NON-DISCLOSURE AGREEMENT

Required under JEA's Confidential Information Protection Program

THIS NON-DISCLOSURE AGREEMENT ("Agreement") is entered into this _____day of _____ by and between JEA, located at 21 West Church Street, Jacksonville, Florida 32202 (the "**Discloser**"), and _____ with an address at _____ (the "**Recipient**") (hereafter Discloser and Recipient shall be referred to as the PARTIES}.

WHEREAS, the Recipient desires to work with the discloser and/or view _____documents regarding _____ (the "**Transaction**"); and

WHEREAS, the discloser is required by its internal policies, state and federal laws, rules, regulations or standards to ensure that sensitive and confidential information is protected and not disclosed to the public;

WHEREAS, the Parties have entered into a transaction related to the _____. The terms of those agreements are incorporated herein.

JEA & Florida State Sunshine Application – ***JEA is a publicly owned utility and all official information sharing is governed by Florida Sunshine Laws.*** The Florida Sunshine law is a series of laws designed to guarantee that the public has access to the public records of governmental bodies in Florida. However, as per the Florida Sunshine Law, certain information that could impact safe and secure operation is exempt which includes information classified and protected under federal regulatory standards such as NERC CIP, HIPAA, FCRA, and FACTA. Section 119.0713(4)(a), 5(a), F.S. govern any local government agency exemptions from inspection or copying of public records and exempts certain information including Security measures, systems, or procedures from public disclosure including –

I. Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
II. Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.
III. Results of periodic internal audits and evaluations of the security program for an agency's data and information technology resources are confidential and exempt.

This agreement applies to disclosure of the protected information that is exempt from Florida Sunshine Law disclosure and in no shape or manner would this agreement supersede the provisions of Florida Sunshine Law.

NOW THEREFORE, in consideration of moving forward with the Transaction, the Recipient and the

Discloser agrees as follows:

1. **Definition of Confidential Information**.

For purposes of this Agreement, "**Confidential Information**" means any data or information that is proprietary to the Parties and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including but not limited to:

a. the documents described in the Whereas clause above;
b. Critical Infrastructure Information (CII) or Bulk Electric System Information (BCSI) or Security Sensitive Information (SSI) classified by JEA
c. Protected Health Information in both physical and electronic form (PHI and ePHI)
d. Personal Identifiable Information (PII)
e. any protected, non-public information concerning the design or operation of present or future critical infrastructure;
f. any information that could be used to compromise or expose the vulnerability of the Parties Cyber systems, processes, programs data, communications, energy and operations systems or structures;
g. any Copyright application code, source code, technical design (not released for open use), trade secret, scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method;
h. any computer software, source code, object code, flow charts or databases; and
i. any other information that should reasonably be recognized as sensitive or confidential information of the Recipient or the disclosing party.

Confidential Information shall not include information required to be disclosed in a judicial or administrative proceeding, or otherwise required to be disclosed by law or regulation, although the requirements of paragraph 6 hereof shall apply prior to any disclosure being made.

2. **Prohibition on Disclosure of Confidential Information**.

The Parties will:

a. limit disclosure of any Confidential Information to its directors, officers, employees, agents or representatives (collectively "Representatives") who have a need to know such Confidential Information in connection with the Transaction, and only for that purpose;
b. keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and
c. not disclose any Confidential Information received to any third parties (except as otherwise provided for herein).

The Recipient shall provide the Discloser with original signed copies of all of the Acknowledgements required under the preceding paragraph. The Parties shall be responsible for any breach of this Agreement by any of their respective Representatives.

3. **Use of Confidential Information**. The Parties agree to use the Confidential Information solely in connection with the Transaction and not for any purpose other than as authorized by this Agreement without the prior written consent of an authorized representative of the Parties. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Parties hereunder. Title to the Confidential Information will remain solely with the Party. All use of Confidential Information by the Parties shall be for the benefit of the Parties and any modifications and improvements thereof by the

Recipient shall be the sole property of Discloser. Notwithstanding the foregoing, Confidential Information shall include any proprietary records created in the course of the Recipient's course of engagement such as customized code, configuration, flowcharts or project data that was specifically designed to meet the needs of the Discloser.

The Parties agree to ensure that all copyright products, such as source codes, system design data/architecture, and other proprietary information, disclosed during the engagement is protected from any misuse, alteration, modification, sharing, or transfer to any party without express permission of the Discloser. Such data is provided for the sole use of the Parties, and limited for the use under this agreement.

4. **Obligations of Receiving Party.**

a. **No Use.** The Receiving Party agrees not to use the Confidential Information in any way, or to manufacture or test any product embodying Confidential Information, except for the purpose set forth above.

b. **No Disclosure**. The Receiving Party agrees to use the same degree of protection it uses for its own trade secret information, and in no event less than reasonable efforts, to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than the Receiving Party's employees having a need for disclosure in connection with the Receiving Party's authorized use of the Confidential Information.

c. **Protection of Secrecy**. The Receiving Party agrees to take all steps reasonably within its control to protect the secrecy of the Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons.

d. **No Duplication**. The Receiving Party shall not duplicate Confidential Information furnished in tangible form except for purposes of this Agreement.

e. **Return of Information**. on a Party's request, the other Party shall return all Confidential Information of the requesting Party, except for that portion of such Confidential Information that may be found in analyses prepared by, or for, the returning Party (collectively, "Analyses"), and the returning Party and its Representatives shall not retain any copies of such Confidential Information except the returning Party may retain one copy of the Confidential Information as needed to comply with applicable law and/or returning Party's record retention policies. The Confidential Information retained by the returning Party, the portion of Confidential Information that may be found in Analyses prepared by, or for, the returning Party, and any Confidential Information furnished by the requesting Party not so requested or returned, will be held by the returning Party and kept subject to the terms of this Agreement or destroyed.

5. **Limits on Confidential Information.** The obligations and restrictions imposed by this Agreement will not apply to any information that:

a. The **Recipient** can demonstrate was already known to the **Recipient** prior to the disclosure by the Discloser; or,

b. has become publicly known through no wrongful act of the **Recipient**; or,

c. was received by the **Recipient** without breach of this Agreement from a third party without restriction as to the use and disclosure of the Discloser's Confidential Information; or,

d. was independently developed by the **Recipient** without use of the Discloser's Confidential Information; or

e. was ordered to be publicly released by the requirement of a government agency. In this regard, the Parties understand that the Discloser is subject to Florida's Public Records Act, Chapter 119, Florida Statutes, and that section 1004.22, Florida Statutes, provides limited protection of documents received by the Discloser.

6. **Compelled Disclosure of Confidential Information**.

a. The Recipient may disclose Confidential Information pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request or similar method, provided that the Recipient promptly notifies, to the extent practicable.

b. The Recipient agrees that it shall not oppose and shall cooperate with efforts by, to the extent practicable, with respect to any such request for a protective order or other relief to preserve the confidentiality of the Confidential Information.

c. Notwithstanding the foregoing, if the Discloser is unable to obtain or does not seek a protective order and the Recipient is legally requested or required to disclose such Confidential Information, disclosure of such Confidential Information may be made without liability.

7. **Term**.

a. This Agreement shall remain in effect for a two-year term (subject to a one year extension if the parties are still discussing and considering the Transaction at the end of the second year) or the term of the contract, whichever is greater.
b. Notwithstanding the foregoing, the parties' duty to hold in confidence Confidential Information that was disclosed during term shall remain in effect indefinitely.

8. **Remedies**.

a. The Parties acknowledge that the Confidential Information is of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information could cause irreparable harm to the Party and the general public.

b. Therefore, the Parties shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity.

c. The Discloser shall be entitled to recover its costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief.

The Recipient further acknowledges that the unauthorized disclosure of certain information pertaining to "Critical Assets" or "Critical Infrastructure" may constitute a violation of state and federal law.

9. **Return of JEA Confidential Information**.

The Recipient shall immediately return and redeliver to the other all tangible material embodying the JEA Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any JEA Confidential Information, in whatever form of storage or retrieval, upon the earlier of –

I. the completion or termination of the dealings between the parties contemplated hereunder; or
II. the termination of this Agreement; or
III. at such time as JEA may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its statutory document retention policies.

Alternatively, the Recipient, with the written consent of JEA may (or in the case of Notes, at the Recipient's option) immediately destroy any of the foregoing embodying JEA Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction). JEA reserves the right to require evidence supporting such an activity.

10. **Notice of Breach**. The Recipient shall notify the Discloser immediately upon discovery that any Confidential Information has been communicated or distributed to any unauthorized person or entity and will cooperate with efforts by the Discloser to help the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

11. **No Warranty**.

The Discloser shall have no liability to the Recipient or the Representatives resulting from any use of the Confidential Information. The Discloser shall have sole responsibility for providing the Confidential Information necessary for Recipient to perform its obligations under the parties' Agreements.

12. **Miscellaneous**.

a. This Agreement:
i. is the complete agreement of the parties concerning the subject matter hereof and supersedes any prior such agreements with respect to further disclosures on such subject matter;
ii. may not be amended or in any manner modified except in writing signed by the parties;
iii. shall be governed and construed in accordance with the laws of the State of Florida without regard to its conflict of law provisions; and
iv. shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and designees.

b. The Federal and state courts located in Duval County, Florida shall have sole and exclusive jurisdiction over any disputes arising under this Agreement. If any provision of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the parties as expressed herein. Any failure by the Discloser to enforce the strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

c. Any notices required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above. All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch and (c) in the case of mailing, on the seventh business day following such mailing.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

JEA	**Recipient**
By_____	By_____
Name:	Name:
Title:	Title:

Exhibit A to JEA Non-Disclosure Agreement

ACKNOWLEGEMENT OF DUTY NOT TO DISCLOSE JEA CONFIDENTIAL INFORMATION

I, _____, certify that I have been advised by the company named below (the "Company") of my obligation to protect all data or information I receive that is proprietary to JEA and not generally known to the public, including but not limited to:

- information concerning the location, design or operation of JEA's present or future utilities infrastructure;
- information that could be used to compromise or expose the vulnerability of JEA utility systems, processes or programs;
- any data, communications, energy and operations systems or structures;
- any JEA trade secret, scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method;
- any JEA computer software, source code, object code, flow charts or databases; and
- any other JEA Confidential Information that should reasonably be recognized as sensitive or confidential information of JEA.

I understand that I may not copy, email, sell or otherwise disclose any of this sensitive or confidential information of JEA or remove it from my work facility.

Except as stated below on this Acknowledgement, I am not aware of any circumstances whereby such confidential data has been improperly used or disclosed by me or the Company.

_____ _____

Signature of the individual identified above Date

_____

Name of Company Disclosing the JEA Confidential Information
to the individual identified above.

The above signature was witnessed in person by:

_____ _____

Signature of Witness Date