SOLICITATION

FOR PARTICIPATION IN AN INVITATION TO NEGOTIATE FOR THE SUPPLY OF

RADIO CONTROLLED SWITCH FOR JEA INVENTORY STOCK

SOLICITATION NUMBER 049-20

OPTIONAL PRE-RESPONSE MEETING TELE-CONFERENCE
PRE-RESPONSE DATE: 3/31/2020
PRE-RESPONSE TIME: 2:00 PM

Teleconference Line: 1.866.907.1051
Teleconference Code: 763550

RESPONSES DUE NO LATER THAN 12:00 P.M. EST OF April 14, 2020
Direct delivery or mail to Tower 1 Conference Room, 21 West Church Street, Jacksonville, FL 32202

JEA will publicly open all Responses received from qualified Respondents on April 14, 2020 at 2:00 P.M. EST in Tower 1 Conference Room, 21 West Church Street, Jacksonville, FL 32202

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INVITATION TO NEGOTIATE

1.1. SCOPE AND INVITATION

1.1.1. SCOPE OF WORK

The primary purpose of this Invitation to Negotiate (ITN) is to evaluate and select a vendor that can provide Radio Controlled Switch's for JEA Inventory Stock at the best value to JEA (the "Work" or "Services"). "Best Value" means the lowest cost to JEA with regards to pricing. The majority of these units will be purchased for use on the Distribution Automation (DA) and Smart Grid Deployment project aimed at reducing the JEA SAIDI numbers and improving overall customer service.

For JEA's Fiscal Year (FY) 21 requirements, which runs from October 1, 2020 until September 30, 2021, the following shipping schedule must be adhered to by the winning Respondent.

- FY21 Q1 (Oct 1st 2020 to Dec 31st 2020) = 15 units
- FY21 Q2 (Jan 1st 2021 to March 31st 2021) = 25 units
- FY21 Q3 (Apr 1st 2021 to Jun 30th 2021) = 25 units
- Fy21 Q4 (Jul 1st 2021 to Sep 30th 2021) = 15 units

If the Respondent fails to complete delivery on or before the 1st day of each FY21 business quarter, the Company shall pay JEA the sum of $50.00 per unit per day for each and every calendar day, including Sundays and Holidays, starting on this day until the date all units are delivered and Accepted by JEA. The Respondent shall also not ship any units prior to thirty (30) days before the start of the 1st day of each FY21 business quarter.

JEA intends to Award a contract that runs for three (3) years. All technical requirements and service requirements are provided in Appendix A – Technical Specifications, attached hereto.

The awarded Vendor(s) will be required to comply with the reporting requirements stated herein. The reports are expected to be provided in an Excel format and emailed to the JEA Representative. The reports will be utilized to determine compliance with delivery and lead times. Failure to comply with the delivery and lead times could result in JEA terminating the Contract for default.

The required reports are as follows:

All Orders Status – This report must be provided weekly and include the Purchase Order (PO) and Blanket Release number, item ID, order quantity, date order received, expected delivery date, actual delivery date, quoted lead time in awarded proposal, compliance to the quoted lead time in a +- days deviated to lead time format, name of JEA employee who signed for delivery, and any additional comments regarding the orders.

Non-contract Purchase History – This report must be provided quarterly and will provide detailed information such as price, item description, manufacturer, manufacturer part number, and quantities at a minimum for all non-contracted items that are sold to JEA during the term of the agreement.

1.1.2. 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.

Questions:

Buyer: **Colin Roddy**
E-mail: roddcp@jea.com

1.1.3. OPENING OF RESPONSES

All Responses shall be publicly opened and recorded on April 14, 2020, AT 2:00PM Eastern, in Tower 1 Conference Room, 21 West Church Street, 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 Responses.

1.1.4. INVITATION TO NEGOTIATE (ITN)

You are invited to submit a Response to the ITN noted below:

JEA ITN Title: Radio Controlled Switch for JEA Inventory Stock

JEA ITN Number: 049-20

To obtain more information about this ITN:

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

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

Response Due Date: April 14th, 2020

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

Tower 1 Conference Room, 21 West Church Street, Jacksonville, FL 32202

The Respondent shall be solely responsible for delivery of its Response to JEA. **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 hand delivery directly to JEA. Reliance upon the USPS, the courier service employed by JEA, or public/private carriers is at the Respondent's risk.

Responses are due by the time and on the date listed above. Late responses may be returned unopened.

1.1.5. OPTIONAL PRE-RESPONSE MEETING

There will be an optional Pre-Response meeting. All interested Responders may dial into the Pre-Response meeting if desired. Each Respondent that dials into the meeting will be required to identify themselves at the beginning of the meeting. A Respondent shall only identify themselves representing one company, unless otherwise specified by JEA.
Respondent attending are strongly encouraged be on time to the Pre-Response meeting.

Pre-Response Meeting Time: 11:00 AM
Pre-Response Meeting Date: 03/31/2020
Pre-Response Location: Tele-Conference
Teleconference: 1.866.907.1051
Teleconference Code: 763550

1.2. SPECIAL INSTRUCTIONS

1.2.1. MINIMUM QUALIFICATIONS FOR SUBMISSION OF A RESPONSE

Respondent shall have the following Minimum Qualifications to be considered eligible to submit a Response to this ITN. A Respondent not meeting all of the following criteria stated below will have their Responses rejected:

- The Respondent must be the approved manufacturer or authorized distributor of the items listed in the Appendix B – Response Workbook.

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 BID

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

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

1.2.3. EVALUATION METHODOLOGY

1.2.3.1. EVALUATION AND NEGOTIATION PROCESS (ITN)

JEA intends to select 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 Work 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 Total Bid Price 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, handouts, 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 that may be required.

As a part of the negotiation process, JEA may contact the references provided by the Respondent for 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. 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 and the Selection Criteria described below in this ITN. 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 Responses to determine which Respondents are selected for the Short-list and to participate in the negotiation phase of the ITN process.

1.2.5. QUOTATION OF RATES (100 POINTS)

Respondent shall provide pricing for the Term of the Contract by completing the enclosed Appendix B - Response Workbook.

Respondents will be ranked based on their total proposed bid price for the contract period. **Please note, all pricing shall include shipping cost**.

Respondents are required to return their completed Response Workbook in a Microsoft Excel format.
Note: The overall bid price submitted in the Response Workbook cannot be increased during the ITN process.

The prices shall include all profit, taxes, benefits, travel, consumables, shipping, and all other overhead items.

1.3. NUMBER OF CONTRACTS TO BE AWARDED

JEA intends to Award ONE (1) or more Contracts for the Work. JEA reserves the right to Award multiple Contracts 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.

1.3.1. REQUIRED FORMS TO SUBMIT WITH RESPONSE

The forms listed below must be completed and submitted to JEA at the times indicated below The Respondent can obtain the forms, other than the Response Form, the Response Workbook, by downloading them from JEA.com.

1. The following forms are required to be submitted at the Response Due Date and Time:
    - Response Form (including acknowledgements of all addenda) - This form can be found in Appendix B
    - Response Workbook - This form can be found in Appendix B. Any item that is bid must include what manufacturer and manufacturer part number that will be supplied to JEA.

If the above listed forms are not submitted with the Response by the Response Due Time on the Response Due Date, JEA <u>may</u> reject the Response.

2. The following documents are 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 may result in Response rejection.

- Conflict of Interest Certificate Form
- Insurance Certificate
- W-9
- Evidence of active registration with the State of Florida Division of Corporations (www.sunbiz.org)
- Supplier provided technical documents of the awarded items if required.

1.3.2. TIE

In the event of a tie score, the tie shall be resolved in accordance with JEA's Procurement Code and Operational Procedures.

1.3.3. LIQUIDATED DAMAGES

The Contract issued pursuant to this Solicitation contains liquidated damages tied to delivery deadlines. The Respondent should review the specific time frames and liquidated damage amounts prior to submitting its Bid.

1.4 GENERAL INSTRUCTIONS

1.4.1 SUBMITTING THE RESPONSE

The Respondent shall submit one (1) original hard copy of the Response, one (1) duplicate hard copy of the Response, and one (1) electronic copy of the Response submitted on a thumb drive. The Response Workbook must be saved in an Excel format. The address to send the hard copies of the Response is Tower 1 Conference Room, 21 West Church Street, Jacksonville, FL 32202.

JEA will not accept initial Responses via email.

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 hand delivery directly to the JEA Bid Office. Reliance upon the USPS, the courier service employed by JEA, or public/private carriers is at the Respondent's risk.

JEA will no longer accept submission of proposal documents in the form of hard copy, by email, or other means over the internet.

1.4.2. ALTERNATE PROVISIONS AND CONDITIONS

Responses that contain provisions that are contrary to requirements found on this ITN, including, but not limited to, the Contract terms and conditions contained in Section 2 of this ITN, and any requirements found in the Response Workbook and Form attached as Appendix B to this ITN, will be reviewed but may not be accepted by JEA. However, as this is an ITN, JEA reserves the right to negotiate the best terms and conditions if determined to be in the best interests of JEA, and negotiate different terms and related price adjustments if JEA determines that it provides the best value to JEA.

1.4.3. 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 ITN. The Respondent shall be responsible for ensuring it has received all Addenda prior to submitting its Response 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. The Respondent must obtain Addenda from the JEA website. All Addenda will become part of the ITN and any resulting Contract Documents. It is the responsibility of each Respondent to ensure it has received and incorporated all Addenda into its Response. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Response.

1.4.4. 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 bid security or bond (if applicable), and Award to the next-ranked company.

Upon JEA's receipt of the executed Contract, certificate of insurance, and recorded Payment and Performance bonds (if applicable), JEA will issue a Blanket Purchase Agreement, in writing and signed by an authorized JEA representative as acceptance of the Response and authorization for the company to proceed with the Work, unless otherwise stated in the Contract or Blanket Purchase Agreement.

1.4.5. DEFINED TERMS

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

1.4.6. EX PARTE COMMUNICATION

Ex Parte Communication is strictly prohibited. Ex Parte Communication is defined as any inappropriate communication concerning an ITN between a firm submitting a Response and a JEA representative during the time in which the ITN is being advertised through the time of Award. Examples of inappropriate communications include: private communications concerning the details of an ITN 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 ITN process.

Failure to adhere to this policy will disqualify the noncompliant company's Response. Any questions or clarifications concerning an ITN 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 jea.com.

1.4.7. SUNSHINE LAW

General

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

Redacted Submissions

If a Respondent believe that any portion of the documents, data or records submitted in response to this ITN 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 ITN and Respondent's name, and shall be clearly labeled "Redacted Copy." Respondent should only redact those portions of records that Respondent claims are specifically exempt from the Florida 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 ITN, Respondent agrees to protect, defend, and indemnify JEA from and against all claims, demands, actions, suits, damages, losses, settlements, costs and expenses (including but not limited to reasonable attorney fees and costs) arising from it relating to Respondent's determination that the redacted portions of its response to this Solicitation are not subject to disclosure.

IF THE CONTRACTOR 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:

Public Records Request Coordinator
21 West Church Street, T-8
Jacksonville, FL 32202
Ph.: 904-665-8606
publicrecords@jea.com

1.4.8. JEA PUBLICATIONS

Applicable JEA publications are available at jea.com.

1.4.9. PROHIBITION AGAINST CONTINGENT FEES

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

individual or Respondent, other than a bona fide employee working solely for the Respondent, or an independent sale representative under contract with the Respondent, 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.

1.4.10. RESERVATIONS OF RIGHTS TO JEA

This ITN provides companies with information to enable them to submit a written offer to perform the Work described herein. The ITN 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 that fail to include a Bid 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 bidding additional work.

JEA reserves the right to cancel, postpone, modify, reissue and amend this ITN 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 ITNs were issued. JEA may award multiple or split Contracts if it is deemed to be in JEA's best interest.

1.4.11. 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.

1.4.12. AVAILABILITY OF RESPONSES AFTER RESPONSE OPENING

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

1.4.13. PROTEST OF AWARD PROCESS

Respondents shall file any protests regarding this ITN in writing, in accordance with the JEA Procurement Code, as amended from time to time. The JEA Procurement Code is available online at jea.com.

1.4.14. 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 ITN 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 ITN and shall be prepared to show proof of insurance

B. That every aspect of its submitted Response, including the Quotation of Rates 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 Form 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 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.

After Award of the Contract, JEA will make payments upon the actual quantities of Work provided and JEA shall not be obligated, in any way, to pay any amounts for quantities other than those actually provided and authorized under this Contract, regardless of amount stated in the ITN. In the event that quantities or scope of work change after Award, the changes to price and/or scope shall be made in accordance with the terms and conditions stated in the Contract Document.

Any item not shown on this ITN, but shown in the drawings or Technical Specifications section, that is required to perform the Work, or that is required as part of a complete and operable system, shall be included in the Respondent's quotation of rates.

1.4.15. ETHICS

By signing the Response, the Respondent certifies its 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 ITN. If JEA has reasonable cause to believe the Respondent has submitted more than one (1) 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 ITN by completing and submitting the Conflict of Interest Certificate Form available at jea.com. Failure to fully complete and submit the Conflict of Interest Certificate will disqualify the Response. 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 Procurement Code.

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

2. CONTRACT TERMS AND CONDITIONS

2.1 CONTRACT DOCUMENT AND TERMS AND CONDITIONS

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

2.2 DEFINITIONS

2.2.1 DEFINITIONS

Words and terms defined in this section shall have the same meaning throughout all parts of the 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" part found in Appendix B – Response Workbook and Form may define additional words and terms where necessary to clarify the Work. Unless otherwise stated in the Contract Documents, definitions set forth in the "Technical Specifications" shall apply only within the "Technical Specifications."

2.2.2 ACCEPTANCE

The written notice by the JEA Representative to the Company that all Work as specified in a specific order or Blanket Release has been completed to JEA's satisfaction. Approval or recognition of the Company meeting a Milestone or interim step of an order or release does not constitute Acceptance of that portion of Work. Acceptance is only applicable to the entirety of Work as specified in the order or Blanket Release. Acceptance does not in any way limit JEA's rights under the Contract or applicable laws, rules and regulations.

2.2.3 ADDENDUM/ADDENDA

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

2.2.4 AWARD

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

2.2.5 BLANKET PURCHASE AGREEMENT

A Blanket Purchase Agreement (the “BPA”) is a Purchase Order issued by JEA to a Company which contains multiple delivery dates over a period of time. It is normally used when there is a recurring need for expendable goods. Once an order (herein referred to as a "Blanket Release") against a BPA is issued by JEA and accepted by the

Company, an enforceable contract is created. The term Purchase Order shall be synonymous with Blanket Purchase Agreement.

2.2.6 BLANKET RELEASE
A JEA order against an existing Blanket Purchase Agreement.

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

2.2.8 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.

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

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

2.2.11 CONTRACT
An agreement between JEA and a Company, signed by both parties. The Contract shall not be altered without an executed Contract Amendment or JEA issued Change Order.

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

2.2.13 CONTRACT DOCUMENTS
Contract Documents, also referred to as the "Contract" or "Agreement" means the executed Contract Document and any written Change Orders, amendments, Blanket Purchase Agreements, or Purchase Orders executed by JEA, and insurance and/or bonds as required by the Contract.

2.2.14 CONTRACT PRICE
The total amount payable to the Company under this Contract.

2.2.15 DELIVERY REQUIREMENTS
Work that fails to meet any of the following Delivery Requirements when an order is placed by JEA will be considered to be in Default of the Contract. The following section will not apply to the units associated with the delivery of the SAIDI project that have liquidated damages associated with them. However for purchases for unplanned requirements, this section will apply.

For each contracted item that is ordered, JEA will calculate an "On Time Percentage" figure. This calculation will take the total number of items that are still in the quoted lead-time range and divide that figure by the total quantity of items that are on order and still within the quoted lead-time range as well as those items that are currently late.

If the "On Time Percentage Figure" remains below 80% for more than thirty consecutive (30) days, the Respondent will be declared to be in default and the terms and conditions provided in Section 2.8.3 will be followed. If the "On Time Percentage Figure" falls below 80% a combined total of three (3) times during the term of the Contract, the Contract will be terminated immediately for default.

An example is provided below to show how the "On Time Percentage" figure will be calculated with data as of 3/11/2020 for a sampling of three (3) total agreements.

PO Number	PO Release Number	Item Number	PO Quantity	PO Quantity Received	PO Release Date	Contracted Lead Time	Estimated Delivery based on Oracle Lead Time	Current Date	Currently Late
180538	4	CAIUF001	40000	0	1/31/2020	70.0	4/10/2020	3/11/2020	Acceptable
180538	5	CAIUF001	40000	0	2/19/2020	70.0	4/29/2020	3/11/2020	Acceptable
182559	49	TAPMU001	5	0	1/27/2020	58.0	3/25/2020	3/11/2020	Acceptable
182559	54	ARRST042	3	0	2/26/2020	72.0	5/8/2020	3/11/2020	Acceptable
182559	52	CDUCL028	30	0	2/14/2020	5.0	2/19/2020	3/11/2020	Late
182559	56	CNNWC220	300	0	3/2/2020	3.0	3/5/2020	3/11/2020	Late
182559	57	CNNTLR66	500	0	3/3/2020	7.0	3/10/2020	3/11/2020	Late
182643	16	FIBBX001	5	0	2/11/2020	62.0	4/13/2020	3/11/2020	Acceptable
182643	17	ANCAE005	8	0	2/13/2020	49.0	4/2/2020	3/11/2020	Acceptable
182643	13	FIBBX001	5	0	12/27/2019	62.0	2/27/2020	3/11/2020	Late
182643	18	CNNPA604	7	0	2/14/2020	0.0	2/14/2020	3/11/2020	Late

- For Contract Agreement 180538, the "On Time Percentage Figure" would be 100% as two (2) out of two (2) orders are on time.
- For Contract Agreement 182559, the "On Time Percentage Figure" would be 40% as only two (2) of the total five (5) orders are on time.
- For Contract Agreement 182643, the "On Time Percentage Figure" would be 50% as only two (2) of the total four (4) orders are on time.

2.2.16 DELIVERY
The time at which JEA receives the Work at the designated facility.

2.2.17 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. If any of these Holidays fall on a weekend, JEA may observe a Holiday on the nearest weekday.

2.2.18 INVITATION TO NEGOTIATE
An Invitation to Negotiate is a written or electronically posted solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The term "Solicitation" shall be synonymous with the term Intent to Negotiate.

2.2.19 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 name and address, a description of the product(s) or service(s) rendered, a valid JEA Blanket Release or PO number, the amount payable, the payee name and address, any associated JSEB forms and any other supporting documentation required by the Contract Documents.

2.2.20 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.

2.2.21 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.

2.2.22 RESPONSE
The document describing a Respondent's qualifications to verify it complies with the requirements of this ITN.

2.2.23 RESPONDENT
A company that submits a Response to this ITN.

2.2.24 PURCHASE ORDER (PO)
A Work authorization document issued by the JEA Procurement Department with the words "Purchase Order" clearly marked across the top, a PO number used for reference shown on the front of the document, a description of the Work or a listing of the applicable Contract Documents, an authorized JEA signature and states the dollar amount of the lawfully appropriated funds. The Purchase Order is the only document that authorizes changes to the total dollar amount of the Contract. The term Blanket Purchase agreement shall be synonymous with Purchase Order.

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

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

2.2.27 SOLICITATION
Refer to the definition of Intent to Negotiate.

2.2.28 SUBCONTRACTOR
A provider of services performing Work under contract with the Company.

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

2.2.30 UNIT PRICES
The Respondents charges, rounded to the nearest cent, to JEA for the performance of each respective unit of Work or Services as defined on this ITN.

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

2.3 CONTRACT DOCUMENTS

2.3.1 ORDER OF PRECEDENCE

The Contract shall consist of JEA's Contract and/or Blanket Purchase Agreement or Purchase Order together with this ITN including, but not limited to, the executed Reponses Form(s), 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:

- Executed Change Orders / Amendments
- Executed Contract Document
- Exhibits to the Contract Document
- Purchase Order/Blanket Purchase Agreement
- Addenda to JEA ITN
- Drawings associated with JEA ITN
- Exhibits and Attachments to JEA ITN
- JEA ITN
- Responses
- 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.

2.4 PRICE AND PAYMENTS

2.4.1 PAYMENTS

2.4.1.1 PAYMENT METHOD - UPON DELIVERY AND INVOICE

Company shall invoice JEA upon Delivery of the Materials. Invoices may be submitted for each delivery, or on a monthly basis for deliveries that occurred during the month.

2.4.2 COST SAVINGS PLAN

During the term of this Contract, JEA and Company are highly encouraged to identify ways to reduce the total cost to JEA related to the Work provided by the Company. 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.

2.4.3 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 selecting the discount option on the Response Form:

- 1% 20, net 30
- 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.

2.4.4 OFFSETS

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

2.4.5 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.

2.4.6 PRICE ADJUSTMENT

Contract prices (also referred to as "Unit Prices") for the Work will remain firm fixed for twelve (12) months from the Effective Date of this Contract. For the purposes of this clause, this date shall be referred to as the "Anniversary Date" and the term "Anniversary Date" shall also apply to the end date of any renewals.

Thirty (30) days prior to the Anniversary Date, the Company or JEA may request an increase or decrease of the Unit Prices by a percentage equal to the then applicable annual percentage change in the Consumer Price Index (CPI) and by a percentage equal to the then applicable annual percentage change in the Producer Price Index (PPI). Fifty (50) percent of the price will be adjusted based on the CPI and the other Fifty (50) percent will be adjusted using the PPI.

If Company fails to request a price adjustment within thirty (30) days in advance of the Anniversary Date, the Company will be denied the increase or decrease, and the Company will have to request the adjustment again the following year in accordance with this clause.

When a timely adjustment request is received, JEA will adjust the Unit Prices based on the applicable annual percentage change in the CPI and PPI. Each annual price adjustment will be recognized thirty (30) days after the Anniversary Date. No retroactive price adjustments will be allowed.

All requested price adjustments for the Contract shall be in accordance with the Consumer Price Index (CPI) for all urban consumers for all US City Average published monthly by the U.S. Department of Labor, Bureau of Labor Statistics and the Producer Price Index (PPI) for Metals and metal products. The indexes used will be the unadjusted percent change for the previous twelve (12) months beginning with the last published index month closest to the Anniversary Date, which shall be referenced as Latest BLS Index, compared to the monthly value reported twelve (12) months previously, which shall be referenced as the Base BLS, using the published index for both the CPI and PPI categories.

JEA requests the Company to supply JEA with updated Unit Prices for its review and approval based upon the price adjustment methodology described herein.

In the event the applicable price indexes publication cease, the Company and JEA shall mutually agree on replacement indexes. If the Company and JEA fail to agree on replacement indexes, the Contract may be mutually terminated if in the best interest of JEA.

Price Increase/Decrease Formulas =
((Latest 12 month BLS Index Average – Base 12 month BLS Index Average)/ Base 12 month BLS Index Average)) X 100 = Percent Change (%) (Truncated at the nearest hundredth of a percent)

Example:
Contract Effective date of 3/22/2015; Contract Expiration Date 3/21/2018 (the "Anniversary Date")
Term: Three year (3) initial Term, with two (2) additional one (1) year renewal options.

Company would submit their price adjustment request to JEA by 2/21/2016.

Applying above formulas to this example:
CPI

Latest 12 month BLS Index Average (March 2015-February 2016) = (236.119 + 236.599 + 237.805 + 238.638 + 238.654 + 238.316 + 237.945 + 237.838 + 237.336 + 236.525 + 236.265 + 237.769 + 236.916 + 237.111) / 12 = 237.417 (Truncated at the thousandth)

Base 12 month BLS Index Average (March 2014-February 2015) = (236.293 + 237.072 + 237.900 + 238.343 + 238.250 + 237.852 + 238.031 + 237.433 + 236.151 + 234.812 + 236.384 + 237.088 + 233.707 + 234.722) / 12 = 236.717 (Truncated at the thousandth)

Percent Change = ((237.417 – 236.717) / 236.717)) x 100 = 0.296% (Truncated at the thousandth)

PPI
Latest 12 month BLS Index Average (March 2015-February 2016) = (205.4 + 204.2 + 204.0 + 203.3 + 200.6 + 197.6 + 196.4 + 193.9 + 190.7 + 188.8 + 181.1 + 188.5) / 12 = 196.792 (Truncated at the thousandth)

Base 12 month BLS Index Average (March 2014-February 2015) = (214.2 + 215.0 + 215.3 + 215.0 + 216.3 + 216.7 + 216.7 + 214.8 + 213.3 + 212.7 + 211.3 + 206.9) / 12 = 214.017 (Truncated at the thousandth)

Percent Change = ((196.792 – 214.017) / 214.017)) x 100 = -8.048% (Truncated at the thousandth)

Original Unit price: $15.50
CPI Price: $15.15 * 50% = $7.75
PPI Price: $15.15 * 50% = $7.75
New CPI Unit Price Adjustment: $7.75 * .296% = $0.02 (Truncated to nearest cent)
New CPI Unit Price: $7.75 + $0.02 = $7.77
New PPI Unit Price Adjustment: $7.75 * -8.048% = $-0.62 (Truncated to nearest cent)
New PPI Unit Price: $7.75 + $-0.62 = $7.13
New Unit Price: $7.77 + $7.13 = $14.90

CPI-All Urban Consumers (Current Series)

Series Id: CUUR0000SA0
Not Seasonally Adjusted
Series Title: All items in U.S. city average, all urban consumers, not seasonally adjusted
Area: U.S. city average
Item: All items
Base Period: 1982-84=100

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Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049	232.366	233.548
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812	236.384	237.088
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525	236.265	237.769
2016	236.916	237.111	238.132	239.261	240.229	241.018	240.628	240.849	241.428	241.729	241.353	241.432	238.778	241.237
2017	242.839	243.603	243.801	244.524	244.733	244.955	244.786	245.519	246.819	246.663	246.669	246.524	244.076	246.163

Series Id: CUUR0000SA0
Not Seasonally Adjusted
Series Title: All items in U.S. city average, all urban consumers, not seasonally adjusted
Area: U.S. city average
Item: All items
Base Period: 1982-84=100

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Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2018	247.867	248.991												

Series Id: WPU10
Not Seasonally Adjusted
Series Title: PPI Commodity data for Metals and metal products, not seasonally adjusted
Group: Metals and metal products
Item: Metals and metal products
Base Date: 198200

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2014	215.4	215.0	214.2	215.0	215.3	215.0	216.3	216.7	216.7	214.8	213.3	212.7
2015	211.3	206.9	205.4	204.2	204.0	203.3	200.6	197.6	196.4	193.9	190.7	188.8
2016	188.1	188.5	190.3	192.8	195.4	195.4	196.7	197.8	196.3	194.9	196.5	199.5
2017	202.2	204.4	206.2	206.6	207.0	207.3	207.8	208.9	211.2	210.4	210.3	211.0(P)
2018	214.7(P)	216.1(P)	218.7(P)									

P : Preliminary. All indexes are subject to revision four months after original publication.

3.4.7. LIQUIDATED DAMAGES

For JEA's Fiscal Year (FY) 21 requirements, which runs from October 1, 2020 until September 30, 2021, the following shipping schedule must be adhered to by the winning Respondent.

- FY21 Q1 (Oct 1st 2020 to Dec 31st 2020) = 15 units
- FY21 Q2 (Jan 1st 2021 to March 31st 2021) = 25 units
- FY21 Q3 (Apr 1st 2021 to Jun 30th 2021) = 25 units
- FY21 Q4 (Jul 1st 2021 to Sep 30th 2021) = 15 units

If the Respondent fails to complete delivery on or before the 1st day of each FY21 business quarter, the Company shall pay JEA the sum of $50.00 per unit per day for each and every calendar day, including Sundays and Holidays, starting on this day until the date all units are delivered and Accepted by JEA. The Respondent shall also not ship any units prior to thirty (30) days before the start of the 1st day of each FY21 business quarter.

Liquidated Damages are capped at a maximum of ten percent (10%) of the Contract Price.

The Company understands and agrees that said daily sum is to be paid not as a penalty, but as compensation to JEA as a fixed and reasonable liquidated damages for losses that JEA will suffer because of such default, whether through increased administrative and engineering costs, interference with JEA's normal operations, other tangible and

intangible costs, or otherwise, which costs will be impossible or impractical to measure or ascertain with any reasonable specificity.

Liquidated damages may, at JEA's sole discretion be deducted from any monies held by JEA that are otherwise payable to Company.

The Company's responsibility for liquidated damages shall in no way relieve the Company of any other obligations under the Contract

2.5 WARRANTIES AND REPRESENTATIONS

2.5.1 PRODUCTION CAPACITY

During the Term of this Contract, the Company shall ensure that it maintains adequate production capacity and inventory to satisfy JEA's requirements. Additionally, 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.

2.5.2 QUALITY CONTROL (GOODS)

All products provided to JEA hereunder shall be manufactured and supplied in accordance with the Company's formulations, raw materials, manufacturing processes, and quality control standards that are in effect at the date of this Contract. Company shall provide JEA with sixty (60) days prior written notice in the event of any change in said formulations, raw materials, manufacturing processes, or quality control standards. In the event JEA in its sole judgment deems any change to be material JEA at may: (a.) cause Company to requalify the product; or (b.) terminate this Contract.

2.5.3 WARRANTY (GOODS)

The Company warrants that the goods furnished by the Company shall be free from defects in material and fabrication for a period of not less than one (1) year from the date of Delivery at the designated JEA site or the passed along Original Manufacturer’s Warranty, whichever is longer.

THE FOREGOING EXPRESSED WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES. COMPANY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. JEA'S REMEDY FOR BREACH OF ANY WARRANTY MADE BY COMPANY IN CONNECTION WITH THE PURCHASE OF ANY GOODS HEREUNDER shall be the right to require Company at its sole expense to repair, or at JEA's option, to replace any defective goods.

JEA'S REMEDY FOR THE BREACH OF ANY WARRANTY MADE BY COMPANY IN CONNECTION WITH THE PURCHASE OF ANY SERVICES HEREUNDER shall be to require the Company to correct such Defect at Company's sole expense.

In the event that JEA determines the repair or replacement of the defective goods or the correction of the defective services is an ineffective remedy, JEA's remedy is the right to recover the amount paid to Company for the defective goods or services. JEA must return the defective goods to Company, if so requested by Company. Written notice specifying the particular defect in the goods or services must be given promptly by JEA to the Company.

If the Work includes items covered under a manufacturer's or subcontractor's warranty that exceeds 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.

2.6 INSURANCE, INDEMNITY AND RISK OF LOSS

2.6.1 INSURANCE

Before starting and until the expiration or termination of the Contract 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, 6th Floor, 21 West Church Street, Jacksonville, FL 32202-3139.

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

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 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 Delivery to JEA's designated facility. 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 Delivery to JEA's designated facility.

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 DELAYS

2.7.1 DELAY IN DELIVERY

JEA may delay delivery of goods in the event of any unforeseen event. The Company shall hold the goods pending JEA's direction, and JEA will be liable only for direct increased costs incurred by the Company by reason of JEA's instructions.

2.8 TERM AND TERMINATION

2.8.1 TERM

2.8.1.1 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 three (3) years, or until the Contract's Maximum Indebtedness is reached, whichever occurs first.

2.8.2 TERMINATION FOR CONVENIENCE

JEA shall have the absolute right to terminate in whole or part the Contract, with or without cause, at any time after Award 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 those for which it becomes 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.

2.8.3 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 fails to comply with the Delivery Requirements, Storm Stock Requirements (if applicable), and Vendor on Hand Stocking Requirements (if applicable) specified in 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;
- Any material change in the financial or business condition of the Company.

If within thirty (30) 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 the Company is declared to be in default, JEA will charge the expense 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 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.

In addition, upon the occurrence of any of the above instances of default, the Company shall pay to JEA, in addition to any other amounts otherwise owed to JEA, the cost of obtaining, at current market rates, a third-party replacement of any warranty to be provided by the Company under the Contract. JEA shall be entitled to obtain one or more estimates from reputable warranty issuers suitable, in JEA's discretion, for JEA's particular purpose. JEA shall be entitled to retain the amount of such purchase price from any monies owed to the Company and JEA shall have no obligation to actually purchase such replacement warranty. Such payment shall be deemed a refund of amounts paid for services not rendered and shall not be deemed a penalty.

The Contract Documents shall in no way limit JEA's right to all remedies for nonperformance provided under law or in equity, except as specifically set forth herein. In the event of termination for nonperformance, the Company shall immediately surrender all Work records to JEA. In such a case, JEA may set off any money owed to the Company against any liabilities resulting from the Company's nonperformance.

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

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

3.12.4. SELF HELP

Within three (3) business days after being notified by JEA in writing of defective work, unacceptable work or failure to perform any portion of the services required by this Agreement, if the Company fails to correct such work or perform such services, JEA may cause the unacceptable or defective work to be corrected or perform the services. If JEA undertakes to correct the work or perform the services, JEA shall be entitled to set off against and deduct from any monies due, or which may become due to the Company, the reasonable cost incurred by JEA. If the corrective

work or services cannot reasonably be completed within such three (3) business day period, and the Company immediately begins corrective work or services, and JEA reasonably determines that the Construction Manager is diligently pursing completion of such corrective work or Services, JEA agrees to allow the Company to complete correction of the defective or unacceptable work or perform services within a reasonable period of time.

All costs and expenses incurred by JEA pursuant to this Paragraph shall be deducted by JEA from monies due, or which may become due, to the Company for performance of the Services and its obligations herein.

The provision of this Paragraph are cumulative to all other provisions of the Agreement and it is not intended that any deductions in payment taken pursuant to this Paragraph shall diminish or waive JEA's right to declare the Company in default in accordance with applicable provisions of the Agreement or to exercise any other right or remedy available to JEA.

2.9 CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTATION

2.9.1 PROPRIETARY INFORMATION

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

2.9.2 PUBLICITY AND ADVERTISING

The Company shall not take any photographs, make any announcements or release any information concerning the Contract or the Work to any member of the public, press or official body unless prior written consent is obtained from JEA. JEA is governed by the Florida Public Records Laws so all Contract Documents are available for public inspection. In addition, JEA is governed by Florida Sunshine Laws and as such, certain meetings are required to be open to the public.

2.10 LABOR

2.10.1 NONDISCRIMINATION

For the Term of the Contract, the Company represents that it has adopted and will maintain a policy of nondiscrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, handicap, disability, creed, color, political affiliation, gender, pregnancy condition, citizenship, marital status, genetic information, sexual orientation, gender identity, or any other protected characteristics established by law. The Company agrees that on written request, it will allow JEA reasonable access to the Company's records of employment, employment advertisement, application forms and other pertinent data and records for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Contract; provided however, the Company shall not be required to produce, for inspection, records covering periods of time more than one (1) year before the Effective Date or expiration date of this Contract.
Additionally, the Company shall comply with the following executive orders, acts, and all rules and regulations implementing said orders or acts, which are by this reference incorporated herein as if set out in their entirety:

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

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

2.10.2 LEGAL WORKFORCE

JEA shall consider the employment, by Company, of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of the Contract upon

thirty (30) days' prior written notice of such cancellation, notwithstanding any other provisions to the contrary in the Specifications and other Contract Documents.

2.10.3 PROHIBITED FUTURE EMPLOYMENT

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

2.10.4 HIRING OF OTHER PARTY'S EMPLOYEES

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

2.10.5 COMPANY'S RESPONSIBILITIES AND PERFORMANCE OF THE CONTRACT

2.10.6 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.

2.10.7 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.

2.10.8 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.

2.10.9 OVERSHIPMENTS

JEA will reject any items that are attempted to be delivered but that JEA did not order, including excess quantities. The Company shall pay the cost of handling, packaging and transporting such equipment for return.

2.10.10 RETURNED OR UNUSED MATERIALS

To the extent that items can be resold by the Company, the Company agrees to take back for full credit or monetary refund to JEA all excess items purchased pursuant to this Contract or items that may be added to this Contract in the future.

2.10.11 SAFETY AND PROTECTION PRECAUTIONS

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

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

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

2.10.12 SHIPPING - FOB DESTINATION

Items are purchased F.O.B. destination. The Company shall ensure the following:

- Pack and mark the shipment to comply with the Contract specifications; or in the absence of specifications in the Contract Documents, prepare the shipment in conformance with carrier requirements;
- Prepare and distribute commercial bills of lading;
- Deliver the shipment in good order and condition to the point of delivery specified in the Contract;
- Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by JEA Representative at the delivery point specified in the Contract;
- Be responsible for obtaining any permits required for transportation to the installation site;
- Furnish a delivery schedule and designate the mode of delivering carrier; and
- Pay and bear all charges to the specified point of delivery.

2.10.13 SHIPPING AND PACKING INSTRUCTIONS

Insofar as transportation conditions will allow, the Company shall ship items complete and ready for installation or storage as appropriate for the items being supplied.

As applicable, should the size of the items prevent shipment fully assembled, the Company will separate the items into components to allow safe and convenient transportation.

The Contract Administrator's receipt or taking Delivery of any items, in whole or in part, will not be deemed a waiver of any right, claim or remedy or Acceptance of JEA under the Contract or otherwise.

The Company shall pack, brace and load all items in such a manner as to prevent physical damage and damage from marine and climatic conditions. The Company shall identify any item that requires special precautions during shipping and storage by clearly marking necessary precautions on the outside of the shipping container and including specific instructions in a durable envelope attached to the container and suitably labeled.

The Company shall clearly and indelibly mark all packages, boxes, crates, bundles, and unpackaged components with the necessary shipping information. The Company shall apply the markings using a method suitable to the type of product and packaging involved. The Company's markings shall indicate: the destination address, the JEA Purchase Order (PO) number or JEA Blanket Purchase Agreement (BPA) number and the Company's name; the material code numbers and other identification as specified by the PO or BPA; the Company's shipment identification number, numbering of packages, boxes, crates, components, or assemblies of the shipment; and the mass and sizes of each major component or assembly (if the lifting points are critical, they shall be clearly marked and identified). Where JEA marks or serial numbers are included as tags on the items being shipped, the Company shall also print the JEA marks or serial numbers on the shipping documents. A copy of the packing slip shall be mailed to the delivery address prior to shipping the items.

The Company shall enclose a detailed packing slip, listing each separate item, in a waterproof envelope, which shall be firmly attached to each shipping container. When conformance to an ISO Quality Program Standard is required, each packing slip shall include the following certification: "The equipment listed herein has been inspected by the Company and is in conformance with the Contract requirements and approved for shipment." Such certification shall be endorsed with the signature and the title of an authorized representative of the Company's Quality Control. For instruments, the Company shall also enclose a list showing JEA's mark numbers.

The Company shall be responsible for identifying opportunities and implementing practices to reduce or eliminate packaging and shall properly dispose of all packaging.

The Company shall seal all openings in equipment such as vessels, valves and pumps. Where necessary, the Company shall provide skids, hauling eyes, jacking plates, and sling hooks for unloading and field assembly. The Company shall notify JEA prior to shipping where pallets are required; JEA will provide pallets to the Company for shipping purposes. The Company will be liable for any pallets lost or damaged by the Company.

2.10.14 DELIVERY TIMES AND LOCATION

Delivery Location: JEA Storeroom, 6674 Commonwealth Avenue, Jacksonville, FL 32254.
Delivery Times: Normal material receiving hours for Stores are 7:30 AM - 2:30 PM Monday through Thursday with the exception of JEA observed holidays. Vendor is to make freight carrier aware that delivery vehicles will not be allowed to park outside a JEA facility prior to the established delivery time.

Delivery Location: JEA Storeroom, 2325 Emerson Street, Jacksonville, FL 32207
Normal material receiving hours for Stores are 9:00 AM - 2:30 PM Monday through Thursday with the exception of JEA observed holidays. Vendor is to make freight carrier aware that delivery vehicles will not be allowed to park outside a JEA facility prior to the established delivery time.

For accurate delivery and payment, all invoices and packing slips MUST contain the Purchase Order (PO) number, Release number (if applicable), Line number, Item ID, and Shipment Location.

Shipments with an incomplete packing slip may be rejected.

2.10.15 JEA CHANGES TO ORDER

JEA shall have the right to make changes to the Work at any time and the Company agrees to accept such changes. In the event such changes result in decreased or additional costs, JEA shall make an equitable adjustment in the Contract Price provided the Company itemizes for JEA any additional costs.

2.10.16 SAFETY DATA SHEETS (SDS)

Pursuant to Florida Statues, Safety Data Sheets (SDS) must accompany shipments of any items containing toxic substances.

2.11 VENDOR PERFORMANCE EVALUATION

Use of Vendor Performance Evaluation Scorecards

JEA may evaluate the Company's performance using the evaluation criteria shown on the vendor scorecard available online at JEA.com.

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

Frequency of Evaluations

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

Unacceptable Performance

- If at any time, JEA determines, using the criteria described on the scorecard, that the performance of the Company is Unacceptable, the Contract Administrator and Chief Procurement Officer or his designated alternate will notify the Company of such in a letter. The Company shall have ten (10) days to respond to the Contract Administrator. Such response shall include, and preferably be delivered in-person by an officer of the Company, the specific actions that the Company will take to bring the Company's performance up to at least Acceptable Performance.
- Within thirty (30) days from date of the first Unacceptable Performance letter, the Contract Administrator and Chief Purchasing Officer or his designated alternate will notify the Company by letter as to whether its performance, as determined solely by JEA, is meeting expectations, or is continuing to be Unacceptable. If the Company's performance is described in the letter as meeting expectations, no further remedial action is required by the Company, as long as Company's performance continues to be Acceptable.
- If the Company's performance as described in the letter continues to be Unacceptable, or is inconsistently Acceptable, then the Company shall have fifteen (15) days from date of second letter to demonstrate solely through its performance of the Work, that it has achieved Acceptable Performance. At the end of the fifteen (15) day period, JEA will prepare a scorecard documenting the Company's performance from the start of Work, or date of most recent scorecard, whichever is latest, and giving due consideration to improvements the Company has made in its performance, or has failed to make. If the scorecard shows Company's performance is Acceptable, then no further remedial action is required by Company as long as Company's performance remains Acceptable. If the

scorecard shows the Company's performance is Unacceptable, JEA will take such actions as it deems appropriate including, but not limited to, terminating the Contract for breach, suspending the Company from bidding on any JEA related solicitations, and other remedies available in the JEA Purchasing Code and in law. Such action does not relieve the Company of its obligations under the Contract, nor does it preclude an earlier termination.

- In the event that the Contract Term or the remaining Term of the Contract does not allow for the completion of the deficient performance notification cycles described above for those in danger of receiving an Unacceptable Performance scorecard, JEA may choose to accelerate these cycles at its sole discretion.
- If the Company receives five (5) or more letters of deficiency within any twelve (12) month period, then JEA will prepare a scorecard describing the deficiencies and the Company's performance will be scored as Unacceptable.

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

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

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

2.11.1 MISCELLANEOUS PROVISIONS

2.11.2 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.

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

2.11.4 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.

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

2.11.6 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.

2.11.7 ENTIRE AGREEMENT
This Contract constitutes the entire agreement between the parties. No statement, representation, writing, understanding, or agreement made by either party, or any representative of either party, which are not expressed herein shall be binding. All changes to, additions to, modifications of, or amendment to this Contract, or any of the terms, provisions and conditions hereof, shall be binding only when in writing and signed by the authorized officer, agent or representative of each of the parties hereto.

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

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

2.11.10 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.

2.11.11 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.

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

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

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

2.11.14 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.

2.11.15 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.

2.11.16 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.

2.11.17 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.

2.11.18 TIME OF ESSENCE
For every material requirement of this Contract, time is of the essence.

2.11.19 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.

2.11.20 WAIVER OF CLAIMS
A delay or omission by JEA hereto 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.

2.11.21 UNIFORM COMMERCIAL CODE
This is a Contract for the sale of goods and shall be construed and enforced in accordance with Chapter 672, Florida Statutes, as the same may be amended from time to time.

2.11.22 MERGER

During the term of this Contract and any extension thereof any invoice that may be issued by the Company to JEA shall be issued in accordance with and subject solely to the terms and conditions contained herein, notwithstanding any language to the contrary contained in such invoices. Any invoice issued during the Term and any extension thereof shall not modify or amend this Contract, unless such invoice is intended to modify or amend this Contract and does so in accordance with the terms of this Contract.

3.15.23. RIGHT TO AUDIT

Accounting System

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

Audited Financial Statements

The Company shall provide to JEA audited financial statements for the most recent fiscal year upon JEA's request, not later than five (5) days after receipt of written request.

Content and Retention of Records

Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful Respondents, bid recaps, etc.); all paid vouchers including those for out of pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Company shall, at all times during the term of this Contract and for a period of five (5) years after the completion of this Contract, maintain such records, together with such supporting or underlying documents and materials.

Inspection /Audit of Records

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

The Company shall at any time requested by JEA, whether during or after completion of this Contract, and at Company's own expense make such records available for inspection and audit (including copies and extracts of records as required) by JEA. Such records shall be made available to JEA during normal business hours at the Company's office or place of business in a workspace suitable for the audit and [subject to a three (3) day written notice/without prior notice]. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for JEA. The Company agrees to have knowledgeable personnel available to answer questions for the auditors during the time they are performing the audit and for a period of two (2) weeks thereafter. Company shall ensure JEA has these rights with Company's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Company and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Company's obligations to JEA.

Cost of Audits

Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by JEA unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the Company to JEA in excess of one half of one percent (.5%) of the total contract billings, the Company shall reimburse JEA for the total costs of the audit. If the audit discovers substantive findings related to fraud, misrepresentation, or nonperformance, JEA may recoup the costs of the audit work from the Company.

Billing Adjustments and Recoveries

Any billing payment recoveries to JEA that must be made as a result of any such audit or inspection of the Company's invoices and/or records shall be made within a reasonable amount of time (not to exceed ninety [90] days) from presentation of JEA's findings to Company.

Failure to Comply
If Company fails to comply with the requirements contained in this clause, the Company may be found to be in breach of the Contract, be subject to debarment or suspension of bidding privileges with JEA, and/or JEA may exercise any other remedies available by law.

3.15.24. JEA ACCESS BADGES

If the scope of work described in this Contract requires a Company to access JEA facilities and/or properties, the JEA contract manager will determine whether or not each impacted Company employee shall apply for a JEA access badge. This determination will be made based upon the business need and in accordance with the applicable JEA Security policies and procedures. Based upon the type of work being performed, JEA may also require the Company to provide a criminal background check on the employee prior to the issuance of the JEA access badge. JEA Security will provide all applicable standards and requirements for the background check All costs associated with the criminal background check are the responsibility of the Company. JEA does not allow Company employees to share JEA access badges.

Company employees issued an access badge are required to adhere to all JEA Security badge usage policies and procedures. A Company whose employees are found to be violating these, or any other JEA Security policies, may result in the Contract being terminated immediately for default.

In particular, JEA shall be notified within 24 hours of a lost or stolen JEA access badge or when an employee leaves the Company. The Company will bear any costs associated with issuance, and production, of any lost or stolen JEA access badge. The Company is required to report all badge loss, or termination, notifications to their respective JEA contract manager and JEA Security. JEA Security can be contacted at (904) 665-8200 or security@jea.com. Failure to report these items per the requirements may result in significant regulatory fines and penalties against JEA. The Company may be responsible for all costs associated with these charges and the company may receive a security violation which could result in the Contract being terminated for default.

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.

3.15.25. 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 JEA training and/or criminal background check that will be required before an access badge can be issued. The Company will be responsible for all costs associated with any criminal background check and the employee labor required to complete the JEA provided training.

The language in the above paragraph 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.

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.

3.15.26. JEA CONFIDENTIAL INFORMATION PROTECTION

JEA is a publicly owned utility and all official information sharing is governed by the Florida Sunshine Laws. However, certain information that could impact safe and secure operations may be exempt which includes information classified as confidential and protected under federal regulatory standards. Confidential information

means any data or information that is propriety to the Parties and not generally known to the public, whether in tangible or intangible form, whenever or however disclosed, including but not limited to:

- Critical Infrastructure Information (CII) or Bulk Electric System Information (BCSI) or Security Sensitive Information (SSI) classified by JEA
- Protected Health Information in both physical and electronic form (PHI and ePHI)
- Personal Identifiable Information (PII)
- any protected, non-public information concerning the design or operation of present or future critical infrastructure;
- 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;
- 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;
- any computer software, source code, object code, flow charts or databases; and
- any other information that should reasonably be recognized as sensitive or confidential information of the Recipient or the disclosing party.

All Company employees, and subcontractors, whose scope of work requires access, logical or physical, that may expose them to confidential information may be required to complete a Non-Disclosure Agreement, criminal background check, and periodic reoccurring security training. The Company shall bear all costs associated with the background check and security training. JEA will be responsible for the identification of all requirements and providing the required security training.

4. FORMS

Forms required to be submitted with this ITN are provided in Appendix B or can be obtained on the JEA website at www.jea.com.

5. TECHNICAL SPECIFICATIONS & DETAILED SCOPE OF WORK

Technical specifications and a detailed scope of Work are located in Appendix A of this document.

6. REPORTS

6.1. REPORTS

The awarded supplier shall provide the reports and information as identified in section 1.1.1 of the agreement. JEA reserves the right to modify these reports and the information requested at any time during the term of the agreement.