, or to waive any ITN requirement informalities, minor irregularities, and deficiencies in any Response, and to determine such action is in the best interest of JEA. Issuance of this ITN in no way constitutes a commitment by JEA to make an Award or enter into a Contract.

All Responses submitted to JEA are subject to the JEA's terms and conditions contained in this ITN and JEA's Procurement Code. Any and all additional terms and conditions submitted by Respondents are rejected and shall have no force.

#### **1.2.4 SELECTION CRITERIA**

The following criteria will be used by JEA to evaluate and rank the qualified Respondents to determine which Respondents are selected for the Short-list who will then move on to the contract negotiation phase of this ITN. Details concerning how each Selection Criteria is calculated can be found in the Selection Criteria below.

##### **1.2.4.1 QUOTATION OF RATES (100 Points)**

Respondent shall provide prices for the five (5) year term of the Contract by completing the enclosed Response Form and Response Workbook. These prices shall be all-inclusive and shall include all profit, taxes, benefits, travel, shipping FOB Destination, and all other overhead items.

The prices provided in the Response Workbook will be awarded points based on the total price listed.

Respondents will be ranked based on their total price. Please note, the rates quoted by Respondent on the Response Form must be firm prices, not estimates.

##### **1.2.4. REQUIRED FORMS TO SUBMIT WITH RESPONSE**

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

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

- o Response Form (including acknowledgements of all addenda) - This form can be found in Appendix B
- o Response Workbook - This form can be found in Appendix B
- o Minimum Qualifications Form - This form can be found in Appendix B
- o List of JSEB Certified Firms (if any)
- o Subcontractor Form (if any)
- o Class B Air Conditioning Contractor License Number

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

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

#### **1.2.5. MATHEMATICAL ERRORS**

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

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

JEA intends to Award one (1) Contract 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.

#### **1.2.7. SHIPPING, FREIGHT, AND TRAVEL--F.O.B. DESTINATION**

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

If the Solicitation allows for travel expenses to be billed separately, then all Respondent's travel expenses will be reimbursed in accordance with JEA's Contractor Travel Policy.

#### **1.2.8. INSURANCE REQUIREMENTS**

Prior to JEA issuing a Purchase Order to the Respondent to begin the Work or Services, the Respondent shall submit a certificate of insurance (COI) that is in compliance with amounts and requirements as indicated in the Section herein entitled "Insurance Requirements". **Note that the COI shall specifically indicate JEA (and Florida Power and Light Company ("FPL"), if applicable) as additional insured(s) on all required insurance except Worker's Compensation and Professional Liability (if applicable). Furthermore, waiver of subrogation shall be provided for all required insurance in favor of JEA, FPL (if applicable), including their board members, officers, employees, agents, successors, and assigns.**

#### **1.2.9. LISTING OF SUBCONTRACTORS**

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

The Company shall not use Subcontractors and subsuppliers/shop fabricators other than those shown on the Subcontractor Form unless it shows good cause and obtains the JEA Representative's prior written consent. If the Company plans to use Subcontractors or subsupplier/shop fabricators to perform over fifty percent (50%) of the Work, the Company shall obtain JEA's approval at least five (5) days prior to the Response Due Date. Failure to obtain JEA approval will disqualify the Company and result in rejection of Company's Response.

#### **1.2.10. SAFETY QUALIFICATION REQUIREMENTS (IFB)**

Respondent shall be approved as JEA Safety Qualified within ten (10) business days of receiving written notice from the JEA Bid Office that it is the lowest responsive and responsible Respondent. If the Respondent fails to obtain JEA approval as a JEA Safety Qualified company by 4:00 p.m. Eastern time on the 10<sup>th</sup> business day, JEA will reject the company's Response, and proceed to Award to the next lowest responsive and responsible Respondent.

JEA Safety Qualification information is available online at [jea.com](http://jea.com). Please note that it may take up to five (5) business days for a company to be approved as JEA Safety Qualified. It is the Respondent's responsibility to ensure it is JEA Safety Qualified. A list of the JEA's Safety Qualified vendors can be found on [jea.com](http://jea.com). For additional information, contact Jerry Fulop at (904) 665-5810.

#### **1.2.11. TIME**

In computing any period of time prescribed or allowed by this solicitation, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or JEA holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or JEA holiday.

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

It is at the Company's option as to whether it chooses to subcontract to a JSEB firm. JEA encourages the use of JSEB qualified firms; however, the Company 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 Company 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 Company shall procure and maintain the insurance required of Company hereunder during the life of the subcontracts. Subcontractors' insurance may either be by separate coverage or by endorsement under insurance provided by Company. Note: Any JSEB firms identified by Respondents for this Solicitation are considered "Subcontractors" under the direct supervision of the Prime or General Contractor (herein referred to as Company in this Solicitation). Companies should show good faith efforts in providing assistance to JSEB firms in the securing of Subcontractors' insurance requirements stated in this section. Company shall submit subcontractors' Certificates of Insurance to JEA prior to allowing subcontractors to perform Work on JEA's job sites.

### **1.3. GENERAL INSTRUCTIONS**

#### **1.3.1. ADDENDA**

JEA may issue Addenda prior to the Response opening date to revise, in whole or in part, or clarify the intent or requirements of the Solicitation. The Respondent shall be responsible for ensuring it has received all Addenda prior to submitting its Response or Proposal and shall acknowledge receipt of all Addenda by indicating where requested on the Response Form. JEA will post all Addenda when issued online at [jea.com](http://jea.com). The Respondent 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 Respondent to ensure it has received and incorporated all Addenda into its Response or Proposal. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Response or Proposal.

#### **1.3.2. COMPLETING THE RESPONSE DOCUMENTS - FACILITIES**

Respondents shall complete and submit the all the Response Documents with responses typewritten or written in ink. ALL RESPONSES SUBMITTED LATE TO THE JEA BID OFFICE WILL BE REJECTED.

If a Unit Price is marked "optional" on the Response Form, the Respondent may insert the words "No Response" in the space provided if the Respondent chooses not to submit a price for that item. Failure to complete each blank with either a price or the words "No Response" may disqualify the Response. The Respondent may Response "\$0" if the Respondent chooses to perform the work at no cost to JEA and the Respondent will be obligated to perform the work at no cost to JEA for the Term of the contact.

The Respondent, or an authorized agent or officer of the company, shall sign the Response Documents. Failure to sign the Response Documents may disqualify the Response. JEA approved- approved erasures, interlineations or other corrections on the Response Documents shall be authenticated by affixing in the margin, immediately opposite the correction, the handwritten signature of the person executing the Response Documents. Failure to authenticate changes may disqualify the Response.

JEA may disqualify any Responses that deviate from the requirements of this Solicitation, and those Responses that include unapproved exceptions, amendments, or erasures.

#### **1.3.3. SUBMITTING THE RESPONSE DOCUMENTS**

The Respondent shall submit one original of all the Response Documents and two duplicates of the original Response Documents. It is encouraged that all submitters include an electronic version with their hardcopy submittal.

JEA will not accept Response Documents transmitted via email. If electronic copies of the Response Documents are submitted, they must be submitted on a CD or thumb drive along with the required number of hardcopies of the Response Documents.

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

Within thirty (30) days from the date of Award, JEA will present the successful Respondent with the Contract Documents. Unless expressly waived by JEA, the successful Respondent shall execute a Contract for the Work or Services within ten (10) days after receiving the Contract from JEA. If the Respondent 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 Respondent, retain the Response 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 Proposal or Response and authorization for the company to proceed with the Work, unless otherwise stated in the Contract or PO.

For Construction Services: In the event that JEA intends to authorize the successful Respondent to proceed with administrative work only, or with only a portion of the Work, then the PO shall state the specific limitations of such authorization and JEA will issue a separate written Notice to Proceed to authorize the Respondent to begin Field Work, when applicable, or to perform the remainder of the Work, or any portion thereof. The Respondent shall ensure that it is prepared to begin Field Work upon receipt of Notice to Proceed. Any Work performed outside of this partial authorization shall be at the Respondent's risk and JEA shall have no obligation to pay for such Work.

### **1.3.5. 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 Response or Proposal 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 Respondent becomes privy to information not available to the other Respondents. Social contact between Respondents 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 Response or Proposal. 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 Respondents.

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).

### **1.3.6. 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.

### **1.3.7. 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.

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

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

include a Response Bond, where one is required, and Responses 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 Responding 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 Responses at any time prior to the time announced for the opening of Responses. 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.

#### **1.3.8. ETHICS (IFB)**

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

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

The Respondent shall disclose the name(s) of any public officials who have any financial position, directly or indirectly, with this Response by completing and submitting the Conflict of Interest Certificate Form available at [jea.com](http://jea.com). If JEA has reason to believe that collusion exists among the Respondents, JEA shall reject any and all Responses from the suspected Respondents and will proceed to debar Respondent 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 in which a JEA officer or employee has a financial interest. JEA shall reject any and all Responses from JEA officers or employees, as well as, any and all Responses in which a JEA officer or employee has a financial interest.

In accordance with Florida Statutes Sec. 287.133, JEA shall reject Responses 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 Respondent listed on the Convicted Vendor list for any transaction exceeding \$35,000.00 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor list.

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

#### **1.3.9. MODIFICATION OR WITHDRAWAL OF RESPONSES**

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

#### **1.3.10. PROTEST OF RESPONDING AND AWARD PROCESS**

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

#### **1.3.11. CERTIFICATION AND REPRESENTATIONS OF THE RESPONDENT**

By signing and submitting a Response, the Respondent 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 this Solicitation prior to submitting its Response. Where the Respondent 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 Respondent shall comply with all safety requirements described in the Solicitation and shall be prepared to show proof of insurance
- B. That every aspect of its submitted Response, including the Response Price 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 Response Documents is a duly authorized agent or officer of the firm. Responses 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 Response, satisfactory evidence of authority to sign may be requested by JEA. If the Response is submitted by a partnership, the Response must be signed by a partner whose title must appear under the signature. If an individual other than a partner signs the Response, satisfactory evidence of authority to sign may be requested by JEA. The corporation or partnership must be in active status at the Florida Division of Corporations at the time of contract execution.
- D. That the firm maintains an 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 Respondent also certifies that, upon the prospect of any change in the status of applicable licenses, permits, certifications, insurances, bonds or other credentials, the Respondent shall immediately notify JEA of status change.
- E. That Respondent has read, understands these instructions and will comply with the Section titled Ethics.

#### **1.3.12. 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.

**IF A RESPONDENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'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**

**Ph: 904-665-8606**

**publicrecords@jea.com**

**Redacted Submissions**

If a Respondent believes that any portion of the documents, data or records submitted in response to this Solicitation are exempt from Florida's Public Records Law, Respondent 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 Respondent's name, and shall be clearly titled "Redacted Copy." Respondent should only redact those portions of records that Respondent claims are specifically exempt from disclosure under Florida's Public Records Laws. If Respondent 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 Respondent that such an assertion has been made. It is Respondent'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 Respondent's redacted information under legal process, JEA shall give Respondent prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law.) Respondent 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, Respondent 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 Respondent's determination that the redacted portions of its response to this Solicitation are not subject to disclosure.

## **2. CONTRACT TERMS AND CONDITIONS**

### **2.1. DEFINITIONS**

#### **2.1.1. DEFINITIONS**

Words and terms defined in this section shall have the same meaning throughout all parts of this Solicitation and Contract Documents. Where intended to convey the meaning consistent with that set forth in its definition, a defined word or term is marked by initial capitalization. The "Technical Specifications" portion of this Solicitation may define additional words and terms where necessary to clarify the Work. Unless otherwise stated in this Solicitation and/or Contract Documents, definitions set forth in the "Technical Specifications" shall apply only within the "Technical Specifications."

#### **2.1.2. ACCEPTANCE (JEA - 16023)**

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

#### **2.1.3. ADDENDUM/ADDENDA**

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

#### **2.1.4. 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.

#### **2.1.5. 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 Respondent or proposer.

#### **2.1.6. RESPONSE DOCUMENTS**

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

#### **2.1.7. RESPONSE PRICE (JEA - 16025)**

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

#### **2.1.8. RESPONDENT (JEA-16025)**

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

#### **2.1.9. CONTRACT AMENDMENT (JEA - 16026)**

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.

#### **2.1.10. 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.

#### **2.1.11. COMPANY REPRESENTATIVE**

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

#### **2.1.12. CONTRACT ADMINISTRATOR**

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

#### **2.1.13. CONTRACT DOCUMENTS**

Contract Documents, also referred to as the "Contract" means the executed Contract, all Solicitation documents and Response 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.

#### **2.1.14. CONTRACT PRICE**

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

#### **2.1.15. DEFECT**

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

#### **2.1.16. ENVIRONMENTAL REGULATIONS**

All laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders, and decrees, now or hereafter enacted, promulgated, or amended, of the United States, the states, the counties, the cities, or any other political subdivisions in which the Work Location is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over JEA, the Work Location, or the use of the Work Location, relating to pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials (as defined in this Contract) into the environment (including, without limitation, ambient air, surface water, ground water or land or soil).

#### **2.1.17. HAZARDOUS MATERIALS**

Any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. '9601 et seq.) ("CERCLA") or any regulations promulgated under or pursuant to CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. '6901 et. seq.) ("RCRA") or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. '2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic under Environmental Requirements (as hereinafter defined) or the common law, or any other applicable laws relating to the Licensed Property. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Licensed Property, (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Licensed Property or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Licensed Property or adjacent property; or (C) which, if it emanated or migrated from the Licensed Property, could constitute a trespass.

#### **2.1.18. 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.

#### **2.1.19. 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.

#### **2.1.20. 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.

#### **2.1.21. JEA REPRESENTATIVES**

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

#### **2.1.22. PURCHASE ORDER (PO)**

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

### **2.1.23. SOLICITATION**

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

### **2.1.24. SUBCONTRACTOR**

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

### **2.1.25. TERM**

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

### **2.1.26. UNIT PRICES**

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

### **2.1.27. WORK LOCATION (DEFINITION)**

The place or places where the Work is performed, excluding the properties of the Company and/or the Subcontractor(s).

### **2.1.28. WORK OR SCOPE OF SERVICES**

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

## **2.2. CONTRACT DOCUMENTS**

### **2.2.1. ORDER OF PRECEDENCE**

The Contract shall consist of JEA's Contract and/or Purchase Order together with the Solicitation including, but not limited to, the executed Response 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 Response 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.

## **2.3. PAYMENTS**

### **2.3.1. PAYMENT METHOD -REPAIR/SERVICES**

For individual repairs or services, the Company shall submit an Invoice to JEA upon successful completion and JEA Acceptance of the individual repairs or services.

For reoccurring repairs or services, the Company shall submit an Invoice to JEA once per month upon successful completion and JEA Acceptance of the reoccurring repairs or services that occurred during that 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.

### **2.3.2. INVOICING AND PAYMENT TERMS**

The Company shall submit all Invoices or Applications for Payment in accordance with the payment method agreed upon this Work. JEA will pay the Company the amount requested **within 30 calendar days after receipt** of an Invoice from the Company subject to the provisions stated below.

JEA may reject any Invoice or Application for Payment within 20 calendar days after receipt. JEA will return the Invoice or Application for Payment to the Company stating the reasons for rejection. Upon receipt of an acceptable revised Invoice or Application for Payment, JEA will pay the 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.

### **2.3.3. PRICE ADJUSTMENT - ANNUAL**

Contract prices for the Work will remain fixed through the first three (3) years of the Contract. The Company may request a Consumer Price Index (CPI) adjustment annually. Each annual request for a CPI increase must be made within thirty (30) days prior to the Anniversary Date of the Contract. If Company fails to submit a timely CPI adjustment request, the Company may be denied the adjustment for the upcoming Contract year.

**Note, the percent mark-up for materials, consumables, subcontractors, and rental equipment shall not be adjustable during the Term of the Contract.**

When a timely CPI request is received, JEA will recognize the CPI price adjustment within thirty (30) days after the Anniversary Date. No retroactive price adjustments will be allowed.

Unless the Company and JEA make other agreements, the annual price adjustment for the Contract shall be in accordance with the Consumer Price Index for all urban consumers published monthly by the U.S. Department of Labor, Bureau of Labor Statistics. The index used will be the unadjusted percent change for the previous 12 months of the Company's written CPI adjustment request is received by JEA.

In the event the applicable price index publication ceases, the Company and JEA shall mutually agree on a replacement index. If the Company and JEA fail to agree on a replacement index, the Contract shall terminate effective on the next Anniversary Date.

#### **2.3.4. 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 Response 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.

#### **2.3.5. 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.

#### **2.3.6. JSEB - INVOICING AND PAYMENT**

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

#### **2.3.7. PROMPT PAYMENT TO SUBCONTRACTORS, SUB-SUBCONTRACTORS AND SUPPLIERS**

When the Company receives payment from JEA for labor, services or materials furnished by Subcontractors and suppliers that are hired by the Company, the Company shall remit payment due (less proper retainage) to those Subcontractors and suppliers within 10 days after the Company's receipt of payment from JEA. Nothing herein shall prohibit the Company from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its Subcontractors and suppliers. In the event of such dispute, the Company may withhold the disputed portion of any such payment only after the Company has provided written notice to JEA and to the Subcontractor and supplier whose payment is in dispute, stating the amount in dispute and specifically describing the actions required to cure the dispute. The Company shall deliver such notice to JEA and to the said Subcontractor or supplier within 10 days following the Company's receipt of payment from JEA. The Company shall pay all undisputed amounts due within the time frames specified herein.

The prompt payment requirements herein shall, in no way, create any contractual relationship or obligation between JEA and any Subcontractor, supplier, JSEB, or any third-party, nor create any JEA liability for the Company's failure to make timely payments as required. The Company's failure to comply with the prompt payment requirements, however, shall constitute a material breach of its contractual obligations to JEA. As a result of such breach, JEA, without waiving any other available remedy it may have against the Company, may issue joint checks and charge the Company a 0.2% daily late payment interest charge or charges as specified within the Florida Statutes, whichever is greater.

#### **2.3.8. 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.

#### **2.3.9. TAXES**

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

### **2.4. JSEB COMPLIANCE**

#### **2.4.1. COMPLIANCE WITH JSEB REQUIREMENTS**

The Company shall achieve the JSEB participation requirements as set forth in the Solicitation, except as allowed under the good faith efforts exception as defined in the City of Jacksonville Ordinance. In no case shall the Company 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 Contract Administrator, and without subsequent receipt of written approval from the Contract Administrator.

The City of Jacksonville requirements as outlined in the City of Jacksonville Ordinance relating to JSEBs shall apply in their entirety to this Contract. Where the City of Jacksonville ordinance refers to "Chief", it shall be construed to mean, for purposes of this Contract, JEA's Chief Purchasing Officer. In a like manner, where it refers to "City", or "City of Jacksonville", it shall be construed to mean JEA.

Use of brokering, as defined in the City of Jacksonville Ordinance, or other techniques that do not provide a commercially useful function are strictly prohibited as means of achieving the JSEB requirements of the Contract. Only the amount of fees or commissions charged by a JSEB for providing a bona fide service such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract shall be counted towards a JSEB participation requirement, provided the fee is reasonable and not excessive as compared with fees customarily charged for similar services.

Payment terms for participating JSEB firms shall be the same or better than the payment terms the Company receives from JEA, except that in all cases JSEB firms shall be allowed to submit invoices to the Company at least bimonthly, and the Company shall pay proper invoices no later than three (3) days after its receipt of JEA payment. The Company shall obtain written approval from the Contract Administrator prior to withholding any payment from JSEB firm.

If the Company uses a JSEB qualified firm for the performance of any part of this Work, the Company shall submit to JEA, with its Invoice, a listing of JSEB qualified firms that have participated in the Work. Such listing shall be made using the form "Monthly Report for COJ/JEA JSEB Participation" available at [www.jea.com](http://www.jea.com)

The Company agrees to let JEA audit its financial and operating records with one day of notice, and during normal business hours, at its corporate offices for the purpose of determining compliance with all JSEB requirements of the Contract Documents.

If the Company violates any provision regarding JSEB, including, but not limited to, program intent, the Company shall be subject to any or all of the following, plus any other remedies available to JEA under law:

- o Terminate the Contract for breach
- o Suspend the Company from Responding any JEA projects as follows:
  - o First offense: six months
  - o Second offense: one year
  - o Third offense: three years
- o Revoke Company's JSEB certification if the Company itself is certified as a JSEB.

## **2.5. WARRANTIES AND REPRESENTATIONS**

### **2.5.1. WARRANTY - SERVICE AND REPAIRS**

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

The Company unconditionally warrants to JEA for a period of not less than one (1) year from the date of JEA Acceptance or JEA's payment of the Work whichever occurs earlier, that the Work furnished under the Contract, including but not limited to, materials, equipment, goods, workmanship, labor, services, and intellectual property, including derivative works shall be:

- Performed in a safe, professional and workman-like manner; and
- Free from Defects in design, material, and workmanship; and
- Fit for the use and purpose specified or referred to in the Contract; and
- Suitable for any other use or purpose as represented in writing by the Company; and
- In conformance with the Contract Documents; and
- Merchantable, new and of first-class quality.
- Conform to all applicable standards and regulations promulgated by federal, state, local laws and regulations, standards boards, organizations of the Department of State, and adopted industry association standards.

Labor/Repair/Services:

At JEA's option, if the Company performs labor/repair/services that fail to conform to the above mentioned warranties, JEA may correct the Defect at the Company's expense if the Company fails to make the appropriate corrections within a reasonable time upon notice by JEA, or JEA may require the Company to correct the Defect at its own cost. If the Company fails to make the appropriate corrections within a reasonable time upon notice by JEA, JEA reserves the right to terminate this Contract for Default without providing the Company a notice to cure.

Materials, Supplies or Goods:

If within the warranty period, JEA determines that any of the material, supplies, or goods are defective or exhibit signs of excess deterioration, the Company, at its own expense, shall repair, adjust, or replace the defective Work to the complete satisfaction of JEA. The Company shall pay all costs of removal, transportation, reinstallation, repair, and all other associated costs incurred in the connection with correction such Defects in the Work. The Company shall extend the warranty period an additional twelve (12) months. If the Company fails to make the appropriate corrections within a reasonable time upon notice by JEA, JEA reserves the right to terminate the Contract for Default without providing Company with a notice to cure.

If work includes items covered under a manufacturer's or Subcontractor's warranty that exceed the requirements stated herein, Company shall transfer such warranty to JEA. Such warranties, do not in any way, limit the warranty provided by the Company to JEA.

JEA may repair or replace any defective Work at the Company's expense when the Company fails to correct the Defect within a reasonable time of receiving written notice of the Defect by JEA, when Company is unable to respond in an emergency situation, or when necessary to prevent JEA from substantial financial loss. Where JEA makes repairs or replaces defective Work, JEA will issue the Company a written accounting and invoice of all such work to correct the Defects.

Where spare parts may be needed, Company warrants that spare parts will be available to JEA for purchase for at least seventy-five percent (75%) of the stated useful life of the product.

The Company's warranty excludes remedy for damage or Defect caused by abuse, improper or insufficient maintenance, improper operation, or wear and tear under normal usage.

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

### **2.6.1. 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: \$4,000,000 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, 6<sup>th</sup> 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.

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

#### **2.6.2. 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.

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

Ownership, 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.

JEA's receipt or delivery of any equipment or other materials will not constitute JEA's Acceptance of the Work and will not constitute a waiver by JEA of any right, claim or remedy. 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.

## **2.7. TERM AND TERMINATION**

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

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

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

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

### **2.7.2. TERMINATION FOR CONVENIENCE**

JEA shall have the absolute right to terminate the Contract in whole or part, with or without cause, at any time 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.

### **2.7.3. TERMINATION FOR DEFAULT**

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

- The Company assigns or subcontracts the Work without prior written permission;
- Any petition is filed or any proceeding is commenced by or against the Company for relief under any bankruptcy or insolvency laws;
- A receiver is appointed for the Company's properties or the Company commits any act of insolvency (however evidenced);
- The Company makes an assignment for the benefit of creditors;
- The Company suspends the operation of a substantial portion of its business;
- The Company suspends the whole or any part of the Work to the extent that it impacts the Company's ability to meet the Work schedule, or the Company abandons the whole or any part of the Work;

- 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;
- The Company attempts to willfully impose upon JEA items or workmanship that are, in JEA's sole opinion, defective or of unacceptable quality;
- The Company breaches any of the representations or warranties;
- The Company is determined, in JEA's sole opinion, to have misrepresented the utilization of funds or misappropriate property belonging to JEA; or
- 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.

## **2.8. CHANGES IN THE WORK, CONTRACT TIME OR PRICE**

### **2.8.1. CHANGE IN THE WORK**

From time to time, JEA may direct changes and modifications in the scope of the Work to be performed under this Contract. The Company is willing and agreeable to accommodate such changes, provided it is compensated for additional Work in accordance with the Unit Prices terms stated in this Contract, or as otherwise agreed to by JEA and the Company.

Such changes shall be in the form of a written amendment to this Contract reflecting, as appropriate, the change to the scope of Work, adjustment to Company's Unit Prices or Contract Price, or extension to the Term of this Contract. The JEA Representative directly responsible for each project will make the final determination as to whether any compensable change or schedule change exists.

### **2.8.2. FORCE MAJEURE**

No party shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; and (c) such default or delay could not have been reasonably circumvented by the non-performing party through the use of alternate sources, work-around plans or other means. Such causes include, but are not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of JEA to secure approval, validation or sale of bonds; inability of JEA or the Company to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

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

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

### **2.8.3. UNFORESEEN CONDITIONS**

The Company understands and agrees that it is its responsibility to conduct due diligence prior to the Work. Such due diligence includes, but is not limited to, verifying all Work conditions, measurements, dimensions and latent and patent obstructions, the accuracy of drawings, test results, inspections and other informational materials provided in the Contract Documents, and any other causes for existing or potential changes to the Work prior to initiating the Work. In the event that the Work must be changed due to the Company's failure to fulfill the above requirements, the Company understands and agrees that it will be responsible for all costs associated with the changed condition.

In the event, however, that the Company exercises the requisite due diligence and a change to the Work becomes necessary resulting from conditions that are clearly unforeseen and that could not have been discovered, the costs for adjusting the Work in response to such unforeseen conditions shall be addressed in a Change Order or an amendment to the Contract executed by JEA and Company. Any Work the Company performs prior to receipt of such Change Order or approved Contract amendment will be at the Company's sole risk.

### **2.8.4. NO DAMAGE FOR DELAY**

Damage, loss, expense or delay incurred or experienced by the Company in the prosecution of the Work by reason of unforeseen circumstances, unanticipated difficulties and obstructions, bad weather, or other mischances that are generally considered to be a part of the usual hazards associated with Work, shall be borne entirely by the Company and shall not be the subject of any claim for additional compensation or change in Approved Schedule.

The Company agrees that its sole remedy for any claims, damages or losses related to any delay, disruption or hindrance alleged to be caused by JEA or any of JEA's agents or other contractors, shall be an extension of the Contract completion date.

Any demand for equitable time adjustment must be served in writing to JEA within five days of the event giving rise to the delay, disruption or hindrance. Any request for an equitable time adjustment shall be accompanied by a logical time impact analysis, demonstrating the nature and magnitude of the event to the critical path.

Failure to strictly comply with these requirements shall be deemed a waiver of any right to seek equitable time adjustment.

In the event the "no damage for delay" clause is inapplicable, there shall be no recovery for home office overhead and any damages claimed shall be proven by discreet accounting of direct project costs and no theoretical formula or industry estimating reference manuals shall be permissible.

## **2.9. PRELIMINARY MATTERS**

### **2.9.1. LICENSES**

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

### **2.9.2. JEA CRITICAL INFRASTRUCTURE PROTECTION (CIP)**

Pursuant to federal regulations, JEA is required to implement Critical Infrastructure Protection (CIP) and comply with NERC/FERC reliability standards for identified assets (collectively the "Assets"). Assets can be defined as either physical or cyber that are essential for JEA to maintain the integrity of the bulk electric system. Therefore, a Company that requires access to the Assets shall require that each of its employees, who require unescorted access apply for a JEA access badge through JEA's Security Department. Depending on which Assets a Company must access will determine the specific training and/or personal background screenings that will be required before a JEA badge can be issued. JEA will pay for reasonable costs associated with initial background screenings and training for required Company employees. However, if an initial screening is failed, the Company will be responsible for the cost of that screening and for additional screening costs related to Company employee turnover. An appointment to obtain a JEA access badge can be made by contacting JEA Security at [securitybadge@jea.com](mailto:securitybadge@jea.com).

Finally, all badges are for assigned individual use only and JEA does not allow Company employees to share JEA access badges. A Company, whose employees are found to be sharing JEA access badges, may result in the Contract being terminated 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 and Company should bear the cost of replacement security badge. Report badge termination notifications to JEA Security at (904) 665-8200.

The language in the above paragraphs shall also apply to Company's Subcontractors, and shall be included in Company's contracts with its Subcontractors for Work or Services to be performed at JEA or SJRPP Facilities.

JEA reserves the right to modify these terms if the applicable regulations change or additional regulations become applicable. JEA will provide sufficient notice in advance for Company to adapt the updated regulations.

### **2.9.3. JEA ACCESS BADGES**

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

An appointment to obtain a JEA access badge can be made by contacting JEA Security at [securitybadge@jea.com](mailto:securitybadge@jea.com).

JEA does not allow Company employees to share JEA access badges. A Company whose employees are found to be sharing JEA access badges, will result in the Contract being terminated immediately for default. Additionally, JEA

shall be notified within 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.

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

The Company, at its expense, 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 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 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.

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

##### **2.10.1. PUBLIC RECORDS LAWS**

Access to Public Records.

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

##### **Redacted copies of Confidential Information**

If the Company believes that any portion of any documents, data or other records submitted to JEA are exempt from disclosure under Chapter 119, Florida Statutes, the Florida Constitution and related laws ("Florida's Public Records Laws"), 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". Respondent should only redact those portions of records that Respondent 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**

**Ph: 904-665-8606**

**publicrecords@jea.com**

**2.10.2. PROPRIETARY INFORMATION**

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

**2.10.3. PUBLICITY AND ADVERTISING**

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

**2.11. LABOR**

**2.11.1. NONDISCRIMINATION**

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 or handicap, in all areas of employee relations, throughout the Term of this Contract. 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 year from the effective date of this Contract.

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.

### **2.11.2. LEGAL WORKFORCE**

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

### **2.11.3. 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 Response 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 Responses 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 (2) years from cessation from JEA employment.

### **2.11.4. HIRING OF OTHER PARTY'S EMPLOYEES**

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

### **2.11.5. COMPANY'S LABOR RELATIONS**

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

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

### **2.12.1. 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.

#### **2.12.2. COMPANY REVIEW OF PROJECT REQUIREMENTS**

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

#### **2.12.3. CONDITIONS OF PROVISIONING**

The Company understands and agrees that it shall be solely responsible for providing everything necessary to perform the Work and to be in full compliance with the Contract Documents, except for those items specifically listed herein as being provided by JEA.

If Company's Scope of Work is to supply JEA with inventory items, the Company shall identify inventory items that are in high demand and take appropriate steps to minimize delivery lead time in the event of demand spikes or emergency requirements.

Any use of JEA furnished items on non-JEA work is a breach of the Contract and a violation of the law. All JEA furnished items are the property of JEA when issued, stored by Company, and used in performance of the Work. The Company agrees that it shall use all JEA furnished items in a manner consistent with industry practice, codes, laws, considering the condition of the JEA furnished item, the skills of the individuals using the JEA furnished item, and all environmental conditions. The Company understands and agrees that where JEA and the Company shall share JEA furnished items, JEA usage shall always have priority over Company usage, and the Contract Administrator shall have sole authority to resolve any usage dispute and such resolution shall not result in any claim by Company.

The Company agrees to return to JEA, and to the location as established by a JEA Representative, any unused or salvageable items prior to final payment. The Company agrees that JEA has the right to audit and investigate the Company at any time how the Company is using JEA furnished items. JEA will bill the Company for unaccountable JEA furnished material at the current JEA cost.

#### **2.12.4. 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.

#### **2.12.5. SAFETY AND PROTECTION PRECAUTIONS (CONSTRUCTION)**

The Company shall comply with all applicable federal, state and local laws, ordinances, all JEA procedures and policies including, but not limited to, JEA's Contractor Safety Management Process (available at JEA.com), and 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 Section e is grounds for an immediate termination of

the Contract for default, with no requirement for JEA to provide Company with advanced notice and opportunity to cure. Additionally, the Company shall be responsible for all JEA damages associated with such termination.

The Company shall only use those Subcontractors who have met JEA Safety Prequalification requirements in the JEA Contractor Safety Management Process. The Company shall ensure that Subcontractors and their personnel have all the necessary personal protective equipment and training needed to perform the Work safely.

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 person or 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 also 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 representative responsible for the prevention of accidents.

If the nature of the Work requires, the Company shall notify the police and fire departments as to its Work Location in order to ensure prompt response in an emergency.

#### **2.12.6. PROTECTION OF THE ENVIRONMENT**

The Company and its Subcontractors shall comply with all applicable laws, rules and regulations including, but not limited to, all Environmental Regulations.

##### **A. Asbestos, Lead, or Toxic Mold Notification:**

Asbestos, Lead, or Toxic Mold may be present at the Work Location. The Company shall notify the Contract Administrator immediately upon discovery of asbestos, lead, toxic mold. The Company shall not disturb or remove known or discovered asbestos, lead, or toxic mold unless directed by the JEA Representative.

##### **B. Hazardous Materials:**

The Company shall bear full responsibility including, but not limited to, payment and liability for the transportation, use, recycling, and disposal of any Hazardous Materials under the Company's control during the performance of the Work. Disposal or recycling of Hazardous Materials shall only be performed at JEA approved facilities. The Company shall provide JEA with appropriate documentation showing proper disposal or recycling of its Hazardous Materials.

The Company shall notify the Contract Administrator in writing of the type, quantity and disposal or recycling method of any hazardous material used during the performance of the Work. The Company shall be solely responsible for the use and disposal or recycling of any such materials. The Company shall submit cleanup procedures to the JEA Representative for review and written approval prior to the use of the hazardous material. In the event that a hazardous material escapes into the environment, the Company shall immediately notify the Contract Administrator in writing of the occurrence and the actions taken. In the event that the Company encounters hazardous materials in the course of construction, the Company shall immediately notify the Contract Administrator verbally, with a written notification to follow. The Contract Administrator shall arrange for disposal by JEA.

JEA has identified and labeled equipment known to contain PCBs. JEA will remove and transport any equipment so identified. The Company shall not remove or transport any equipment containing PCBs. The Company shall

immediately notify the JEA Representative of any questionable or unmarked equipment, and the JEA Representative will arrange for testing and identification.

**C. Waste Management:**

The Company will be solely responsible for the proper management of all waste material, including but not limited to, paints, lubricants, fuels, solvents, drilling mud and materials, construction and demolition debris, used oil and oily waste, land clearing debris, universal waste (mercury containing lamps and devices, batteries, etc.) and other chemicals and hazardous materials used in connection with or generated during the Work, except as specified above. The Company will provide proper containers for waste materials and comply with all applicable laws, rules and regulations in their disposal or recycling. The Company will dispose of or recycle all empty containers off-site as soon as possible.

**D. Wetlands:**

The Company understands and agrees that the Work Location may include wetlands or other environmentally sensitive areas. The Company shall not enter these areas during the performance of its Work, unless specifically authorized by the Contract Administrator and appropriate state and federal permits have been obtained.

**E. Wildlife:**

The Company and/or Subcontractor's employees shall not endanger wildlife species or domestic animals of any kind.

**F. Violation of Environmental Laws and Permits:**

The Company shall immediately cease any activity that causes or results in a violation of JEA's or Company's environmental permits or federal, state and local laws and regulations. Such violation shall immediately be reported to the Contract Administrator verbally, with written notification to follow. All additional costs due to the Company's noncompliance with the applicable environmental permits or Environmental Regulations shall be paid by the Company.

**2.12.7. 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 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.

**2.13. VENDOR PERFORMANCE EVALUATION**

**2.13.1. 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 Responding 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.

## **2.14. MISCELLANEOUS PROVISIONS**

### **2.14.1. AMBIGUOUS CONTRACT PROVISIONS**

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

### **2.14.2. AMENDMENTS**

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

### **2.14.3. APPLICABLE STATE LAW; VENUE; SEVERABILITY**

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

### **2.14.4. CUMULATIVE REMEDIES**

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

### **2.14.5. 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.

### **2.14.6. 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.

#### **2.14.7. HEADINGS**

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

#### **2.14.8. LANGUAGE AND MEASUREMENTS**

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

#### **2.14.9. MEETINGS AND PUBLIC HEARINGS**

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

#### **2.14.10. NONEXCLUSIVE**

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

#### **2.14.11. 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.

#### **2.14.12. SUBCONTRACTING OR ASSIGNING OF CONTRACT**

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

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

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

#### **2.14.13. SURVIVAL**

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

#### **2.14.14. 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.

#### **2.14.15. TIME OF ESSENCE**

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

#### **2.14.16. WAIVER OF CLAIMS**

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

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

#### **2.14.17. 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.

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

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

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

### **2.16. FORMS**

#### **2.16.1. 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).