Advanced Metering Infrastructure (AMI) Software, Hardware, Support, and Installation Solution – Water Meter Proof of Concept

Solicitation
For Participation in
AMI Solution – Water Meter Proof of Concept
for JEA

Jacksonville, FL
Solicitation Number
1410328448

Optional Pre-Response Meeting via WebEx or Teleconference on **April 30, 2021** at 1:00 PM EST
Meeting URL: https://jeameeting.webex.com/jeameeting/j.php?MTID=m25cc6f245a6392b4e526ad46889d329f

Meeting Number (Access Code): 160 500 5782

Meeting Password: JmmiJ3pYn37

Dial In: +1-415-655-0001

Responses are due on **May 18**, 2021 by 12:00 PM EST
Responses must be electronically submitted per instructions in this Solicitation

JEA will publicly open all Responses received from qualified Respondents on **May 18**, 2021 at 2:00 PM EST via WebEx.

For more information please contact the JEA Buyer at:
Nickolas Dambrose at dambnc@jea.com

1.2) Scope of Work

JEA is seeking vendors to provide and demonstrate an Advanced Metering Infrastructure (AMI) cloud based software, hardware, support, and installation solution for water meters in certain parts of the JEA Service Territory. The solution shall entail meter communication devices (end points), communication infrastructure, and a software system (Head End System, or HES) that brings in and accumulates meter data from the endpoints and distributes data to JEA's Customer Information System. The solution shall provide initial installation/activation of these components, and ongoing support and supply of necessary components for approximately 2000 water meters. The demonstration term shall be approximately 6 months. JEA may consider another longer-term solicitation for bids upon successful completion of initial proof of concept term.
The requirements of the data transfers to JEA include:

- Transfers approximately 4 times daily with current data
- Data shall include all available sensor (meter register, pressure, temperature, etc) reads, meter information and anomaly flags and associated time stamps, all assigned to specific endpoints, and data transmission network information. Water meter read resolution shall be 1 gallon.
- Data reads shall be at 1 hour intervals, made available to JEA approximately every 6 hours
- Commands such as firmware upgrades and remote shutoff valve operation and valve position verification

JEA will provide the meters (currently installed) and will install the endpoints utilizing internal resources. Vendor will provide and install all network infrastructure. Submission will need to include pricing and quality and performance details for the term:

- Endpoints- approximately 2000
- Data Network Infrastructure—installation, components and JEA support as required
- Head End System—licensing and support
- Data services

Other requirements include training for installation and activation of the endpoints, and reports that specify the data performance are provided in Appendix A – Technical Specifications

Capitalized terms used in this Solicitation without definition shall have the definitions given to them in Section 2 of this Solicitation.

1.3) Background

JEA owns, operates and manages the electric system established by the City of Jacksonville, Florida in 1895. In June 1997, JEA also assumed operation of the water and sewer system previously managed by the City. JEA is located in Jacksonville, Florida, where we proudly serve an estimated 470,000 electric, 351,000 water and 274,000 sewer customers. JEA is Florida's largest community owned utility and the eighth largest municipal in the United States.

1.4 Invitation - Submitting a Response

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

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

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

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

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

A Respondent shall be solely responsible for timely delivery of its Response to the Zycus Supplier Network. Respondents are strongly encouraged to acquire log in credentials early as possible. Additionally Respondents are encouraged to submit Responses early to ensure uploading process goes smoothly.

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

1.5) Zycus Instructions

I. How to Log Into Zycus

New Uses – Zycus

New Users will need to register to login. Registration will require Company name, Contact and Email Address. Also it recommend users use Google Chrome to access Zycus.

Note if the company is already doing business with JEA, you may find the company is already registered in Zycus. In this case, follow the prompts for a new activation code, or a password reset as appropriate.

B. Existing Users or New Users with Previously Registered Emails

Once the user has a login on the sourcing platform select "Sign into Zycus", the user may navigate to the solicitation by selecting the icon for the applicable solicitation.

How to Submit a Response Using Zycus

Once logged in, users will see all JEA Sourcing Events, then select the applicable event.

Once in the Sourcing Event. The Sourcing Event has prompts for actions required to respond to the solicitation.

For the user to proceed to submit a Response to JEA using Zycus, the user will be required to provide its acceptance of the of the Zycus iSource Terms & Conditions associated with the work. Such Terms and Conditions may cover non-disclosure, safety, cyber security, Invitation for Bid contract terms, etc.

Once terms all terms are accepted, additional Solicitation information will be available for viewing and submitting a Response by selecting "Confirm Participation". JEA will then have a record indicating the company intends to submit a Response.

A user then can respond to each section of the Solicitation, once completed with each section, select "Save". Note each section has a red, yellow, green light code. Items will turn green once completed. Yellow and red lights mean there is additional action required. Users may also note under each tab, there are multiple questions to respond to, scroll down the list to ensure all questions are answered.

In most Solicitations, JEA will provide Technical Specifications, pricing tables in Excel which the user will need to download. Additionally, Excel pricing tables may need to be uploaded once completed to as part of the Response. Users can download the required attachments by selecting the "Buyers Attachments" icon:

Once the required forms are uploaded and saved, the section light will turn green. Once all sections are completed and green lighted, the User may select "Submit Response".

Once the user selects "Submit Response", the user will receive a "Success" pop-up when submitted.

Once submitted users may recall and modify submitted documentation and submit information until the Response Due Date and Time.

1.6) Questions

All Questions must be via email to the JEA Buyer listed below at least five (5) **business** days prior to the opening date. Questions received within five (5) **business** days prior to the opening date will not be answered.

For Procurement Questions:
Buyer: NICKOLAS DAMBROSE
E-mail: DAMBNC@JEA.COM

1.7) Opening of Responses

All Responses received shall be publicly announced and recorded via WebEx at the date and time indicated on the cover page of this Solicitation..

The details for the WebEx will be on jea.com at the following website:
https://www.jea.com/Events/Public_Meetings/Bid_Opening approximately 48 hours before the Response opening.

At the opening of Responses, a JEA representative will publicly open each Response that was received prior to the Date and Time, except for those Responses that have been properly withdrawn. JEA has the right to waive irregularities or informalities in the Responses to the extent allowable under applicable laws.

1.8) Minimum Qualifications

The Proposer shall meet the following Minimum Qualifications to be considered eligible to submit a Response to this RFP**. JEA reserves the right to ask for additional back up documentation or additional reference projects to confirm the Proposer meets the requirements stated below.** A Proposer not meeting all of the following criteria will have their Response rejected:

Proposer shall provide client references to demonstrate the successful completion of two (2) similar Contracts within the last three (3) years of the Solicitation due date.

A similar contract is defined as

- Successful implementation of the proposed solution for a utility in the United States.
- Fully deployed daily performance of each similar contract shall be no less than 99% operational

JEA shall accept three separate references to satisfy the minimum qualifications above. JEA will contact each contract reference to verify.

JEA reserves the right to ask for additional back up documentation or additional reference projects to confirm the Respondent meets the requirements stated above.

1.9) Number of Contracts to be Awarded

JEA intends to Award up to three (3) Contracts for the Work. This Contract is a proof of concept with which JEA may choose multiple solutions with which to proceed. JEA reserves the right to Award more than one Contract based on certain groupings of the Work items, or JEA may exclude certain Work items, if JEA determines that it is in its best interest.

1.10) Required Forms to be Submitted

The following forms must be completed and submitted to JEA at the timeframes stated below.

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

- Response Workbook - This can be found in Appendix B of this Solicitation
- Information Security Questionnaire - This can be found in Appendix B of this Solicitation
- List of JSEB Certified Firms (if any)
- Subcontractor Form (if any). However, if the following Subcontractors are utilized to perform this Work, they shall be listed on the referenced Subcontractor Form:

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

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

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

1.11) Pre-Response Meeting

There will be an optional Pre-Response meeting associated with this Solicitation at the date and time listed on the cover page of this Solicitation. All interested Respondents must attend the Pre-Response meeting. Those planning to attend the WebEx or teleconference must email their name and contact information to the JEA Buyer listed herein at least 24 hours prior to the Pre-Response meeting to facilitate roll call. A Respondent must only sign in representing one company, unless otherwise agreed to by JEA in writing.

1.12) Alternate Provisions and Conditions

Terms and conditions found in Responses that are contrary to requirements found in this Solicitation, including, but not limited to, the Contract terms and conditions contained in Section 2 of this Solicitation and any requirements found in the Technical Specifications attached as Appendix A to this Solicitation, will be rejected and are of no force and effect. However, JEA reserves the right to negotiate different terms and conditions and requirements if JEA determines that such terms and conditions and requirements are in the best interest of JEA.

1.13) Insurance Requirements

Prior to JEA issuing a Purchase Order to the Company to begin the Work, the Company shall submit a certificate of insurance (COI) that is in compliance with amounts and requirements as indicated in this Solicitation. Note that the COI shall specifically indicate JEA as additional insured on all required insurance except Worker's Compensation and Professional Liability (if applicable). Furthermore, waiver of subrogation must be provided for all required insurance in favor of JEA, including its board members, officers, employees, agents, successors, and assigns.

1.14) Basis of Award - Highest Evaluated

JEA will Award a Contract to the responsive and responsible Respondent whose Response meets or exceeds the Minimum Qualifications set forth in this Solicitation, and whose Response receives the highest number of points based upon JEA's evaluation of the Selection Criteria stated herein.

1.15) Selection Criteria

The following criteria will be used by JEA to evaluate and rank Responses from Respondents who meet the Minimum Qualifications specified in this Solicitation.

A selection committee (the "Selection Committee"), will be appointed to review and evaluate each Response. The members of the Selection Committee will separately and independently evaluate and rank the Responses using the Selection Criteria specified in this Solicitation. JEA may use this ranking to develop a short-list of companies with which to begin the Optional Presentation Demonstration (the "Short-list").

A Respondent on the Short-list may be required, at the sole option of JEA, to make an oral presentation, provide additional written clarifications to its Response, or JEA may require site visits to Respondent's facilities. Oral presentations, hand-outs, and written clarifications will become a part of the Response as if originally submitted.

1.16) QUOTATION OF RATES

Maximum score: 35 Points

Respondent shall provide a firm-fixed price quote for all Work in this Solicitation by completing the Response Workbook included in Appendix A. The prices quoted must include all profit, taxes, benefits, travel, percent mark-up, and all other overhead items. .

The prices quoted by Respondent on the Response Form must be firm-fixed prices, not estimates.

1.17) PAST PERFORMANCE/COMPANY EXPERIENCE

Maximum score: 20 Points

JEA will evaluate how well Proposer demonstrates through its client references that Proposer has proven capabilities to perform the Work and has experience with similar applications, technologies, security, implementations and infrastructure.

All client reference information must be supported and will be verified. Reference contacts must be aware that they are being used and agreeable to an interview for follow-up from a representative of JEA. JEA may solicit from previous clients not provided as a reference to obtain relevant information concerning the Proposer' s record of past performance. In addition to in-depth business consulting experience, Proposers should either have demonstrated operational engineering and technical capabilities or should partner with a firm specializing in those areas.

The solicited reference information is restated below as seen in Section 1.8 MINIMUM QUALIFICATIONS:

Proposer shall provide client references to demonstrate the successful completion of two (2) similar Contracts within the last three (3) years of the Solicitation due date.

A similar contract is defined as

- Successful implementation of the proposed solution for a utility in the United States.
- Fully deployed daily performance of each similar contract shall be no less than 99% operational

At Minimum include the following information:
o Reference Company Name
o Reference Contact Person Name
o Reference Contact Person Name Phone and Email Address
o Describe how the project/contract is similar to JEA’s Scope of Work

1.18) PROFESSIONAL STAFF EXPERIENCE

Maximum points: 10 points

The firm shall provide up to three (3) resumes of the professional staff to be assigned to this engagement. The professional staff shall include the following job roles:

- One (1) Senior Partner or Executive and
- One (1) Engagement Manager and
- One (1) Technical Analyst, Consultant, or Staff

Please clearly indicate which of the resumes correspond to the professional staff roles. Any persons whose resumes are submitted as professional staff to be assigned to this engagement must be able to perform the Work unless Company receives prior approval by the JEA Project Manager to use an alternate Team Member. Describe their primary responsibilities in brief paragraph.

Resumes are limited to three (3) pages, 8 ½” by 11” single sided. At a minimum, the resume shall present the job role as described above, location, title, years of service with the company, applicable professional registrations, education, and

work experience. The resumes must identify experience conducting The resumes shall be no more than three (3) pages in length.

For maximum scoring, JEA shall emphasize successful experience in the following areas:

- Consulting team(s) capable of building strong business cases and roadmaps specific to the utility, service provider, and government spaces.
- Project manager needs to have worked on at least two strategy and design implementations
- Consultants should have at least ten years of experience designing, deploying, and operationalizing utility FAN networks.
- Consultants should have experience in NERC CIP
- Highlight Business Process Owner Experience (Electric, Water, Waste Water, AMI systems)

1.19) ABILITY TO DESIGN AN APPROACH AND WORK PLAN:
Maximum score: 35 Points

Proposer shall include a detailed plan to realize project goals, timetables, and objectives; and the demonstrated general ability to bring about a successful completion of this scope of work under the Proposer's direction including any and all project assumptions. In particular, Proposer shall detail its methodology to successfully complete the assigned scope of work and deliverables. Proposer shall also detail its project management methodology to ensure successful and timely completion of scope of work.

The Response should describe a work plan, including an explanation of the methodology, the financial requirements, and all compliance aspects of the engagement. Identify the tasks to be performed to complete the engagement and prepare a proposed timeline of how long it typically takes to complete an assessment per task assigned. The proposed overall schedule should include a hybrid (remote /on-site) work schedule.

The Proposer should identify and describe any anticipated potential problems, the firm’s approach to resolving these problems and any special assistance that will be requested from JEA.

Proposer shall also provide an organizational chart delineating company's personnel responsibilities and functions associated with the Work. If applicable, this chart shall also delineate any responsibilities and functions of other team members not identified in the submitted resumes.

For maximum scoring, JEA shall emphasize attention in the following areas:

1. Describe system normal mode of operation for obtaining reads and transferring data to utility
2. Describe in detail the sequence of steps which the system components interact to provision information and commands from the utility and provide reads, events and command statuses to the utility
3. Provide a schematic depicting the above sequences
4. Describe the communication between system components, including protocol mode, frequency, if FCC licensing is required and limitations of the protocol such as distance and interference
5. Describe the technical, functional and operating characteristics of each component in the system, such as operational and maintenance requirements, installation technique and activation instructions, battery life, signal propagation distances of endpoints and other system components, including restrictions and limitations of environmental, mechanical, electrical and data transfer conditions
6. Describe field procedures for installing, programming, interrogating, activating and replacing components, including tools for field communication with the endpoint and Head End System
7. Describe steps for any firmware, software upgrades of each of the system components
8. Describe the capacity of the system, based on number of endpoints, frequency of data transmission, number and time frequency of commands and latency of information, interval frequency of data and data volumes
9. Describe all events and alarms provided by the system, including latency, conditions and thresholds of notification. List alarm or event conditions/thresholds that the utility can modify.
10. Describe reporting characteristics of the system that relate to meter anomalous consumption and system performance

11. Provide the expected performance of the system in terms of latency, interval reads delivered, file delivery times and HES downtimes
12. Provide meter manufacturer model compatible list associated with all data (reads, alarms, commands, firmware upgrades, etc)
13. Provide expected life and warranted life, along technology future-proofing methodology for each component of the system
14. Describe the methodology for ensuring security of the components and the data
15. Describe process and System Level Agreements for dealing with operational issues with system components, including HES downtimes
16. Describe the vendor's proposed project plan for implementation of the system
17. Identify details of current, active full, production-mode installations of the same system, such as utility name, city and utility employee contact information

Actual work examples are encouraged.

1.20) OPTIONAL PRESENTATION/DEMONSTRATION

Maximum Score (if applicable): 35 Points

JEA may request and evaluate presentations or demonstrations from shortlisted proposer's to clarify proposals for a project. Additional points will be given to Proposers using the following criteria:

- Proposer's service delivery team was cohesive, interacted and communicated well with the JEA team, and have the ability to be an effective strategic partner for JEA in the future.
- Proposer's resources participating in the presentation or demonstration had the appropriate skills, experience and knowledge.
- Proposer's demonstrated an ability to meet the security requirements contained in the Information Security External Data Protection Questionnaire and other JEA security requirements
- Proposer's demonstrated an ability to comply with JEA's requirements

1.21) Tie

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

1.22) Addenda Issuance (ITN)

JEA may issue Addenda prior to the opening of Responses to change or clarify the intent of this Invitation to Negotiate (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 completing the Confirmation of Receipt of ITN Addenda. JEA will post Addenda when issued online at JEA.com. Companies must obtain Addenda from the JEA.com 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 at JEA's sole discretion.

1.23) Contract Execution and Start of Work

Within 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 must execute a Contract for the Work within ten 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 and retain any bid security or bond.

1.24) Defined Terms

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

1.25) Ex Parte Communication

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

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

1.26) Certifications and Representations of the Company

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

A. That the individual signing the Response is duly authorized to contractually bind the Respondent to the terms and conditions of this Solicitation and the Contract. Respondent shall provide satisfactory evidence of such authority within three days of JEA's request.

B. That every aspect of the Response 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, if successful, the Respondent will be registered to conduct business in the State of Florida and in active status with the Florida Division of Corporations at the time of execution of a Contract.

D. That the Respondent maintains in active status any and all licenses, permits, certifications, insurance, bonds and other credentials including, but not limited to, all 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.

1.27) Ethics

By submitting a Response, the Respondent certifies that 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 the 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 ethics.
The Respondent shall submit only one Response to this Solicitation. If JEA has reasonable cause to believe the Respondent has submitted more than one Response for the same Work, other than as a Subcontractor or sub-supplier, 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, in Respondent or its Response 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 such Respondents and will proceed to debar the Respondents from future JEA Awards in accordance with the JEA Procurement Code.

JEA is prohibited by its Charter from awarding contracts to JEA board members, officers or employees, and is prohibited from awarding contracts in which a JEA officer or employee has a financial interest. JEA shall reject all Responses from JEA board members, officers or employees, as well as, 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 for a period of 36 months from the date of being placed on the Convicted Vendor list.

1.28) JEA Publications

Applicable JEA publications are available at jea.com.

1.29) Mathematical Errors

In the event of a mathematical error in calculation of the prices entered on the Response, the Unit Prices will prevail. The corrected price utilizing the Unit Prices quoted by Respondent will be used to determine if the Company is awarded a Contract for the Work and the corrected pricing will be used throughout the Term.

1.30) 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, or other individual, 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 the Contract. If a breach or violation of the 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.

1.31) Protest of Solicitation and Award Process

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

1.32) Reservation of Rights of JEA

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

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

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

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

1.33) Sunshine Law

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

If a Respondent believes that any portion of the documents, data or records submitted in response to this Solicitation are exempt from Florida's Public Records Law, Respondent must (1) clearly segregate and mark

the specific sections of the document, data or records as "Confidential," (2) cite the specific Florida Statute or other legal authority for the asserted exemption, and (3) provide JEA with a separate redacted copy of its Response (the "Redacted Copy"). The cover of the Redacted Copy shall contain JEA's title and number for this Solicitation and Respondent's name, and shall be clearly 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 Solicitation, 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 RESPONDENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RESPONDENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS SOLICITATION, CONTACT THE JEA CUSTODIAN OF PUBLIC RECORDS AT:

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

1.34) Subcontractors Use for the Performance of the Work

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

If the Respondent plans to use Subcontractors to perform over 50% of the Work, the Respondent shall obtain JEA's approval at least five days prior to the Response Due Date. Failure to obtain JEA approval may result in rejection of the Respondent's Response.

1.35) Optional Use of Small and Emerging Business Program

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

For more information regarding the JSEB program, please contact Rita Smith, JEA, JSEB Manager, sctotrl@jea.com.

2. Contract Terms

2.20) Definitions

Capitalized words and terms used in this Solicitation shall have the meaning given to them in this Section. Appendix A - Technical Specifications to this Solicitation may define additional words and terms where necessary to clarify the Work. Unless otherwise stated in this Solicitation or the Contract Documents, definitions set forth in Appendix A shall apply only within the Appendix A.

2.21) Acceptance

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

2.22) Addendum/Addenda

An amendment to the Solicitation which is issued by JEA before the Response Due Date and Time.

2.23) Award

The written approval of the Contract by JEA's Awards Committee and Chief Executive Officer.

2.24) Contract

The written agreement executed by JEA and the Company which describes the rights and obligations of JEA and the Company with respect to the Work and incorporates all of the Contract Documents.

2.25) Company

The legal person, firm, corporation or any other entity with whom JEA executes the Contract.

2.26) Company Representative

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

2.27) Contract Amendment

A written document signed by JEA and the Company issued after the execution of the Contract which authorizes an addition, deletion or revision of the Scope of Work, or the Contract Price, the Term or any other provision of the Contract.

2.28) Contract Documents

Contract Documents means the executed Contract, this Solicitation, all documents required by or submitted in connection with this Solicitation or the Contract, and any written Change Orders, contract amendments and Purchase Orders executed by JEA.

2.29) Contract Price

The total amount payable by JEA to the Company during the Term in accordance with the terms and conditions of the Contract.

2.30) Contract Time

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

2.31) Defect

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

2.32) Holidays

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

2.33) Invoice

A document seeking payment to the Company from JEA for all or a portion of the Work, in accordance with the Contract Documents.

2.34) JEA

JEA, a body politic and corporate, which is authorized to own, manage and operate for the benefit of the City of Jacksonville a utilities system within and without the City of Jacksonville.

2.35) JEA Representative

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

2.36) JSEB

The City of Jacksonville Small and Emerging Business Enterprises as defined in Chapter 126, Part 6 of the City of Jacksonville, Ordinance Code, as may be amended from time to time.

2.37) Purchase Order

The individual assigned by JEA to have authority to administer the Contract, including the authority to issue Change Orders.

2.38) Acceptable Performance or Acceptable Performer

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

2.39) Top Performance or Top Performer

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

2.40) Unacceptable Performance or Unacceptable Performer

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

2.41) Response

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

2.42) Respondent

The respondent to this Solicitation.

2.43) Solicitation

All documents issued by JEA to solicit Responses from Respondents including, but not limited to, all documents required to be submitted by a Respondent in connection with this Solicitation, the Technical Specifications, and any Addenda to the Solicitation issued by JEA.

2.44) Subcontractor

A legal person, firm, corporation or any other entity that provides a portion of the Work to JEA on behalf of the Company, or provides supplies or materials in connection with the Work.

2.45) Task Order

A document that describes the Work or describes a series of tasks that the Company will perform in accordance with the Contract Documents.

2.46) Term

The period of time during which the Contract is in force.

2.47) Unit Price

The price for the performance of a unit of Work.

2.48) Work

Any and all actions, products, documentation, electronic programs, reports, testing, transport, administration, management, services, materials, tools, equipment, and other deliverables to be furnished or performed by the Company under the Contract, together with any and all additional such deliverables that are not specifically provided in the Contract, but can be reasonably inferred as necessary to complete the Company's obligations under the Contract.

2.49) Order of Precedence

The Contract shall consist of all of the following documents which, to the extent of any conflict, shall have priority in the order listed below:

2.49)1.1. Contract Amendments
2.49)1.2. Executed Contract Documents
2.49)1.3. Addenda
2.49)1.4. This Solicitation, including all Appendices, Exhibits and Attachments to this Solicitation
2.49)1.5. Company's Response

2.50) Payment Method

Upon Company's completion of and JEA's Acceptance of the completion of each predetermined Milestone, the Company shall submit to JEA an Invoice for the amount/percentage of the Work or Services completed corresponding to that Milestone. The Milestone payments that are associated with the Work or Services are as follows:

Item Number (See Appendix B - Response Workbook	Deliverable	Milestone	% of Payment
1.1.2	Six Month Software License Cost	Monthly Payments (x) 6	16%
1.2.8	Setup / Implementation Fees	Planning, Analysis, and Design Completion and Acceptance	30%
1.2.8	Setup / Implementation Fees	Construction and Testing Completion and Acceptance	30%
1.2.8	Setup / Implementation Fees	Startup and Turnover Acceptance	30%
1.2.8	Setup / Implementation Fees	Successful Post "Go Live" Completion and JEA Acceptance	10%
1.3.3	Maintenance and Support	Monthly in Arrears	16%
1.4.2	Implementation and Training	Upon Completion and Invoice	100%

2.51) Cost Savings Plan

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

2.52) Discount Pricing

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

2.52)1.1. 1% 20, net 30
2.52)1.2. 2% 10, net 30

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

2.53) Invoicing and Payment Terms

The Company shall submit all Invoices in accordance with the payment method agreed upon in these Contract Documents. Invoices shall be submitted to the following email address: acctpaycustsrv@jea.com.

JEA will pay the Company the amount requested approximately thirty (30) calendar days after receipt of a proper Invoice from the Company.

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

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

2.54) JSEB -Invoicing and Payment

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

2.55) Offsets

If the Company is in violation of any requirement of the Contract, JEA may withhold payments that may otherwise 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.

2.56) 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.

2.57) Warranty (IT)

The Company warrants that the Work furnished by the Company shall be free from defects for a period of not less than one (1) year from the date of project completion. The Company also warrants (1) the Company has necessary equipment and trained personnel to perform the services consistent with industry standards, (2) the services will be performed in workmanlike manner (3) the Company will comply with all applicable laws (4) the Company warrants that it maintains an information security process with physical safeguards appropriate for the sensitivity of JEA’s and JEA’s customer information (5) warrants that the software will perform its functions and (6) warrant the software shall be free of material or hidden defects.

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 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 defects at Company's sole expense.

In the event that JEA determines the correction of the defective software or services is an ineffective remedy, JEA's remedy is the right to recover the amount paid to Company for the defective software or services. Written notice specifying the particular defect in the software 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.

2.58) Insurance

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

<u>Workers' Compensation</u>

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: $5,000,000 each occurrence and annual aggregate.

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

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

Such insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to JEA. Prior to commencing any Work under the Contract, certificates evidencing the maintenance of the insurance shall be 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 30 days after receipt of written notice by JEA.

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

2.59) Indemnification

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

2.60) Risk and Property

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

2.61) Term of Contract

The Contract shall be in force through completion of all Work, Acceptance and final payment, including resolution of all disputes, claims, or suits, if any. Certain provisions of this Contract may extend past termination including, but not limited to, Warranty and Indemnification provisions.

This Contract, after the initial six (6) month term shall be contingent upon the existence of lawfully appropriated funds for each subsequent year of the Contract.

2.62) Termination for Convenience

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

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

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

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

2.63) Termination for Default (No Bonds)

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

2.63)1.1. The Company assigns or subcontracts the Work without JEA's prior written consent;

2.63)1.2. Any petition is filed or any proceeding is commenced by or against the Company for relief under any bankruptcy or insolvency laws;

2.63)1.3. A receiver is appointed for the Company's properties or the Company commits any act of insolvency (however evidenced);

2.63)1.4. The Company makes an assignment for the benefit of creditors;

2.63)1.5. The Company suspends the operation of a substantial portion of its business;

2.63)1.6. The Company suspends the whole or any part of the Work to the extent that it impacts the Company's ability to meet the schedule for the Work, or the Company abandons the whole or any part of the Work;

2.63)1.7. The Company breaches or fails to comply with any of the conditions or provisions of the Contract Documents, and, if such breach or failure is capable of cure, Company does not cure the breach or failure within 15 days after receipt of written notice from JEA;

2.63)1.8. The Company attempts to willfully impose upon JEA items or workmanship that are, in JEA's sole opinion, defective or of unacceptable quality;

2.63)1.9. The Company has been placed on the list maintained under Section 287.135, Florida Statutes, of companies with activities in Sudan or in Iran Petroleum Energy Sector;

2.63)1.10. The Company is determined, in JEA's sole opinion, to have misrepresented the utilization of funds or misappropriated property belonging to JEA; or

2.63)1.11. Any material adverse change in the financial or business condition of the Company.

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

This Section shall in no way limit JEA's right to all remedies for nonperformance provided under law or in equity. Further, the rights and remedies available to JEA are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by a party, shall be deemed to be in exclusion of any other.
In the event of termination for nonperformance, the Company shall immediately surrender all Work records to JEA. In such a case, JEA may set off any money owed to the Company against any liabilities resulting from the Company's nonperformance.

JEA has no responsibility whatsoever to issue to the Company notices of any kind, including but not limited to deficient performance letters and scorecards, regarding its performance prior to declaring and Event of Default for performance related issues. If the Company is declared to be in default, JEA may charge the expenses of completing the Work to the Company and may deduct such expenses from monies due, or which at any time thereafter may become due, to the Company. If such expenses are more than the sum that would otherwise have been payable under the Contract, then the Company shall pay the amount of such excess to JEA upon receipt of notice of the expenses from JEA. JEA shall not be required to obtain the lowest price for completing the Work, but may make such expenditures that, in its sole judgment, shall best accomplish completion of the Work. JEA will, however, make reasonable efforts to mitigate the costs of completing the Work.

2.64) Suspension of Work

JEA may suspend the performance of the Work, in whole or in part, by providing Company with five days' prior written notice of such suspension. In the event of a suspension of Work, the Company shall resume performance of the Work when and to the extent directed in writing to do so by JEA.

Suspension of Work shall not affect any other rights or remedies JEA may have under this Solicitation and the Contract.

2.65) Data Ownership, Protection and Location

JEA shall own all right, title and interest in all data of JEA and JEA's customers that is related to the Work. The Company shall only access JEA's data and JEA's customers' accounts and data if (i) required to provide the Work, (ii) required in response to service or technical issues, (iii) required by the express terms of the Contract, or (iv) at JEA's written request. Protection of personal privacy and data shall be an integral part of the Work to ensure that there is no inappropriate or unauthorized use of data of JEA or JEA's customers at any time.
The Company shall safeguard the confidentiality, integrity, and availability of all data of JEA and its customers and comply with the following:

2.65)1.1. The Company shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against the unauthorized access, disclosure or theft of Personal Data or Non-Public Data. For the purposes of the Contract, "Personal Data" shall mean data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information: government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information including account number, credit or debit card numbers; or protected health information relating to a person. Non-Public Data shall mean data, other than Personal Data, that is not subject to distribution to the public as public information and is deemed to be sensitive and confidential because it is exempt by statute, ordinance or administrative rule from access by the general public as public information;

2.65)1.2. All data obtained by Company under the Contract shall become and remain the property of JEA;

2.65)1.3. All Personal Data and Non-Public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise agreed in writing by JEA and the Company, the Company shall be responsible for encryption of the Personal Data and non-Public Data;

2.65)1.4. At no time shall any Personal Data or Non-Public Data of JEA or its customers be copied, disclosed or retained by the Company or any party related to the Company for subsequent use in any transaction that is not a part of the Work to be provided under the Contract;

The Company shall not use any Personal Data, Non-Public Data or any other information collected in connection with the Contract for any purpose other than providing the Work; The Company will prevent its employees, other than employees with a need to know, from gaining access to JEA's data and

information. The Company will direct and take all reasonable steps to insure that any Company employee who encounters any such information during the course of performing the Company's responsibilities of the Contract shall maintain the confidentiality of such information, which shall not be passed onto other Company employees or any other person. The Company shall also enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of JEA data to that which is absolutely necessary to perform job duties. The Company shall provide the Work solely from data centers in the United States. Storage of JEA data at rest shall be located solely in data centers in the United States. The Company shall not allow its personnel or its subcontractors to store JEA and JEA customer data on portable devices, including personal computers, except for devices that are used and kept only at its data centers in the United States. The Company shall permit its personnel and subcontractors to access JEA and JEA customer's data remotely only as required to provide technical support. The Company shall deploy reasonable steps and safeguards as part of a network security program in accordance with accepted industry practices, including but not limited to, Purchasing Card Industry-Data Security Standards (PCI-DSS), to prevent unlawful hacking to gain surreptitious access into JEA's and JEA's customer's data.

The Company shall promptly notify JEA of any breaches or issues regarding the security of systems that maintain JEA or JEA's customer data. However, any such notification by the Company shall not affect the Company's obligations to secure JEA's data as provided under the Contract. The Company shall notify JEA within six hours if it learns that JEA or any of JEA's customers has been, have been, or may have been, the subject of a Security Incident (which is defined below) of any kind which may compromise data of JEA or its customers. In any such event, the Company shall: (i) investigate the incident(s) and provide a report to JEA with 24 hours; (ii) conduct a forensic investigation to determine a cause and what data/systems are implicated; (iii) provide daily updates of its investigation to JEA and permit JEA reasonable access to the investigation; (iv) communicate and cooperate with JEA concerning communication with outside parties such as law enforcement and media; and (v) cooperate with JEA in determining whether and how notice, if any, will be provided to JEA's customers with all applicable laws and regulations.

The term "Security Incident" means the potentially unauthorized access by non-authorized persons to Personal Data or Non-Public Data that the Company believes could reasonably result in the use, disclosure, or theft of unencrypted Personal Data or Non-Public Data of JEA or its customers within the possession or control of the Company. If a Data Breach (defined below) with respect to Personal Data or Non-Public data has occurred, the Company shall promptly implement necessary remedial measures and document responsive actions taken related to the Data Breach, including any post-incident review and actions taken to make changes in business practices in providing the Work, if necessary.

If a Data Breach is a result of the Company's breach of its obligation to encrypt Personal Data or Non-Public Data or otherwise prevent the release of Personal or Non-Public Data or the Company's failure to comply with any of the security requirements comply with the Contract, the Company shall bear the costs associated with (i) the investigation and resolution of the Data Breach; (ii) notifications to individuals, regulators or others required by state law; (iii) a credit monitoring service required by state or federal law; (iv) a website or toll-free number and call center for affected individuals required by state law; and (v) completing all corrective actions as reasonably determined by the Company based on root cause.

The term "Data Breach" means the unauthorized access by a non-authorized person or persons that results in the use, disclosure or theft of unencrypted Personal Data, Non-Public Data or JEA's customer information.

2.66) Indemnification for Release of JEA Employees' Personal Identifiable Information (PII) Data

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

2.67) Data Obligations at Termination or Suspension of Contract

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

to erase any data of JEA or its customers except as mutually agreed upon in writing by the Company and JEA. Upon JEA request, the Company shall securely dispose of all request data in all its forms.

2.68) Intellectual Property

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

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

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

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

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

2.69) 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. The Company shall return all information furnished by JEA upon completion of the Work. Upon request of JEA, Company must certify in writing that all information furnished to JEA has been returned to JEA and eliminated from Company's and any applicable subcontractors' computer systems.

2.70) Publicity and Advertising

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

2.71) Patents and Copyrights

Company shall hold harmless and indemnify JEA from and against liability or loss, including but not limited to any claims, judgments, court costs and attorneys' fees incurred in any claims, or any pretrial, trial or appellate proceedings on account of infringements of patents, copyrighted or uncopyrighted works, secret processes, trade secrets, trademarks, patented or unpatented inventions, articles or appliances, or allegations

thereof, pertaining to the Work, or any part thereof, combinations thereof, processes therein or the use of any tools or implements used by Company.

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

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

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

2.72) Nondiscrimination

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

The Company shall comply with the following:

2.72)1.1. The provisions of Presidential Order 11246, as amended, and the portions of Executive Orders 11701 and 11758 as applicable to Equal Employment Opportunity;

2.72)1.2. The provisions of section 503 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA); and

2.72)1.3. The provisions of the Employment and Training of Veterans Act, 38 U.S.C. 4212 (formerly 2012).

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

2.73) Legal Workforce

The Company's employment of unauthorized aliens shall be a violation of section 274A(e) of the Immigration and Nationalization Act and a breach of the provisions of the Contract. The Company and all Subcontractors must enroll and participate in the federal E-Verify Program prior the performance of any part of the Work and appropriately screen all individuals performing any part of the Work. Proof of enrollment and participation must be provided to the JEA Representative upon request.

2.74) 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 responsibilities that are collectively associated with: (i) approving solicitation or payment documents; (ii) evaluating formal bids and responses; and (iii) approving or issuing award recommendations for JEA Awards Committee approval. The contract of any person or business entity who hires or contracts for services with any officer or employee prohibited from entering into said relationship shall be voidable at the pleasure of JEA. This prohibition shall not apply to any former officer or employee after two years from cessation from JEA employment.

2.75) Hiring of Other Parties 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 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.

2.76) Company's Labor Relations

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

2.77) JEA Access Badges

If the Work requires an individual to access JEA's facilities or properties, the Project Manager or other JEA Representative will determine whether or not such individual must have a JEA access badge prior to accessing JEA facilities or properties. This determination will be made based upon the business need and in accordance with JEA's applicable security policies and procedures. In no event shall individuals share JEA access badges.

Individuals issued an access badge must adhere to all of JEA's security badge usage policies and procedures. Violation of the provisions of this Section or any of JEA's security policies may result in immediate termination of the Contract.

In particular, JEA shall be notified within 24 hours of a lost or stolen JEA access badge or when an individual leaves the Company or any subcontractor. 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 the JEA Representative and JEA Security. JEA Security can be contacted at (904) 665-8200 and security@jea.com. Failure to make the reports required in this paragraph may result in significant regulatory fines and penalties. The Company shall be responsible for all such costs and JEA shall have the right to immediately terminate the Contract.

The provisions in this Section shall apply to Company's Subcontractors and agents performing any of the Work and shall be included in Company's contracts with its Subcontractors for any part of the Work.

2.78) Background Checks and Other Security Policies

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

2.78)1.1. Social Security Number (SSN) Trace;

2.78)1.2. Criminal Records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal);

2.78)1.3. Background checks undertaken by JEA for its own employees who have duties similar to the duties of the Company's employee(s); and

2.78)1.4. Background checks which may be required pursuant to applicable background screening policies adopted by JEA from time to time.

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

2.79) 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 include both physical and cyber Assets that are essential for JEA to maintain the integrity of the bulk electric system. Therefore, the Company must ensure that all individuals that have access to any Assets meet all requirements of JEA, including, but not limited to the background screenings required by this Contract, prior to the individual performing any services for JEA. The specific Assets an individual will access will determine the specific JEA training and criminal background check that will be required before an employee will be approved to perform services for JEA. The Company will be responsible for all labor costs associated with completion of the training. The provisions of this Section and the immediately preceding section shall apply to all of the Company's Subcontractors and agents, and shall be included in Company's contracts with its Subcontractors for any part of the Work. 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 comply with JEA's requirements related to the updated regulations.

If applicable for all or any part of the Work, Company must also be able to certify and demonstrate to JEA's satisfaction that Company is able to comply with JEA's supply chain cyber security risk management plan and the requirements of NERC Reliability Standard NERC CIP-013, including, but not limited to CIP-013 R1. Company must demonstrate that Company has, in JEA's sole discretion, appropriate cyber security processes, including, but not limited to, addressing the following:

2.79)1.1. Notification by Company to JEA, within 12 hours or sooner, of any Company personnel, who have been terminated, retired or ceased working on JEA projects.

2.79)1.2. Notification by the Company of Company-identified incidents related to the products or services provided to JEA that pose cyber security risk to JEA

2.79)1.3. Coordination of responses to Company-identified incidents related to the products or services provided to the JEA that pose cyber security risk to JEA

2.79)1.4. Notification by Company when remote or onsite access should no longer be granted to Company representatives

2.79)1.5. Disclosure by Company of known vulnerabilities related to the products or services provided to the JEA;

2.79)1.6. Method for verification of software integrity and authenticity of all software and patches provided by the Company for use in JEA's Bulk Electric System's Cyber System;

2.79)1.7. Coordination of controls for (i) Company-initiated Interactive Remote Access, and (ii) system-to-system remote access with Company; and

2.79)1.8. Compliance with JEA CIP Cyber Security Policy (MD-202).

2.80) Transition Services

At any time prior to the date the Contract expires or terminates for any reason (the "Termination Date"), JEA may request Company to provide reasonable transition assistance services ("Transition Assistance"). Company will provide such Transition Assistance until such time as JEA notifies the Company that JEA no

longer requires such Transition Assistance, but in no event for more than 180 days following the Termination Date.

Transition Assistance shall mean any services, functions or responsibilities that are ordinarily or customarily provided to a purchaser to ensure that the services provided to that purchaser by a contractor are fully transitioned in a smooth and efficient manner to a new service contractor (either JEA itself or a third party contractor). Transition Assistance includes the development and implementation of a detailed transition plan. To the extent that Transition Assistance will involve third parties hired by JEA, those third parties shall cooperate with Company in its provision of Transition Assistance and sign any reasonable non-disclosure agreements required by Company.

Transition Assistance rendered before the Termination Date shall be provided at no additional cost to JEA. Transition Assistance rendered after the Termination Date shall be provided at the rates negotiated by the parties prior to the rendering of such service, which rates shall not exceed the standard market rates that Company charges to government entities for comparable services; provided however, that if JEA terminates the Contract because of a breach by Company, then (i) the Transition Assistance shall be provided at no cost to JEA, and (ii) JEA will be entitled to any other remedies available to it under law. Company may withhold Transition Assistance after the Termination Date if JEA does not provide reasonable assurance that the charges for such Transition Assistance will be paid to Company in accordance with the invoicing and payment provisions of the Contract.

2.81) 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.

2.82) Company Review of Project Requirements

The Company shall review all requirements and specifications prior to commencing Work. The Company shall immediately notify the Project Manager 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 Contract Amendment 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.

2.83) Licenses

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

2.84) 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, in its sole discretion, determines that the Company's Work is unsafe or a risk to property, and may direct the Company to, at a minimum, perform as directed by JEA 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 its responsibility.

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

2.85) Vendor Performance Evaluations

Use of Vendor Performance Evaluation Scorecards

JEA may evaluate the Company's performance using the evaluation criteria shown on the vendor scorecard available which are 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 Project Manager and Chief Procurement Officer or her designated alternate will notify the Company of such in a letter. The Company shall have 10 days to respond to the Project Manager. Such response shall include, and preferably be delivered in-person by an officer of the Company, the specific actions that the Company will take to bring the Company's performance up to at least Acceptable Performance.

Within 30 days from date of the first Unacceptable Performance letter, the Project Manager and Chief Purchasing Officer or her designated alternate will notify the Company by letter as to whether its performance, as determined solely by JEA, is meeting expectations, or is continuing to be Unacceptable. If the Company's performance is described in the letter as meeting expectations, no further remedial action is required by the Company, as long as Company's performance continues to be Acceptable.

If the Company's performance as described in the letter continues to be Unacceptable, or is inconsistently Acceptable, then the Company shall have 15 days from date of second letter to demonstrate solely through its performance of the Work, that it has achieved Acceptable Performance. At the end of the 15-day period, JEA will prepare a scorecard documenting the Company's performance from the start of Work, or date of most recent scorecard, whichever is latest, and giving due consideration to improvements the Company has made in its performance, or has failed to make. If the scorecard shows Company's performance is Acceptable, then no further remedial action is required by Company as long as Company's performance remains Acceptable. If the scorecard shows the Company's performance is Unacceptable, JEA will take such actions as it deems appropriate including, but not limited to, terminating the Contract for breach, suspending the Company from bidding on any JEA related solicitations, and other remedies available in the JEA Purchasing Code and in law. Such action does not relieve the Company of its obligations under the Contract, nor does it preclude an earlier termination.

In the event that the Contract Term or the remaining Term of the Contract does not allow for the completion of the deficient performance notification cycles described above for those in danger of receiving an Unacceptable Performance scorecard, JEA may choose to accelerate these cycles at its sole discretion.

If the Company receives five or more letters of deficiency within any 12-month period, then JEA will prepare a scorecard describing the deficiencies and the Company's performance will be scored as Unacceptable.

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

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

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

2.86) Force Majeure

No party shall be liable for any default or delay in the performance of its obligations under the 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; pandemics; outbreaks of communicable disease; quarantines; fires; hurricanes, tornados, floods; other natural disasters; 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 shall indicate the extent to which it is anticipated that any delivery or completion dates will be thereby affected within seven calendar days.

2.87) Coordination of Services Provided by JEA

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

2.88) Ambiguous Contract Provisions

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

2.89) Amendments

The Contract shall not be altered or amended except in a written amendment executed by duly authorized representatives of JEA and the Company.

2.90) Applicable State Law; Venue; Severability

The rights, obligations and remedies of JEA and the Company 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 the Contract or any provision thereof shall take place in the State or Federal Courts located exclusively in Jacksonville, Duval County, Florida.

With regard to any provision in this agreement pertaining to damages, equitable or otherwise, under no circumstances shall there be recovery by the Company 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.

2.91) Continuing Services

The Company shall carry on the Work and maintain the progress schedules during disputes or disagreements with JEA. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as JEA and Company may otherwise agree in writing. Suspension of the Work or portion thereof by Company shall entitle JEA to terminate the Contract for Default

2.92) Cumulative Remedies

Except as otherwise expressly provided in the Contract, all remedies provided for in the 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.

2.93) Delays

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

2.94) Dispute

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.

2.95) Entire Agreement

The 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.

2.96) Headings

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

2.97) Independent Contractor

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

2.98) 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.

2.99) Meetings and Public Hearings

The Company will, upon request from JEA, attend all meetings and public hearings as directed by JEA.

2.100) Negotiated Contract

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

2.101) Nonexclusive

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

2.102) 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.

2.103) Right to Audit and Financial Reporting

Accounting System

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

Audited Financial Statements

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

Content and Retention of Records

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

Inspection /Audit of Records

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

The Company shall at any time requested by JEA, whether during or after completion of the Contract, and at Company's own expense make such records available for inspection and audit (including copies and extracts of records as required) by JEA. Such records shall be made available to JEA during normal business hours at the Company's office or place of business in a workspace suitable for the audit on three days' prior written notice. In the event that no such location is available, then the financial records, together with the

supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for JEA. The Company shall have knowledgeable personnel available to answer questions for the auditors during the time they are performing the audit and for a period of two weeks thereafter. Company shall ensure JEA has these rights with Company's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Company and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Company's obligations to JEA.

Cost of Audits

If the audit identifies (i) overpricing or overcharges of any nature by the Company to JEA in excess of one-half of one percent (.5%) of the total billings under the Contract at the time of the audit or (ii) fraud, misrepresentation or non-performance, the Company shall reimburse JEA for the total costs of the audit.

Billing Adjustments and Recoveries

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

3. FORMS

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

- Appendix B – Response Workbook
- Appendix B – List of Subcontractors Form
- Appendix A – Technical Specifications
