

**Solicitation
For Participation in
Program Management for the District Energy System
for**



Jacksonville, FL

Solicitation Number 1411148046

Mandatory Pre-Response Meeting via WebEx or Teleconference on March 21, 2023, at 10:00 AM

Meeting URL: <https://jeameeting.webex.com/>

Meeting Number (Access Code): 2317 487 0502

Meeting Password: Meeting

Dial In: 1-415-655-0001

**Email Daniel Kruck (krucdr@jea.com) 24 hours before the Pre-Response Meeting
so that your attendance can be confirmed.**

Response Due Date: April 11, 2023 by 12:00 PM EST

Responses shall be electronically submitted per instructions in this solicitation.

**JEA will publicly open all Responses received from qualified Respondents on the Response Due Date, via
WebEx. A meeting link will be provided within 48 hours of Response opening on jea.com**

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Solicitation

1. REQUEST FOR PROPOSALS

1.1. SCOPE OF WORK

The scope of work for this solicitation includes providing integrated Program Management, including program management, analysis, planning, permitting, design and construction services for select projects identified in JEA's five-year District Energy System (DES) Capital Improvement Plan (CIP) as amended from time to time, as well as O&M tasks as identified with the life of the contract. JEA is seeking responses from qualified management teams to provide these services on an as-needed basis.

Additional information can be found in Appendix A – Scope of Services.

1.2. BACKGROUND

JEA owns, operates and manages the electric system established by the City of Jacksonville, Florida since 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 478,000 electric, 357,000 water, 279,000 sewer customers and 15,000 reclaimed water customers. JEA is Florida's largest community owned utility and the eighth largest municipal in the United States.

1.3. INVITATION - REQUEST FOR PROPOSAL

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 MAY BE REJECTED.

1.4. ZYCUS INSTRUCTIONS

I. How to Log Into Zycus

A. New Users – Zycus

1. New Users will need to register to login. Registration will require Company name, address, phone, contact, title, phone and email address. Also, it is recommended users use Google Chrome to access Zycus.
2. Note if the company is already doing business with JEA, you may find the company is already registered in Zycus. To find out if you are registered, try entering your email address in the New User Registration screen. If you receive a message stating “Email ID already registered”, log in as an Existing User Log-in”. If you don’t know your password, enter your email address and click on “Forgot Password”.

B. Existing Users or New Users with Previously Registered Emails

1. Once the user has a login on the sourcing platform select “Existing User Log-in”, the user may navigate to the solicitation by selecting the icon for the applicable solicitation.

II. How to Submit a Response Using Zycus

1. Once logged in, users will see all JEA Sourcing Events, then select the applicable event.
2. Once in the Sourcing Event. The Sourcing Event has prompts for actions required to respond to the solicitation.
3. 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.
4. Once 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.
5. 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.
6. 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.
7. 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”.
8. Once the user selects “Submit Response”, the user will receive a “Success” pop-up when submitted.
9. Once submitted users may recall and modify submitted documentation and submit information until the Response Due Date and Time.

1.5. QUESTIONS

All Questions must be submitted in writing to the JEA Buyer listed herein at least seven business days prior to the opening date. Questions received within seven business days prior to the opening date may not be answered.

Questions:

Buyer: Dan Kruck

E-mail: krucdr@jea.com

1.6. PRE-RESPONSE MEETING

There will be a mandatory Pre-Response meeting associated with this Solicitation at the date and time listed on the cover page of this Solicitation. All interested Respondents are required to attend the Pre-Response meeting. Those planning to attend the WebEx or teleconference should email their name and contact information to the JEA Buyer listed herein at least 48 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

1.7. 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/> 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. ALTERNATE PROVISIONS AND CONDITIONS

Responses that contain provisions that are contrary to requirements found on this RFP, including, but not limited to, the Contract terms and conditions contained in Section 2 of this RFP, and any requirements found in the Scope of Work attached as an exhibit or attachment to this RFP, will be reviewed but may not be accepted by JEA. However, as this is an RFP, JEA reserves the right to negotiate the best terms and conditions if determined to be in the best interests of JEA and negotiate different terms if JEA determines that it provides the best value to JEA.

1.9. MINIMUM QUALIFICATIONS

Respondent must meet the following Minimum Qualifications to be considered eligible to have its Response evaluated by JEA. Respondent must complete and submit the Minimum Qualification Form provided in this Solicitation. Respondents that are working or have worked for JEA in the past 2 years involving similar work must submit JEA as a reference. JEA reserves the right to ask for additional back up documentation or additional reference projects to confirm the Respondent meets the requirements stated above.

JEA may reject Responses from Respondents not meeting all the following Minimum Qualifications:

- I. The Respondent must have completed, or be under contract for, two (2) similar contracts for program management within the last ten (10) years as of the RFP due date
 - o A similar contract is defined as program management services for capital and/or O&M programs that has both plant and pipeline (within public rights-of-way) components in the DES industry

Any Respondent whose contract with JEA was terminated for default within the last two years shall have its Response rejected.

1.10. NUMBER OF CONTRACTS TO BE AWARDED

JEA intends to Award one (1) Contract for the Work. JEA reserves the right to Award more than one Contract based on certain groupings of the Work items, or JEA may exclude certain Work items, if JEA determines that it is in its best interest.

1.11. 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.

1.12. 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. JEA will not Award this Contract on a price only basis but will Award based on an evaluation of how well each Respondent meets the "Selection Criteria" stated herein.

1.13. EVALUATION METHODOLOGY

JEA shall evaluate the Respondent's qualifications, rank the qualifications from all Respondents, and negotiate a Contract for the Work in accordance with Florida Statute, Section 287.055, known as the Consultants' Competitive Negotiation Act ("CCNA").

In evaluating the qualifications, JEA will not consider price, but may consider factors including, but not limited to, the Selection Criteria listed below. JEA may also request interviews or presentations from the Responders during its selection. Interviews or presentations, if any, will be evaluated and up to twenty-five (25) points will be added to the Respondents written Response evaluation score.

Responses from qualified firms will be scored and ranked by a committee of evaluators. Each evaluator will individually score the Responses using the evaluation matrix attached to this Solicitation. Using these scores, each evaluator will rank the Responses using "1" for the Response receiving the highest number of points from the matrix. Responses with an equal number of points will receive the same numerical ranking. JEA will total the numerical rankings for each Response and consider the Response with the lowest total to be the most highly qualified Respondent.

After approving the rankings of all the Respondents, JEA will enter into negotiations with the best ranked Respondent. During negotiations, JEA will consider detailed information regarding the Respondent's hourly rates, and scope of the Contract.

If JEA and the Company are unable to negotiate a satisfactory Contract, JEA will formally terminate the negotiations with the Respondent and undertake negotiations with the next ranked Respondent. JEA will Award the Contract to the highest-ranking qualified Respondent that successfully completes Contract negotiations with JEA.

1.14. TIE

Any tie will be broken using the total scores of all evaluators for each Respondent. If a tie persists, the tie shall be resolved in accordance with JEA's Procurement Code and Operational Procedures.

1.14.1. SUBMISSION FORMAT

A Response must not exceed fifteen (15) total pages (most or all 8.5" x 11" pages), excluding the table of contents, cover letter, resumes and JEA supplied forms. A maximum of two (2) of the total pages may be 11" x 17" page size format. Font size must be ten (10) point or greater throughout the Response.

Responses should be formatted in the following order:

1. Table of Contents (0 points)
2. Cover Letter (0 points)
 - a. The cover letter should include the complete corporate name of the primary firm responding, address, telephone, fax number, and name of the person in the firm who JEA should contact regarding your response.
 - b. If firm is situated outside of Duval County include a brief statement as to whether or not the firm will arrange for a local office during the term of the contract.
3. Professional Staff Experience (35 points)
 - a. As shown below

4. Program Approach and Work Plan (45 points)
 - a. As shown below
5. Company Experience (20 points)
 - a. As shown below
6. JEA Required Forms (0 points)
 - a. Response Form (can be found in Appendix B)
 - b. Minimum Qualification Form (can be found in Appendix B)
 - c. JSEB Subcontracting Form (if any, can be found at jea.com)
 - d. Subcontractor Form (if any, can be found at jea.com)

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.

1.15.1. PROFESSIONAL STAFF EXPERIENCE

Maximum score for this criterion is: 35 POINTS

Evaluation of this criterion shall include an assessment of the general capabilities of the firm or individuals that will be engaged in the project. Qualities and indicators that will receive consideration generally include the various professional, technical, and educational achievements and registrations of the firm and individuals; the size, facilities, equipment, diversification, depth of personnel, and overall experience of the firm; the applicable experience of the proposed assigned staff, and the specific experience gained on similar projects.

Required Information:

1. Team Members

Proposer shall provide up to six (6) resumes of the professional staff to be assigned to perform the Work. The resumes provided shall identify personnel that can serve in the following positions: Program Manager, Chilled Water Plant Lead, Chilled Water Pipeline Lead, Construction Manager and up to two (2) other resumes of personnel that will be used during the program (collectively, the "Team Members"). All Team Members overseeing engineering services or performing engineering services must be Florida Professional Engineers (PEs), or become a Florida PE prior to any Work being performed.

Note, the Program Manager must be from the Respondent submitting the Response and not a Subcontractor. Persons whose resumes are submitted as a Team Member must actually perform the Work unless Respondent receives prior approval by the JEA Project Manager.

Respondent shall provide the resumes of the professional staff available to work on the JEA engagement. At minimum, each resume shall present the employee's name, title, years of service with the firm and overall years of relevant experience. Resumes shall also identify any specialty or technical process expertise. Resumes shall also include employee's applicable professional registrations, education, and work experience, including key projects. In demonstrating experience, Respondent must indicate the position/role the individual had in the specific key project referenced.

Resumes shall be no more than two (2) pages in length; single sided, and on 8.5" x 11" page size format. If more than two (2) pages are submitted, only the information contained on the first two pages will be evaluated by JEA. No more than six (6) resumes will be evaluated.

2. Organizational Chart

Finally, Respondent shall 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 subcontractor(s) and/or JSEB firm(s).

1.15.2. PROGRAM APPROACH AND WORK PLAN

Maximum score for this criterion is: 45 POINTS

Evaluation of this criterion shall include an assessment of the firm's ability to realize project budgetary goals, timetables, and quality control objectives; and the demonstrated general ability to bring about a successful completion of the projects under the firm's direction.

Interest in the service has increased in the past year causing JEA to rapidly develop growth plans for the systems to meet the increased customer demand. Typically, JEA receives little notice from customers before a request to connect to the DES system is made. A majority of customers desire to be connected to the DES system within 18-24 months from the initial notice to JEA. In answering the questions below, identify how your firm will assist JEA determining if the customer's requested timeframe for service is achievable if you knew the customer's metering location and JEA's pipeline location. After determining that the customer's schedule is achievable, discuss how your team would approach an individual project from the initial Task Order scope/fee discussion to final construction connection to meet the customer's preferred timelines. Additionally, provide your approach to the overall program management activities for the DES system.

Proposer shall provide the following:

1. How your firm will demonstrate clear accountability for the overall program, tasks and individual projects.
2. How your firm works through potential solutions to present a recommended one based on cost, schedule and quality.
3. How your firm intends to maintain project schedules, quality and cost control.
4. How your firm will approach the tasks described in the scope including details of how each component of the program would be completed.
5. How your firm will ensure safety compliance in accordance with JEA's standards.
6. How your firm will structure the program/project team.
7. How your firm will approach knowledge transfer to JEA staff.
8. How your firm will support the COJ/JEA Jacksonville Small & Emerging Business (JSEB) program.

1.15.3. COMPANY EXPERIENCE

Maximum score for this criterion is: 20 POINTS

Evaluation of this criterion shall include an assessment of the firm's specific experience in undertaking similar professional engagements. Qualities and indicators that will receive consideration generally include the number and types of the projects completed by the firm that are similar in nature to the scope of work being required within this solicitation; the degree of similarity of the projects completed and the ability of the firm to bring about a successful completion of such similar projects; the number and quality of references furnished in conjunction with similar projects; and any outstanding accomplishments of the firm that relate to the specific scope of services being sought.

Respondent shall provide the following:

1. Provide details on at least two (2) previous programs of similar size and scope.
 - a. For the resumes submitted for the Project Staff Experience section, describe the roles they performed on these two (2) reference programs.
 - b. Include contact names and phone number for the two (2) referenced programs.
2. Describe your firm's experience on programs of similar size and scope.

The programs referenced in this section may be the same as those used to meet the Minimum Qualifications.

1.16. MANDATORY USE OF JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB) PROGRAM

Each Task Order will be assigned a JSEB Goal. During the development of each Task Order the Company will meet with and provide project documentation to the JSEB Manager and/or JEA Project Manager to facilitate meeting the JSEB goal for that Task Order. Once the JSEB firms selected for each Task Order have been chosen, the Company will submit documentation to demonstrate compliance to the JSEB Manager.

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

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

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

All question and correspondence concerning the JSEB program should be addressed to the following contact:

Rita Scott

JSEB Manager

scotrl@jea.com

1.17. SUBCONTRACTORS USE FOR THE PERFORMANCE OF THE WORK

The Respondent must list the names of the major Subcontractors that it intends to use for the initial Scope of 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 initial Work, the Respondent should 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.

1.18. REQUIRED FORMS TO BE SUBMITTED

The following forms must be completed and submitted to JEA at the timeframes stated below. The Respondent can obtain the required forms, other than the Minimum Qualification Form and Response Form, by downloading them from JEA.com.

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

- I. Minimum Qualifications Form- This form can be found in Appendix B of this Solicitation
- II. Response Form- This can be found in Appendix B of this Solicitation
- III. List of JSEB Certified Firms (if any)
- IV. Subcontractor Form (if any)

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

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

1.19. ADDENDA ISSUANCE

JEA may issue Addenda prior to the opening of Responses to change or clarify the intent of this Solicitation. The Respondent is responsible for ensuring it has received all Addenda prior to submitting its Response and must acknowledge receipt of all Addenda by completing the Confirmation of Receipt of Addenda. JEA will post Addenda when issued online at JEA.com. Companies must obtain Addenda from the JEA.com website. It is the responsibility of each Respondent to ensure it has received and incorporated all Addenda into its Response. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Response.

1.20. CONTRACT EXECUTION AND START OF WORK

Within 30 days from the date of Award, JEA will present the successful Respondent with the Contract. Unless expressly waived by JEA, the successful Respondent must execute a Contract for the Work within 10 days after receiving the Contract from JEA. If the Respondent fails to execute the Contract or associated documents as required, JEA may cancel the Award with no further liability to the Respondent and retain any bid security or bond.

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

1.21. 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 to the Solicitation.

1.22. CONFLICT OF INTEREST

This conflict-of-interest policy applies to all JEA construction projects ("Project"). Any company bidding the construction phase of a Project cannot at the time of Response/bid submittal, be affiliated with or have any direct or indirect ownership interest in the architect/engineer ("Designer") of record. The company will also be prohibited from bidding if the Designer has any direct or indirect ownership interest in the Contractor. Should JEA erroneously award a contract in violation of this policy, JEA may terminate the contract at any time with no liability to company, and company shall be liable to JEA for all damages, including but not limited to the costs to rebid the Project. The purpose of this policy is to encourage bidding and eliminate any actual or perceived advantage that one bidder may have over another.

1.23. 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.

1.24. 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.

1.25. JEA PUBLICATIONS

Applicable JEA publications are available at jea.com.

1.26. 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.

1.27. MODIFICATION OR WITHDRAWAL OF RESPONSES

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

1.28. 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 sales 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.

1.29. 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.

1.30. AVAILABILITY OF RESPONSE AFTER OPENING

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

1.31. 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.

1.32. 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 COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**JEA
Attn: Public Records
21 West Church Street
Jacksonville, FL 32202
Ph: 904-665-8606
publicrecords@jea.com**

1.33. SCRUTINIZED COMPANIES

Pursuant to Section 287.135(2), Florida Statutes, a company is ineligible to, and may not, bid on, submit a Response for, or enter into or renew a contract with an agency or local government entity for goods or services of:

- 1) Any amount if, at the time of bidding on, submitting a Response for, or entering into or renewing such contract, contractor is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or
- 2) One million dollars or more if, at the time of bidding on, submitting a Response for, or entering into or renewing such contract, contractor:
 - i. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; or
 - ii. Is engaged in business operations in Cuba or Syria.

Pursuant to Section 287.135(3)(a)4, Florida Statutes, JEA may terminate this Contract at JEA's option if this Contract is for goods or services in an amount of one million dollars or more and the Company:

- 1) Is found to have submitted a false certification under Section 287.135(5), Florida Statutes;
- 2) Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes;
- 3) Is engaged in business operations in Cuba or Syria.

Pursuant to Section 287.135(3)(b), Florida Statutes, JEA may terminate this Contract at JEA'S option if this Contract is for goods and services of any amount and Company:

- 1) Is found to have been placed on the Scrutinized Companies that Boycott Israel List; or
- 2) Is engaged in a boycott of Israel.

1.34. TRUTH IN NEGOTIATION CERTIFICATE

Respondent understands and agrees that execution of the Contract by Respondent shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from the Contract, such certificate being required by Section 287.055, Florida Statutes. Pursuant to such certificate, Respondent hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete and current at the time of contracting. Further, Respondent agrees that the compensation hereunder shall be adjusted to exclude any significant sums where JEA determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual

unit costs, provided that any and all such adjustments shall be made within one year following the completion date of the Contract

1.35. DEFINED TERMS

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

2. CONTRACT TERMS AND CONDITIONS

2.1. CONTRACT DOCUMENT TERMS AND CONDITIONS

Section 2 of this Solicitation contains JEA's general terms and conditions that will govern the Contract awarded under this Solicitation. The Contract Documents will incorporate by reference all of the terms and conditions of this Solicitation, including all Technical Specifications, Appendices, Exhibits, Schedules and Forms included with this Solicitation. An example of the Contract that the Company will be required to execute is available for review at jea.com.

2.2. DEFINITIONS

Capitalized words and terms used in this Solicitation shall have the meaning given to them in this Section 2. The 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 the Scope of Work shall apply only within the Scope of Work.

2.2.1. 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.

2.2.2. ADDENDUM/ADDENDA

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

2.2.3. ANNIVERSARY DATE

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

2.2.4. AWARD

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

2.2.5. CHANGE ORDER

A written order issued by JEA after execution of the Contract, authorizing an addition, deletion, or revision of the Work, or an adjustment in the Contract Price or the Contract Time. Change Orders do not authorize expenditures greater than the maximum indebtedness shown in the Contract. A Change Order that involves a material change to the Contract may require a Contract Amendment.

2.2.6. COMPANY

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

2.2.7. COMPANY REPRESENTATIVE

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

2.2.8. 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.

2.2.9. 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.

2.2.10. 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.

2.2.11. CONTRACT PRICE

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

2.2.12. 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.

2.2.13. 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

2.2.13.1. FINAL COMPLETION

The point in time after JEA makes the determination that the Work is completed and there is Acceptance by JEA, and the Company has fulfilled all requirements of the Contract Documents.

2.2.14. HOLIDAYS

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

2.2.15. INVOICE

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

2.2.16. 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.

2.2.17. JEA INSPECTOR

The individual(s) or company(ies) designated by the JEA Project Manager to inspect and test the Company's performance and Contract compliance including materials, workmanship, safety, environmental compliance, JSEB compliance, project controls, administration and accounting, and other aspects of Contract compliance. The JEA Inspector has no authority to approve changes to the Work or Contract, or to commit JEA to any expenditure of money except as expressly designated in writing by the JEA Project Manager.

2.2.18. JEA PROJECT MANAGER

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

2.2.19. 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.

2.2.20. MILESTONE

A point in time representing a key or important intermediate event in the Work. A Milestone is to be capable of validation by meeting all of the items prescribed in a defining checklist as agreed to in writing by JEA.

2.2.21. NOTICE TO PROCEED

The written notice, duly authorized and delivered by JEA that authorizes the Company to begin the Work. The Notice to Proceed is normally issued in the form of a Purchase Order, unless otherwise specified in the Contract Documents.

2.2.22. PERFORMANCE - BELOW EXPECTATIONS

The Company averages less than 2.80 across all scorecard evaluation metrics.

2.2.23. PERFORMANCE - EXCEEDS EXPECTATIONS

The Company averages 4.0 or more across all scorecard evaluation metrics.

2.2.24. PERFORMANCE - MEETS EXPECTATIONS

The Company averages more than 2.9 and less than 4.0 across all performance scorecard evaluation metrics.

2.2.25. PROJECT

The entirety of the work. Also referred to as the “Work” or the “Scope of Work”.

2.2.26. PURCHASE ORDER

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

2.2.27. RESPONSE

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

2.2.28. RESPONDENT

The respondent to this Solicitation.

2.2.29. SCHEDULE

All documentation related to the planning and scheduling of the Work as described in these Terms and Conditions.

2.2.30. SCOPE OF WORK

A detailed description of the Work to be performed located in Appendix A – Scope of Work, or engineering drawings/documents, or GMP amendment(s), or any other format as agreed upon by both parties.

2.2.31. 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.

2.2.32. 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.

2.2.33. SUBSTANTIAL COMPLETION

The time when JEA determines that the Work (or a specified part thereof) is substantially complete, in accordance with the Contract Documents. Additionally, all work other than incidental corrective and incidental punch list work items shall be completed. Substantial Completion shall not have been achieved if all systems and parts are not functional, if utilities are not connected and operating normally, if all required regulatory permits and approvals have not been issued, or if all vehicular and pedestrian traffic routes affected by the Work have not been restored. The date of Substantial Completion shall be established in writing by JEA. Recognition of the Work as Substantially Complete, as evidenced by issuance of a Certificate of Substantial Completion, does not represent JEA's Acceptance of the Work

2.2.34. 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.

2.2.35. TERM

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

2.2.36. UNIT PRICE

The price for the performance of a unit of Work.

2.2.37. 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.

2.3. 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:

- I. Contract Amendments
- II. Executed Contract Documents
- III. Addenda
- IV. This Solicitation, including all Appendices, Exhibits and Attachments to this Solicitation
- V. Company's Response
- VI. JEA's Purchase Order

2.4. PAYMENT METHOD

When JEA issues a Task Order with an associated Purchase Order, the Company shall invoice JEA in accordance with the instructions set forth on the Purchase Order. JEA may pay the Company for the work described on the Task Order either upon the Company's completion of and JEA's verification of the entirety of the Task Order work, or at predetermined Milestones stated in the Task Order.

2.5. INVOICING AND PAYMENT TERMS

Within sixty (60) days from completion of the Work, the Company shall submit all Invoices or Applications for Payment in accordance with the payment method agreed upon in these Contract Documents. Invoices shall be submitted to the following email address: ACCTPAYCUSTSRV@JEA.COM.

JEA will pay the Company the amount requested within thirty (30) calendar days after receipt of an Invoice from the Company subject to the provisions stated below.

JEA may reject any Invoice or Application for Payment within 20 calendar days after receipt. JEA will return the Invoice or Application for Payment to the Company stating the reasons for rejection. Upon receipt of an acceptable revised Invoice or Application for Payment, JEA will pay the Company the revised amount within ten (10) days.

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

In the case of early termination of the Contract, all payments made by JEA against the Contract Price prior to notice of termination shall be credited to the amount, if any, due the Company. If the parties determine that the sum of all previous payments and credits exceeds the sum due the Company, the Company shall refund the excess amount to JEA within ten (10) days of determination or written notice.

2.6. JSEB -INVOICING AND PAYMENT

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

2.7. 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.

2.8. PROMPT PAYMENT TO SUBCONTRACTORS, SUB-SUBCONTRACTORS AND SUPPLIERS

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

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

2.9. PRICE ADJUSTMENTS

The index referred to herein shall be the Consumer Price Index for All Urban Consumers Series ID: CUUR0000SA0 (the "CPI") as provided by the United States Bureau of Labor Statistics.

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

Thirty (30) days prior to the Anniversary Date, the Company may propose a percent adjustment to the Unit Prices based on the percent change in the CPI as calculated below. Price adjustment to the Unit Prices will be recognized by JEA within 30 days from the date of the request.

JEA also reserves the right to decrease the Unit Prices on the Anniversary Date if justified by the CPI. All price adjustments to the Unit Prices shall be capped at 6%. No retroactive price adjustments will be allowed.

Price Increase/Decrease Formula = ((Latest CPI Index– Base CPI Index)/ Base 12 CPI Index)) X 100 = Percent Change (%) (rounded to thousandth of a percent). Base CPI Index in the formula refers to either the contract effective month or month of the last Price Adjustment, whichever is later.

2.10. 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:

- I. -1% 20, net 30
- II. -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.

2.11. 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.

2.12. 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.

2.13. WARRANTY (PROFESSIONAL SERVICES)

The Company warrants that all items provided under the Contract shall be in accordance with the requirements of the Contract and all services shall be performed in a professional manner and with professional diligence and skill, consistent with the prevailing standards of the industry. The Company warrants that the Work will meet the service levels, functional and performance requirements defined in the Contract.

The Company warrants all Work for a period of one year following Acceptance of the Work. If any failure to meet the foregoing warranty appears during the Term or within one year after Acceptance, the Company shall again perform the Work directly affected by such failure at the Company's sole expense.

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

The Company represents and warrants that it will conduct the Work in a manner and with sufficient labor, materials and equipment necessary to affect a diligent pursuance of the Work.

The Company represents and warrants that it has the responsibility and capacity to train and supervise its employees, Subcontractors and suppliers to ensure the Work complies with all safety requirements of the Contract Documents.

The Company represents and warrants that its employees and Subcontractors shall exercise the degree of skill and care required by customarily accepted good practices and procedures.

2.14. 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.

2.15. INSURANCE

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

Workers' Compensation

Florida Statutory coverage and Employer's Liability (including appropriate Federal Acts); Insurance Limits: Statutory Limits (Workers' Compensation) \$500,000 each accident (Employer's Liability).

Commercial General Liability

Premises-Operations, Products-Completed Operations, Contractual Liability, Independent Contractors, Broad Form Property Damage, Explosion, Collapse and Underground, Hazards (XCU Coverage) as appropriate; Insurance Limits: \$1,000,000 each occurrence, \$2,000,000 annual aggregate for bodily injury and property damage, combined single limit.

Automobile Liability

All autos-owned, hired, or non-owned; Insurance Limits: \$1,000,000 each occurrence, combined single limit.

Professional Services/Errors and Omissions: \$2,000,000 each claim; \$4,000,000 annual aggregate

Excess or Umbrella Liability

(This is additional coverage and limits above the following primary insurance: Employer's Liability, Commercial General Liability, and Automobile Liability); Insurance Limits: \$4,000,000 each occurrence and annual aggregate.

Company's Commercial General Liability and Excess or Umbrella Liability policies shall be effective for two 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 uploaded to JEA's ISupplier Portal which can be found at <https://jea.com>.

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.

It shall be the sole responsibility of Company to ensure that any Subcontractors performing work for Company are properly insured against any claim, action, loss, damage, injury, liability, cost and expense (including, but not by way of limitation, reasonable attorney's fees and court costs) to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Subcontractors

2.16. TITLE AND RISK OF LOSS

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.

2.17. INDEMNIFICATION - RELEASE OF JEA CUSTOMER INFORMATION

The Company shall hold harmless and indemnify JEA against any and all claims actions, losses, damages, injuries, liability, costs and expenses of whatsoever kind or nature (including, but not by way of limitation, reasonable attorney's fees and court costs) arising out of the unwarranted disclosure of any JEA customer information that is in the possession of Company or any of its employees, agents or Subcontractors 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 any purpose whatsoever.

2.18. 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.

2.19. 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.

2.20. ENVIRONMENTAL INDEMNIFICATION

The Company shall hold harmless, indemnify and defend JEA, including without limitation, its officers, directors, members, representatives, affiliates, agents and employees, successors and assigns (the "Indemnified Parties") and will reimburse the Indemnified Parties from and against any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) arising from or in connection with (a) the Company's, including, but not limited to, its agents, affiliates or assigns ("Parties"), actions or activities that result in a violation of any environmental law, ordinance, rule, or regulation or that leads to an environmental claim or citation or to damages due to the Company's or other Parties' activities, (b) any environmental, health and safety liabilities arising out of or relating to the operation or other activities performed in connection with this Contract by the Company or any Party at any time on or after the effective date of the Contract, or (c) any bodily injury (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any person in any way arising from or allegedly arising from any hazardous activity conducted by the Company or any Party. JEA will be entitled to control any remedial action, any proceeding relating to an environmental claim.

This indemnification agreement is separate and apart from, and is in no way limited by, any insurance provided pursuant to this Contract or otherwise. This section relating to indemnification shall survive the Term of this Contract, and any holdover and/or Contract extensions thereto, whether such Term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Contract.

2.21. LIQUIDATED DAMAGES

For Task Orders that contain construction services, if the Company fails to Substantially Complete the Work on or before the time periods required in the Contract Documents, the Company shall pay JEA the sum(s) set forth in the Task Order for each and every calendar day, including Sundays and Holidays, until the date the Work is completed and Accepted by JEA. Liquidated Damages are capped at a maximum of ten percent (10%) of the Task Order price.

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

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

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

2.22. 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.

2.23. 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.

2.24. TERM OF CONTRACT

The Contract shall commence on the effective date of the Contract and continue and remain in full force and effect as to all its terms, conditions and provisions as set forth herein for five years.

JEA may renew the Contract in its sole discretion for two additional one-year periods.

The Contract shall be contingent upon the existence of lawfully appropriated funds for the Contract. Certain provisions of the Contract may extend past termination including, but not limited to, Warranty and Indemnification provisions.

2.25. PAYMENT AND PERFORMANCE BOND AMOUNT AND REQUIREMENTS

After receipt of a Task Order for construction, the Company shall furnish a Payment and Performance Bond in the amount indicated on the Contract Amendment, made out to JEA in forms and formats approved and provided by JEA, as security for the faithful performance of the Work of Contract. JEA will send the approved bond forms to the Company for execution along with the Contract, however, in no case shall the date on the bond forms be prior to that of the executed Contract. The surety must be authorized and licensed to transact business in Florida. A fully executed Payment Bond and Performance Bond must be recorded with the Clerk of Duval County Court and delivered to JEA before JEA will issue a Purchase Order to begin the Work. No Purchase Order shall be issued until the Payment and Performance Bonds are recorded and delivered to the JEA Procurement Department. If the Company fails or refuses to furnish or record the required bonds, JEA will retain the Company's Bid Bond as liquidated damages.

The Payment and Performance Bond requirements may be less than the full Contract amount. The Company should be aware that their bond premiums may be adjusted by their bonding company, if actual Work exceeds the amount of the bond, however, any increase in total premiums required will not be approved by JEA for any change in Contract price as either a change order or as an adjustment through the use of a Supplemental Work Authorization. Unless otherwise specified on the Bid Form, the Company shall be solely responsible for obtaining and maintaining the required Payment and Performance Bonds throughout the term of the Contract. To be acceptable to JEA as Surety for Performance and Payment Bonds, a Surety Company shall comply with the following provisions:

- a) The Surety Company shall have a current and valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.
- b) The Surety Company shall have a current and valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Codes.
- c) The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
- d) The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code during the life of this agreement.
- e) If the Contract Award Amount exceeds \$500,000, the Surety Company shall also comply with the following provisions:

The Surety Company shall have at least the following minimum ratings in the latest issue of A.M. Best's Key Rating Guide.

POLICY HOLDER'S CONTRACT AMOUNT AND REQUIRED FINANCIAL RATING:

- I. \$500,000 TO 1,000,000: A-CLASS IV
- II. \$1,000,000 TO 2,500,000: A-CLASS V
- III. \$2,500,000 TO 5,000,000: A-CLASS VI
- IV. \$5,000,000 TO 10,000,000: A-CLASS VII
- V. \$10,000,000 TO 25,000,000: A- CLASS VIII
- VI. \$25,000,000 TO 50,000,000: A- CLASS IX
- VII. \$50,000,000 TO 75,000,000: A- CLASS X

The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided: Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance, to conduct business in this state has been met.

In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

2.26. TERMINATION FOR DEFAULT

Termination for Default may occur at any point of the Contract based on the conditions outlined below. Termination for Default (No Bonds) occurs if the default occurs prior to execution of Payment and Performance Bonds. Contract Termination for Default (Bonds) occurs after Payment and Performance Bonds for this Contract have been executed.

2.26.1. 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”):

- I. The Company assigns or subcontracts the Work without JEA’s prior written consent;
- II. Any petition is filed or any proceeding is commenced by or against the Company for relief under any bankruptcy or insolvency laws;
- III. A receiver is appointed for the Company's properties or the Company commits any act of insolvency (however evidenced);
- IV. The Company makes an assignment for the benefit of creditors;
- V. The Company suspends the operation of a substantial portion of its business;
- VI. 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;
- VII. 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;
- VIII. The Company attempts to willfully impose upon JEA items or workmanship that are, in JEA's sole opinion, defective or of unacceptable quality;
- IX. 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;
- X. The Company is determined, in JEA's sole opinion, to have misrepresented the utilization of funds or misappropriated property belonging to JEA; or
- XI. Any material adverse change in the financial or business condition of the Company.

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

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 an 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.

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.

2.26.2. TERMINATION FOR DEFAULT (BONDS)

JEA may give written notice to the Company to discontinue all or part of the Work under the Contract or to cure a material breach of the Contract in the event that:

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

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

Once Company is declared in default and the Contract has been terminated, JEA may notify the Surety in writing of the termination. The Surety shall, at JEA's sole option, take one (1) of the following actions upon JEA's written notice:

- a) Within a reasonable time, but in no event later than thirty (30) days from JEA's written notice of termination for default, the Surety shall arrange for the Company, with JEA's consent, to complete the Contract. Subject to the provisions below, JEA shall promptly pay the balance of the Contract price to the Surety upon completion of the Contract; or
- b) Within a reasonable time, but in no event longer than sixty (60) days from JEA's written notice of termination for default, the Surety shall award a contract to a completion contractor to complete the Work required by the Contract, issue notice to proceed, and pay the cost of completion, less the balance of the Contract price or, alternatively, JEA may elect to have the Surety determine jointly with JEA the lowest responsible qualified bidder, to have the Surety arrange for a contract between such bidder and JEA to complete the Work required by the Contract, and the Surety shall promptly make available as Work progresses sufficient funds to pay the cost of completion, less the balance of the Contract price; or
- c) Within a reasonable time, but in no event later than thirty (30) days from JEA's notice of termination for default, JEA may begin work to complete the Work required by the Contract or arrange for completion of the Contract and, within twenty-one (21) days thereafter, JEA shall determine the amount necessary to complete the Work required by the Contract. Upon notice to the Surety, the Surety shall promptly tender payment to JEA of the amount so determined to complete the Work required by the Contract, less the balance of the Contract price.

The phrase "balance of the Contract price," as used above, means the total amount payable by JEA to Contractor under the Contract and any approved change orders thereto, less the amount properly paid by JEA to or on behalf of Contractor and less any liquidated damages or other damages due from Contractor to JEA (or which JEA may retain or use as an offset of amounts owed to Contractor) pursuant to the Contract.

In addition to the costs to complete the Contract pursuant to the options above, the Surety shall indemnify and hold JEA harmless on account of all claims and damages arising from Contractor's default under the Contract, and pay

JEA for all losses, delay and disruption damages, and all other damages, expenses, costs and statutory attorney's fees, including appellate proceedings, that JEA sustains as the result of a default by the Contractor under the Contract.

It is understood and agreed that any liquidated damages assessed by JEA against the Company shall belong to JEA and shall not be considered part of the balance of the Contract price or otherwise reduce the amount due to JEA from the Surety.

JEA shall have the right to take possession of and use any of the materials, plant, tools, equipment, supplies and property of any kind provided by the Company for the purpose of this Work.

JEA will charge the expense of completing the Work to the Company and will deduct such expenses from monies due, or which at any time thereafter may become due, to the Company. If such expenses are more than the sum that would otherwise have been payable under the Contract, then the Company or Surety shall pay the amount of such excess to JEA upon notice of the expenses from JEA. JEA shall not be required to obtain the lowest price for completing the Work under the Contract, but may make such expenditures that, in its sole judgment, shall best accomplish such completion. JEA will, however, make reasonable efforts to mitigate the excess costs of completing the Work.

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

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

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

Immediately upon termination or expiration of this Contract, Company must return to JEA all materials, documents and things used by Company and belonging to JEA, including proposals, computer files, borrower files, building keys, and any other property or information regarding continued business compliance or goodwill, whether in electronic or hard-copy form. Furthermore, upon JEA's request, Company shall certify in writing that all of the foregoing documents or materials, including archival or backup copies, whether in electronic or hard-copy form, have been returned to JEA, deleted from any computer system, or otherwise destroyed.

2.27. 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.

2.28. ACTIONS AFTER TERMINATION

Immediately upon termination or expiration of this Contracts, Company must return to JEA all materials, documents and things used by Company and belonging to JEA, including proposals, computer files, borrower files, building keys, and any other property or information regarding continued business compliance or goodwill, whether in electronic or hard-copy form.

Furthermore, upon JEA's request, Company shall certify in writing that all of the foregoing documents or materials, including archival or backup copies, whether in electronic or hard-copy form, have been returned to JEA, deleted from any computer system, or otherwise destroyed.

2.29. SELF HELP

Within thirty (30) business days after being notified by JEA in writing of defective work, unacceptable work or failure to perform any portion of the work required by this Contract, if the Company fails to correct such work or perform such work, JEA may cause the unacceptable or defective work to be corrected or perform the work. If JEA undertakes to correct the work or perform the services, JEA shall be entitled to set off against and deduct from any monies due, or which may become due to the Company, the reasonable cost incurred by JEA. If the corrective work or services cannot reasonably be completed within such thirty (30) business day period, and the Company immediately begins corrective work or services, and JEA reasonably determines that the Company is diligently pursuing completion of such corrective work or services, JEA agrees to allow the Company to complete correction of the defective or unacceptable work or perform services within a reasonable period of time.

If the Company fails to reimburse monies due to a subcontractor in accordance with the timelines provided in the Florida Prompt Payment Act, after determining the Company's negligence, JEA reserves the right to reimburse the subcontractor and set off against and withhold such monies from payments due to the Company.

All costs and expenses incurred by JEA pursuant to this Section shall be deducted by JEA from monies due, or which may become due, to the Company for performance of the work or services and its obligations herein. This provision is cumulative to all other provisions of the Contract and it is not intended that any deductions in payment taken pursuant to this Section shall diminish or waive JEA's right to declare the Company in default in accordance with applicable provisions of the Contract or to exercise any other right or remedy available to JEA.

2.30. 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.

2.31. 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.

2.32. 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.

2.33. COMPANY REVIEW OF PROJECT REQUIREMENTS

The Company shall review all requirements and specifications prior to commencing Work. The Company represents that its total Response Price and the 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. 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.

2.34. 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.

2.35. VENDOR PERFORMANCE EVALUATIONS

Use of Vendor Performance Evaluation Scorecards

JEA may evaluate the Company's performance using the Vendor Performance Scorecard templates which are available online at jea.com. However, JEA is not required to use scorecards to terminate a contract.

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. Vendors are scored on a scale from 1 to 5:

- 5- Far Exceeds Expectations
- 4- Exceeds Expectations
- 3 - Meets Expectations
- 2 - Below Expectations
- 1 - Far Below Expectations

The Scorecard averages all the scores for each criterion. If a Vendor scores a 3 or higher, they are considered to at least Meet Expectations.

Frequency of Evaluations

JEA may conduct performance evaluations and prepare scorecards 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.

Scoring -Meets Expectations

JEA expects the Company's performance to be at a minimum evaluated as "Meets Expectations".

Scoring - Below Expectations

If at any time, JEA determines, using the criteria described on the scorecard, that the performance of the Company is Below Expectations or Far Below Expectations, the Project Manager will first meet with the Company and issue a deadline for the Company to be back in compliance with the Contract.

If the Company fails to achieve Contract compliance, the Chief Procurement Officer or her designated alternate may meet with the Company to review the scorecard and/or send a Notice to Cure letter to the Company describing the deficient performance. The Company shall respond as requested and shall also include in its response a statement of the timeframes and specific actions that the Company will take to bring the Company's performance up to at least Meets Expectations.

The Company's performance may again be evaluated by the JEA Project Manager and if the Company is evaluated as at least Meets Expectations, no further remedial action is required by the Company, as long as Company's performance continues to be at Meets Expectations.

If the scorecard shows the Company's performance is Below Expectations or Far Below Expectations, 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, invoking the Self Help clause, and other remedies available in the JEA Procurement 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 a Below Expectations scorecard, JEA may choose to slow down or accelerate these cycles at its sole discretion.

If the Company receives five or more letters of performance deficiency within any 12-month period, then JEA will consider suspending the Company's JEA bidding privileges.

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.

Public Records

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

2.36. QUALIFICATIONS OF EMPLOYEES, SUBCONTRACTORS, AND AGENTS

All employees, subcontractors and agents of the Company performing work under the Contract shall be properly trained and qualified. Upon request, Company shall furnish a copy of a technical certification or other proof of qualification. All employees, subcontractors and agents performing work under the Contract must comply with all reasonable administrative requirements of JEA and with all controlling laws and regulations relevant to the services they are providing under the Contract.

The Company shall take all actions necessary to ensure that the Company's employees, subcontractors and agents are not considered employees of JEA. Such actions include, but are not limited to, ensuring that Company's employees, subcontractors and agents receive payment and any legally mandated insurance (e.g., workers' compensation and unemployment compensation) from an employer other than JEA.

2.37. 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 lost badges, terminations or 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 also apply to the Company's Subcontractors and agents performing any of the Work and shall be included in the Company's contracts with its Subcontractors for any part of the Work.

2.38. 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:

- I. Social Security Number (SSN) Trace;
- II. Criminal Records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal);
- III. Background checks undertaken by JEA for its own employees who have duties similar to the duties of the Company's employee(s); and
- IV. 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.

2.39. 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:

- I. 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;
- II. All data obtained by Company under the Contract shall become and remain the property of JEA;
- III. 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;
- IV. 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;
- V. 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 within 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.

2.40. 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:

- I. 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.
- II. Notification by the Company of Company-identified incidents related to the products or services provided to JEA that pose cyber security risk to JEA
- III. Coordination of responses to Company-identified incidents related to the products or services provided to the JEA that pose cyber security risk to JEA
- IV. Notification by Company when remote or onsite access should no longer be granted to Company representatives
- V. Disclosure by Company of known vulnerabilities related to the products or services provided to the JEA;
- VI. 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;
- VII. Coordination of controls for (i) Company-initiated Interactive Remote Access, and (ii) system-to-system remote access with Company; and
- VIII. Compliance with JEA CIP Cyber Security Policy (MD-202).

2.41. 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.

2.42. LEGAL WORKFORCE

The Company's employment of unauthorized aliens shall be a violation of section 274A(e) of the Immigration and Nationality 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.

2.43. CONFIDENTIALITY & PUBLIC RECORDS LAWS

Access to Public Records

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

Redacted copies of Confidential Information

If the Company believes that any portion of any documents, data or other records submitted to JEA are exempt from disclosure under Chapter 119, Florida Statutes, the Florida Constitution and related laws ("Florida's Public Records Laws"), Company must (1) clearly segregate and mark the specific sections of the document, data and records as "Confidential", (2) cite the specific Florida Statute or other legal authority for the asserted exemption, and (3) provide JEA with a separate redacted copy of the documents, data, or records (the "Redacted Copy"). The Redacted Copy shall contain JEA's contract name and number, and shall be clearly titled "Redacted Copy". Bidder should only redact those portions of records that Bidder claims are specifically exempt from disclosure under Florida's Public Records Laws. If the Company fails to submit a redacted copy of documents, data, or other records it claims is confidential, JEA is authorized to produce all documents, data, and other records submitted to JEA in answer to a public records request for these records.

Request for Redacted Information

In the event of a public records or other disclosure request under Florida's Public Records Laws or other authority to which the Company's documents, data or records are responsive, JEA will provide the Redacted Copy to the requestor. If a Requestor asserts a right to any redacted information, JEA will notify the Company that such an assertion has been made. It is the Company's responsibility to respond to the requestor to assert that the information in questions is exempt from disclosure under applicable law. If JEA becomes subject to a demand for discovery or disclosure of the redacted information under legal process, JEA shall give the Company prompt notice of the demand prior to releasing the redacted information (unless otherwise prohibited by applicable law). The Company shall be responsible for defending its determination that the redacted portions of the information are not subject to disclosure.

Indemnification for Redacted Information

The Company shall protect, defend, and indemnify JEA from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs, and expenses (including but not limited to reasonable attorney's fees and costs) arising from or relating to the Company's assertion that all or any portion of its information is not subject to disclosure.

Public Records Clause for Service Contracts

If, under the Contract, the Company is providing services and is acting on behalf of JEA as contemplated by subsection 119.011(2), Florida Statutes, the Company shall:

- I. Keep and maintain public records that ordinarily and necessarily would be required by JEA in order to perform service;
- II. Provide the public with access to public records on the same terms and conditions that JEA would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or otherwise prohibited by law;

- III. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- IV. Meet all requirements for retaining public records and transfer, at no cost, to JEA all public records in possession of the Company upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically shall be provided to JEA in a format that is compatible with the information technology systems of JEA.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

JEA

Attn: Public Records

21 West Church Street

Jacksonville, Florida 32202

Ph: 904-665-8606

publicrecords@jea.com

2.44. 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.

2.45. WORK MADE FOR HIRE

With the exception of Company's pre-existing intellectual capital and third-party Intellectual Property, JEA shall own all right, title and interest, including ownership of copyright (limited to the extent permitted by the terms of any governing licenses), in and to any product generated by the Work including, but not limited to, software, source

code, reports, deliverables, or work product developed by the Company for JEA in connection with the Work, and derivative works relating to the foregoing. Such Work shall include, but shall not be limited to, those reports and deliverables specified in the Contract Documents. The Company understands and agrees that the Work, or any portion of the Work, shall be a "work made for hire" for JEA pursuant to federal copyright laws. Any software, report, deliverable, or work product as used in connection with the Work, but, previously developed by the Company specifically for other customers of the Company or for the purpose of providing substantially similar services to other Company customers, generally shall not be considered "work made for hire", so long as the foregoing are not first conceived or reduced to practice as part of the Work. To the extent any of JEA deliverables are not deemed works made for hire by operation of law, the Company hereby irrevocably assigns, transfers, and conveys to JEA, or its designee, without further consideration all of its right, title and interest in such Work, including all rights of patent, copyright, trade secret, trademark or other proprietary rights in such materials. Except as provided in the foregoing sentences, the Company acknowledges that JEA shall have the right to obtain and hold in its own name any intellectual property right in and to the Work. The Company agrees to execute any documents or take any other actions as may reasonably be necessary, or as JEA may reasonably request, to perfect or evidence JEA's ownership of the Work.

2.46. 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.

2.47. 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.

2.48. MEETINGS AND PUBLIC HEARINGS

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

2.49. 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.

2.50. 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:

- I. The provisions of Presidential Order 11246, as amended, and the portions of Executive Orders 11701 and 11758 as applicable to Equal Employment Opportunity;
- II. The provisions of section 503 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA); and
- III. 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.

2.51. 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.

2.52. 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.

2.53. 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.

2.54. PERSONNEL AND CHANGES IN COMPANY'S PROFESSIONAL PERSONNEL

Unless otherwise agreed in writing by the parties, all Services shall be rendered by employees: (a.) who are full time employees of Company or approved subcontractors; (b.) qualified to perform the Services, and (c.) fluent in the English language. Subsequent to the execution of this Contract, Company shall notify the JEA Project Manager in writing prior to making changes in professional personnel assigned, or to be assigned, as provided in Company's Response to manage or perform Work under this Contract. The JEA Project Manager shall have the right to reject any personnel assigned by Company to perform work under this Contract. If the right of rejection is exercised by the JEA Project Manager, Company shall submit replacement of professional personnel to the JEA Project Manager for approval. The JEA Project Manager shall have the right to require the removal of Company's previously assigned personnel and Company shall promptly replace the same, subject to the JEA Project Manager's approval at no cost to JEA.

2.55. 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.

2.56. AMENDMENTS

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

2.57. APPLICABLE STATE LAW; VENUE; SEVERABILITY

Company shall comply with all applicable federal, state and local laws, rules and regulations as the same exist or as may be amended from time to time. 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.

2.58. 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.

2.59. JSEB REQUIREMENTS FOR TASK ORDERS

During the development of each Task Order Company shall meet with and provide project documentation to the JSEB Manager to facilitate meeting the JSEB requirement for this project. Once the JSEB firms selected for a Task Order have been chosen, the Company will submit documentation to demonstrate compliance to the JSEB Manager monthly.

JSEB firms that qualify for this Contract are only those shown on the current City of Jacksonville JSEB directory appearing at www.coj.net. Certification of JSEB firms must come from the City of Jacksonville. No other agency or organization is recognized for purposes of this Contract.

In no case shall the Company make changes to the JSEB firms listed in the Task Order, revise the JSEB Scope of Work or amount of Work as stated in the Task Order without prior written notice to the JEA Project Manager and

the JEA JSEB Manager, and without subsequent receipt of written approval for the JEA Project Manager and the JEA JSEB Manager.

2.60. COMPLIANCE WITH JSEB REQUIREMENTS

The Company shall achieve the JSEB participation requirements as set forth in the Solicitation, except as allowed under the good faith efforts exception as defined in the City of Jacksonville Ordinance. In no case shall the Company make changes to the JSEB firms listed in its Response, revise the JSEB scope of Work or amount of Work as stated in its Response without prior written notice to the JEA Project Manager, and without subsequent receipt of written approval from the JEA Project Manager.

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

Use of brokering, as defined in the City of Jacksonville Ordinance, or other techniques that do not provide a commercially useful function are strictly prohibited as means of achieving the JSEB requirements of the Contract.

Only the amount of fees or commissions charged by a JSEB for providing a bona fide service such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract shall be counted towards a JSEB participation requirement, provided the fee is reasonable and not excessive as compared with fees customarily charged for similar services.

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

If the Company uses a JSEB qualified firm for the performance of any part of this Work, the Company shall submit to JEA, with its Invoice, a listing of JSEB qualified firms that have participated in the Work. Such listing shall be made using the form "JSEB Monthly Spend Report form" located under Bid Forms available at www.jea.com.

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

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

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

2.61. 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.

2.62. 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 the JEA Procurement Code.

2.63. 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.

2.64. EXPANDED DEFINITIONS

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

2.65. HEADINGS

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

2.66. 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.

2.67. 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.

2.68. 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.

2.69. 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.

2.70. 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.

2.71. 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.

2.72. 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.

2.73. SUBCONTRACTING AND ASSIGNMENT

The Company shall not subcontract, assign, delegate, or otherwise dispose of the Contract, the duties to be performed under the Contract, or the monies to become due under the Contract without JEA's prior written consent. The assignment of the Contract will not relieve the Company of any of its obligations until such obligations have been assumed in writing by the assignee. If the Contract is assigned by either of the parties, it will be binding upon and will inure to the benefit of the permitted assignee. The Company shall be liable for all acts and omissions of its assignees and its Subcontractors. In the event the Company obtains JEA approval to use Subcontractors, the Company shall provide Subcontractors possessing the skills, certifications, registrations, licenses, training, tools, demeanor, motivation and attitude to successfully perform the Work for which they are subcontracted. The Company shall remove Subcontractors from performing Work under the Contract when the Company recognizes

that a Subcontractor is failing to work in a manner consistent with the requirements of the Contract, or when JEA notifies the Company that JEA has determined a Subcontractor is failing to work in a manner consistent with the requirements of the Contract.

2.74. SURVIVAL

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

2.75. TIME AND DATE

Unless otherwise specified, references to time of day or date mean the local time or date in Jacksonville, FL. If under the Contract any payment or calculation is to be made, or any other action is to be taken, on or as of a day that is not a regular business day for JEA, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a regular business day. Where reference is made to day or days, it means calendar days. Where reference is made to workday, workdays, business day, or business days, it means regular working days for JEA's Procurement department.

2.76. TIME OF ESSENCE

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

2.77. WAIVER OF CLAIMS

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

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

2.78. LIMITATION OF LIABILITY

Neither the Company nor JEA shall be liable for any indirect, special or consequential damages, under any theory of relief, including without limitation, breach of warranty, breach of contract, tort (including negligence), strict liability, or otherwise, arising out of or related to the Company's or JEA's acts or omissions.

Company's liability to JEA for direct damages under this Contract shall not exceed the contract price. This limitation of liability specifically excludes injury to third parties and third party property and there shall be not limitation of liability with respects to the same.

The limitation of liability is in no way to be construed as a waiver by JEA of its sovereign immunity as afforded by the Florida Constitution as codified in Section 768.29 Florida Statutes.

2.79. TRUTH IN NEGOTIATION CERTIFICATE

Company understands and agrees that execution of the Contract by Company shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from the Contract, such certificate being required by Section 287.055, Florida Statutes. Pursuant to such certificate, Company hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete and current at the time of contracting. Further, Company agrees that the compensation hereunder shall be adjusted to exclude any significant sums where JEA determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one year following the completion date of the Contract.

2.80. CHANGE IN SCOPE OF SERVICES

From time to time, JEA may direct changes and modifications in the scope of the services, as contained in the Contract Documents, to be performed under this Contract as may be necessary to carry out the purpose of this Contract. The Company is willing and agreeable to accommodate such changes, provided it is compensated for additional services in accordance with its professional fees and expenses under the terms of this Contract. Such changes shall be in the form of a written amendment to this Contract reflecting, as appropriate, an amendment to the Work rendered and adjustment to Company's professional fees, including an extension to the duration of this Contract, as well as the maximum indebtedness of JEA. Maximum indebtedness is the maximum total cost that may be paid to the Company hereunder, including travel related costs, per year during the initial term of the Contract for the Work rendered under the terms of this Contract. The JEA Representative directly responsible for each project will make the final determination as to whether any compensable change exists.

3. DETAILED SCOPE OF WORK

3.1. TECHNICAL SPECIFICATIONS/DETAILED SCOPE OF WORK (APPENDIX A)

A detailed Scope of Work is located in Appendix A of this document.

4. FORMS

4.1. FORMS (APPENDIX B)

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

5. SUPPLEMENTAL INFORMATION

5.1. SUPPLEMENTAL INFORMATION (APPENDIX C)

The following documents can be found in Appendix C:

- 1411148046 Appendix C – District Energy System Map

6. EVALUATION MATRIX

6.1. EVALUATION MATRIX

The following form is the matrix that will be used to evaluate all Responses to this RFP:

- 1411148046 Evaluation Matrix.