

**REQUEST FOR QUALIFICATIONS  
FOR  
SUPPLEMENTAL LABOR FOR OPERATIONS, STORMS, EMERGENCY RESPONSE  
PREPARATION AND RESTORATION**



**JACKSONVILLE, FL**

**SOLICITATION NUMBER 99745**

**SUBMIT INQUIRIES TO: [LOVGRD@JEA.COM](mailto:LOVGRD@JEA.COM)**

**OPTIONAL PREBID MEETING**

**AUGUST 6, 2020, 2:00 PM**

**Toll-Free Conference Bridge Number: 1-866-907-1051**

**Moderator Passcode: 7635501    Participant Passcode: 763550**

**RESPONSE DUE DATE AUGUST 18, 2020, 12:00 PM NOON (EST)**

**RESPOND BY EMAIL TO: [LOVGRD@JEA.COM](mailto:LOVGRD@JEA.COM)**

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### **1.1.1. SCOPE OF WORK (RFQ)**

The purpose of this Request for Qualifications (RFQ) is to qualify companies for the 2020 to provide Forklift and CDL drivers. This RFQ may be used to supplement JEA's workforce on short term basis and for JEA's Storm season (June 1 to November 30 of each calendar year) where JEA often requires temporary additional labor support services from companies that can provide the manpower to provide continuity and service levels for warehouse operations and delivery services. A qualified Company must be able to respond immediately to a JEA declared emergency or storm event.

Prior to a storm event, should JEA choose to request mobilization of qualified company, JEA will provide a prospective start date with as much notice as possible. This start date, once JEA has decided to mobilize temporary support (labor) services, will commence on the date noticed, as much as practical JEA will provide a week by week forecast. When event is nearing completion, JEA will provide termination of required support prior to the close of the current working day for the next calendar day.

Once a Company is qualified per the this RFQ, JEA will send the Company a contract to sign so that storm labor rates are established in case of a business need or emergency response.

During a Clear Sky's need, JEA's needs would typically be for 1-3 personnel for support JEA's workforce for Forklift Drivers and Class A CDL drivers.

During a storm or emergency response event, JEA projects up to 18 Forklift Drivers and 3-4 Class A CDL drivers would typically be needed.

A complete Scope of Work is located in **Appendix A, Technical Specifications**.

### **1.1.2. REQUEST FOR QUALIFICATION**

You are invited to submit a Response to the Request for Qualification noted below:

**JEA RFQ TITLE: SUPPLEMENTAL LABOR FOR OPERATIONS, STORMS, EMERGENCY RESPONSE PREPARATION AND RESTORATION**

**JEA NUMBER # 99745**

**A complete copy of this RFQ and any applicable documents can be downloaded from [jea.com](http://jea.com).**

**RESPONSE DUE TIME:** 12:00 p.m.

**RESPONSE DUE DATE:** August 18, 2020

All Responses must reference the JEA RFQ Title and Number noted above. All Responses must be made on the appropriate forms as specified within this RFQ emailed to: [lovgrd@jea.com](mailto:lovgrd@jea.com).

### **1.1.3. QUESTIONS (RFQ)**

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

#### **For Procurement Questions:**

Buyer: Rodney Lovgren  
E-mail: [lovgrd@jea.com](mailto:lovgrd@jea.com)

Technical Questions:

Contact: Justin Hightower

E-mail: [highjp@jea.com](mailto:highjp@jea.com)

#### **1.1.4. OPENING OF QUALIFICATION PACKAGES**

All Responses received will be reviewed by procurement and technical lead for applicability of services a determination in meeting the Minimum Qualifications.

### **1.2. SPECIAL INSTRUCTIONS**

#### **1.2.1. MINIMUM QUALIFICATIONS**

Respondent shall meet the following Minimum Qualifications to be considered eligible to submit a Response to this RFQ. A Respondent not meeting or unable to respond to JEA's request for additional documentation demonstrating their qualification to perform the services in this solicitation shall have their Response rejected:

- The Company shall demonstrate the ability to provide the resumes, driver licenses and other documentation CDL license, Forklift certification to demonstrate to JEA's satisfaction the company can provide the quantities of personnel for storm events listed in this solicitation.
- The Company upon request, within 48 hours, shall provide one (1) successful similar contract active in the previous three (3) years, date ending the Bid Due Date, for the supply of Forklift Drivers and CDL drivers. The similar project(s) shall demonstrate the supply of a minimum of 15 forklift drivers and 2 or more CDL drivers, where the contract duration was one (1) year long in duration and spend was a minimum of \$200,000.00. Failure to respond to a request for minimum qualification information, including customer name, valid contact, email, phone and email address shall result in the Bidders disqualification.

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

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

JEA intends to Award multiple Contract(s) for the Work. JEA's award of work will be based on the Bidder ranked position, based on the Total Bid Price. Companies that do not respond to JEA's request for personnel, maybe removed from the Qualified Supplier list for this scope of work.

#### **1.2.3. SUBCONTRACTORS**

The Respondent shall list the names of all Subcontractors and sub-suppliers that it plans to utilize for the performance of the Work. All subcontracts shall be listed on the Subcontractors Form which is available for download at [jea.com](http://jea.com). Failure to submit this form with the Response shall result in rejection of the Response. The Respondent shall not use sub-contractors and sub-suppliers/shop fabricators other than those shown on the Subcontractor form unless it shows good cause and obtains JEA Representative's prior written consent. In cases where the Subcontractor or sub-supplier is a JSEB firm, the City of Jacksonville Ombudsman will review the substitution request, and make a written recommendation prior to the JEA Representative's written consent.

#### **1.2.4. REQUIRED FORMS TO BE SUBMITTED WITH RESPONSE**

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, Response Form and Response Workbook, by downloading them from [JEA.com](http://JEA.com).

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

- o Request for Qualification Response Form- This can be found in Appendix B of this RFQ

**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.

- o List of subcontractors/Shop Fabricators (if applicable)
- o Conflict of Interest Certificate Form - This form can be found at JEA.com
- o Insurance certificate
- o W-9
- o Evidence of active registration with the State of Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org))
- o Any technical submittals as requires by the Technical Specifications

### **1.3. EVALUATION METHODOLOGY**

#### **1.3.1. EVALUATION PROCESS**

JEA intends to execute a Contract with each of the companies that meet or exceed the Minimum Qualifications stated herein, mutually agrees to JEA commercial and technical terms and conditions, , and provides reasonable rates for the services JEA may require during emergency restoration services.

### **1.4. SELECTION CRITERIA**

#### **1.4.1. QUOTATION OF RATES – MANDATORY SUBMISSION ITEM**

The Company shall provide a Bid form with Unit Price for the listed work classifications on the Bid From. Unit Prices shall include all hourly labor rates, benefits, fringes, profit, taxes and all other overhead items. JEA will NOT pay travel time for the temporary labor to travel to JEA.

### **1.5. GENERAL INSTRUCTIONS**

#### **1.5.1. SUBMITTING THE QUALIFICATION PACKAGE**

The Respondent shall submit either one (1) PDF electronic copy by email. For the submitted electronic copy. **IF RESPONDENT IS INTERESTED IN RECEIVING A BID FORM OR RESPONSE FORM IN A WORD FORMAT, PLEASE EMAIL [LOVGRD@JEA.COM](mailto:LOVGRD@JEA.COM) WITH THE REQUEST.**

#### **1.5.2. ALTERNATE PROVISIONS AND CONDITIONS**

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

#### **1.5.3. ADDENDA**

JEA may issue Addenda prior to the opening of Responses to change or clarify the intent of this Request for Qualification (RFQ). The Respondent shall be responsible for ensuring it has received all Addenda prior to submitting its Response and shall acknowledge receipt of all Addenda by completing the Confirmation of Receipt of RFQ Addenda. JEA will post Addenda when issued online at JEA.com. Companies must obtain Addenda from the JEA.com website. All Addenda will become part of the RFQ and any resulting Contract Documents. It is the responsibility of each Respondent to ensure it has received and incorporated all Addenda into its Response. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Response at JEA's sole discretion.

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

Within thirty (30) days from the date of Award, JEA will present the successful Respondent with the Contract Documents. Unless expressly waived by JEA, the successful Respondent shall execute a Contract for the Work or Services within ten (10) days after receiving the Contract from JEA. If the Respondent fails to execute the Contract or associated documents as required, or if it fails to act on a JEA-issued Purchase Order (PO), JEA may cancel the Award with no further liability to the Respondent, retain the bid security or bond (if applicable).



Upon JEA's receipt of the executed Contract and certificate of insurance, JEA provide a copy of the final executed contract, retain a copy on file and provide the contract to the JEA Business Unit for use during the term of the contract. Should JEA require the services defined in the contract, JEA's Contract Administrator will communicate to the company and coordinate mobilization to commence work.

#### **1.5.5. DEFINED TERMS**

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

#### **1.5.6. AVAILABILITY OF RESPONSES AFTER RESPONSE OPENING**

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

#### **1.5.7. CERTIFICATION AND REPRESENTATIONS OF THE COMPANY-RFQ**

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

- A. That the individual signing the Response Form is a duly authorized agent or officer of the Respondent. Responses submitted by a corporation must be executed in the corporate name by the President or Vice President. If an individual other than the President or Vice President signs the Response Form, satisfactory evidence of authority to sign must be submitted upon request by JEA. If the Response is submitted by a partnership, the Response Form must be signed by a partner whose title must be listed under the signature. If an individual other than a partner signs the Response Form, satisfactory evidence of authority to sign must be submitted upon request by JEA.
- B. The corporation or partnership must be in active status at the Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)) prior to any subsequent Award of Contract.
- C. That the Respondent maintains in active status any and all licenses, permits, certifications, insurance, bonds and other credentials including, but not limited to, contractor's license and occupational licenses necessary to perform the Work. The Respondent also certifies that, upon the prospect of any change in the status of applicable licenses, permits, certifications, insurances, bonds or other credentials, the Respondent shall immediately notify JEA of status change.
- D. That the Respondent has read, understands and will comply with the Section titled Ethics of these instructions to Proposer.

#### **1.5.8. CONFLICT OF INTEREST**

A person or company who receives a Contract which was not procured pursuant to public bidding procedures to perform a feasibility study, or who participated in the drafting of an invitation to Response or request for proposals, or who developed a program for future implementation shall not be eligible to contract with JEA for any other contracts dealing with that specific subject matter.

Should JEA erroneously Award a Contract in violation of this policy, JEA may terminate the Contract at any time with no liability to Respondent, and Respondent shall be liable to JEA for all damages, including but not limited to the costs to rebid the Work. The purpose of this policy is to encourage bidding and eliminate any actual or perceived advantage that one Respondent may have over another.

#### **1.5.9. ETHICS**

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

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

The Respondent shall disclose the name(s) of any public officials who have any financial position, directly or indirectly, with this Response by completing and submitting the Conflict of Interest Certificate Form found at [jea.com](http://jea.com). Failure to fully complete and submit the Conflict of Interest Certificate may disqualify the Response. If JEA has reason to believe that collusion exists among the Respondents, JEA shall reject any and all Responses from the suspected Respondent s and will proceed to debar Respondent from future JEA Awards in accordance with the JEA Procurement Code.

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

In accordance with Florida Statutes Sec. 287.133, JEA shall reject Responses from any persons or affiliates convicted of a public entity crime as listed on the Convicted Vendor list maintained by the Florida Department of Management Services. JEA shall not make an Award to any officer, director, executive, partner, shareholder, employee, member, or agent active in management of the Respondent listed on the Convicted Vendor list for any transaction exceeding \$35,000 for a period of 36 months from the date of being placed on the Convicted Vendor list.

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

#### **1.5.10. JEA PUBLICATIONS**

Applicable JEA publications are available at [jea.com](http://jea.com).

#### **1.5.11. 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 Response Price utilizing the Unit Prices will be used to determine if the Company is Awarded the Work or the Services. Subsequently, the Unit Prices will be used throughout the term of the Contract.

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

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

#### **1.5.13. 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 to the Respondent, to solicit or secure a contract with JEA, and that it has not paid or agreed to pay any person, company, corporation, individual or Respondent, other than a bona fide employee working solely for the Respondent, or an independent sale representative under contract to the Respondent, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the Award or making of the Contract. For a breach or violation of these provisions occurs, JEA shall have the right to terminate the Contract without liability, and at its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

#### **1.5.14. PROTEST OF RFQ AND AWARD PROCESS**

Respondents shall file any protests regarding this RFQ in writing, in accordance with the JEA Purchasing Code, as amended. Copies of the JEA Purchasing Code are available online at [www.jea.com](http://www.jea.com).

#### **1.5.15. EX PARTE COMMUNICATION**

Ex Parte Communication is strictly prohibited. Ex Parte Communication is defined as any inappropriate communication concerning a RFQ/Solicitation between a firm submitting a Response or Proposal and a JEA representative during the time in which the RFQ/Solicitation is being advertised through the time of Award. Examples of inappropriate communications include: private communications concerning the details of RFQ/Solicitation in which a company becomes privy to information not available to the other companies. Social contact between companies and JEA representatives should be kept to an absolute minimum during the RFQ/solicitation process.

Failure to adhere to this policy will disqualify the noncompliant company's Response or Proposal. Any questions or clarifications concerning a RFQ/Solicitation must be sent in writing via email to the JEA Buyer designated in Section 1.1.2 at least five (5) business days prior to the opening date. If JEA determines that a question should be answered or an issue clarified, JEA will issue an addendum to all companies.

For more information on Ex Parte communications, see JEA Procurement Code, Article 1-110, which is available at [www.jea.com](http://www.jea.com).

#### **1.5.16. RESERVATION OF RIGHTS TO JEA**

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

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

JEA reserves the right to reject any or all Responses, or any part thereof, and/or to waive informalities if such action is in its best interest. JEA may reject any Responses that it deems incomplete, obscure or irregular including, but not limited to, Responses that omit a price on any one or more items for which prices are required, Responses that omit Unit Prices if Unit Prices are required, Responses for which JEA determines that the Response is unbalanced, Responses that offer equal items when the option to do so has not been stated, Responses that fail to include a Bid Bond, where one is required, and Responses from Companies who have previously failed to satisfactorily complete JEA contracts of any nature or who have been scored by JEA as "Unacceptable" and as a result, are temporarily barred from bidding additional work.

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

JEA reserves the right to cancel or change the date and time announced for opening of Responses at any time prior to the time announced for the opening of Responses. JEA may Award the Contract in whole or in part. In such cases whenever JEA exercises any of these reservations, JEA will make a commercially reasonable effort to notify, in writing, all parties to whom RFQs were issued. JEA may award multiple or split Contracts if it is deemed to be in JEA's best interest.

#### **1.5.17. SUNSHINE LAW**

##### **General**

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

##### **Redacted Submissions**

If a Respondent believe that any portion of the documents, data or records submitted in response to this RFQ 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 RFQ 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 RFQ, Respondent agrees to protect, defend, and indemnify JEA from and against all claims, demands, actions, suits, damages, losses, settlements, costs and expenses (including but not limited to reasonable attorney fees and costs) arising from it relating to Respondent's determination that the redacted portions of its response to this Solicitation are not subject to disclosure.

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

**Public Records Request Coordinator**

**21 West Church Street, T-8**

**Jacksonville, FL 32202**

**Ph: 904-665-8606**

**[publicrecords@jea.com](mailto:publicrecords@jea.com)**

**2. CONTRACT TERMS AND CONDITIONS**

**2.1. CONTRACT DOCUMENT AND TERMS AND CONDITIONS**

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

**2.2. DEFINITIONS**

**2.2.1. DEFINITIONS**

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

and/or Contract Documents, definitions set forth in the "Technical Specifications" shall apply only within the "Technical Specifications."

**2.2.2. ADDENDUM/ADDENDA**

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

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

**2.2.5. CHANGE ORDER**

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

**2.2.6. COMPANY**

The legal person, firm, corporation or any other entity or business relationship with whom JEA has executed the Contract. Where the word "Company" is used it shall also include permitted assigns. Prime Contractor, Contractor, Vendor, Supplier and Company shall be considered synonymous for the purpose of the Contract.

**2.2.7. COMPANY REPRESENTATIVE**

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

**2.2.8. COMPANY SUPERVISOR**

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

**2.2.9. CONTRACT**

An agreement between JEA and the Company, signed by both parties, which incorporates all the Contract Documents. The Contract shall not be altered without an Amendment to the Contract and executed by JEA and the Company, or a JEA issued Change Order.

**2.2.10. CONTRACT ADMINISTRATOR**

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

**2.2.11. CONTRACT DOCUMENTS**

Contract Documents, also referred to as the "Contract" means the executed Contract, all Solicitation documents and Response Documents as further described in the Section of the Solicitation titled "Contract Documents", and any written Change Orders, amendments or Purchase Orders executed by JEA, and insurance and/or bonds as required by the Contract.

**2.2.12. CONTRACT PRICE**

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

**2.2.13. 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.

**2.2.14. DEFECT**

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

**2.2.15. HOLIDAYS**

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

**2.2.16. INVOICE**

A document seeking payment to Company from JEA for all or a portion of the Work, in accordance with the Contract Documents, and including at a minimum the following items: the Company's name and address, a description of the product(s) or service(s) rendered, a valid JEA PO number, the amount payable, the Unit Price, the payee name and address, any associated JSEB forms and any other supporting documentation required by the Contract Documents.

**2.2.17. JEA**

JEA on its own behalf, and when the Work involves St. Johns River Power Park (SJRPP), as agent for Florida Power and Light Company (FPL). JEA and FPL are co-owners of SJRPP.

**2.2.18. JEA REPRESENTATIVES**

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

**2.2.19. QUALIFICATION PACKAGE**

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

**2.2.20. PERFORMANCE - ACCEPTABLE PERFORMANCE/PERFORMER**

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

**2.2.21. PERFORMANCE - TOP PERFORMANCE/PERFORMER**

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

**2.2.22. PERFORMANCE - UNACCEPTABLE PERFORMANCE/PERFORMER**

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

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

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

### **2.2.24. RESPONSE**

The document describing the Company's qualifications to verify it complies with the requirements of the RFQ.

### **2.2.24. REQUEST FOR QUALIFICATIONS**

The document (which may be electronic) issued by the JEA Procurement Department to solicit qualification responses from Companies that includes, but is not limited to, the Minimum Qualifications Form, samples of contract documents and Addenda.

### **2.2.25. SOLICITATION**

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

### **2.2.26. SUBCONTRACTOR**

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

### **2.2.27. TERM**

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

### **2.2.28. UNIT PRICES**

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

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

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

## **2.3. CONTRACT DOCUMENTS**

### **2.3.1. ORDER OF PRECEDENCE**

The Contract shall consist of JEA's Contract and/or Purchase Order together with the Solicitation including, but not limited to, the executed Response Documents, which shall be collectively referred to as the Contract Documents. This Contract is the complete agreement between the parties. Parol or extrinsic evidence will not be used to vary or contradict the express terms of this Contract. The Contract Documents are complementary; what is called for by one is binding as if called for by all. The Company shall inform JEA in writing of any conflict, error or discrepancy in the Contract Documents upon discovery. Should the Company proceed with the Work prior to written resolution of the error or conflict by JEA, all Work performed is at the sole risk of the Company. JEA will generally consider this precedence of the Contract Documents in resolving any conflict, error, or discrepancy:

- o Executed Contract Amendments
- o Exhibits to Contract Documents
- o Executed Contract Documents

- o Purchase Order(s)
- o Addenda to JEA Solicitation
- o Drawings associated with this Solicitation
- o Exhibits and Attachments to this Solicitation
- o Technical Specifications associated with this Solicitation
- o This Solicitation
- o Company's Response
- o References

The figure dimensions on drawings shall govern over scale dimensions. Contract and detailed drawings shall govern over general drawings. The Company shall perform any Work that may reasonably be inferred from the Contract as being required whether or not it is specifically called for. Work, materials or equipment described in words that, so applied, have a well-known technical or trade meaning shall be taken as referring to such recognized standards.

## **2.4. PRICE AND PAYMENTS**

### **2.4.1. PAYMENTS**

#### **2.4.1.1. PAYMENT METHOD – BILLABLE HOURS**

The Company shall submit to JEA an Invoice once a week for payment of billable hours incurred during that week by the Company in performing the Work. JEA may elect to make a partial payment or no payment if JEA determines, at its sole discretion, and after due consideration of relevant factors, that either all, or part of the Work being invoiced is not in accordance with the Contract Documents. Additionally, JEA may direct the company to consolidate work and invoice on a work order or task authorization basis.

#### **2.4.2. DISCOUNT PRICING**

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

- o 1% 20, net 30
- o 2% 10, net 30

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

#### **2.4.3. INVOICING AND PAYMENT TERMS**

Within sixty (30) 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:

JEA Accounts Payable  
[acctpaycustsrv@jea.com](mailto: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 twenty (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.



#### **2.4.4. OFFSETS**

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

#### **2.4.5. 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.

#### **2.4.6. COST SAVINGS PLAN**

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

#### **2.4.7. 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.

### **2.5. WARRANTIES AND REPRESENTATIONS**

#### **2.5.1. WARRANTY**

- The Company represents and warrants that it has the full corporate 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 Services.
- 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.
- The Company warrants that all items provided under the Contract shall be in accordance with the requirements of this Contract and 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 functional and performance requirements defined in the Contract.
- The Company warrants all Work for a period of one (1) year following acceptance of the Work. If any failure to meet the foregoing warranty appears within one year after Work is Accepted, the Company shall again perform the Work directly affected by such failure at the Company's sole expense.

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

#### **2.6.1. INSURANCE**

##### **INSURANCE REQUIREMENTS**

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

#### Workers' Compensation

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

#### Commercial General Liability

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

#### Automobile Liability

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

#### Excess or Umbrella Liability

**(This is additional coverage and limits above the following primary insurance: Employer's Liability, Commercial General Liability, and Automobile Liability);** Insurance Limits: \$2,000,000 each occurrence and annual aggregate.

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

Company shall specify JEA and State of Florida, Division of Emergency Management (FLDEM) as additional insureds 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 or FLDEM. Company shall include a Waiver of Subrogation on all required insurance in favor of JEA FLDEM, including their 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 or Services under this Contract, certificates evidencing the maintenance of the insurance shall be furnished to JEA for approval.

Company's and its Subcontractors' Certificates of Insurance shall be mailed to JEA (Attn. Procurement Services), Customer Care Center, 6<sup>th</sup> Floor, 21 West Church Street, Jacksonville, FL 32202-3139.

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

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

#### **2.6.2. INDEMNIFICATION**

For ten dollars (\$10.00) acknowledged to be included and paid for in the Contract price and other good and valuable considerations, the Company shall hold harmless and indemnify JEA and State of Florida, Division of Emergency Management (hereinafter referred to as FLDEM) against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, reasonable attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property, arising out of or incidental to the negligence, recklessness or intentional wrongful misconduct

of the Company and any person or entity used by Company in the performance of this Contract (Work or Services performed thereunder). For purposes of this Indemnification and the below Insurance Requirements, the term "JEA" shall mean JEA as a body politic and corporate and shall include its governing board, officers, employees, agents, successors and assigns. FLDEM has been included in this Indemnification and the below Insurance Requirements, as required by FLDEM's Federally Funded Public Assistance Agreements with JEA for "Declared Disasters" pertaining to the performance of all or any portion of Work, Services, procurement of materials, equipment and supplies for JEA's restoration of property damage due to "Declared Disasters". For purposes of this Indemnification and Insurance Requirements, the term "FLDEM" shall include its' governing board, officers, employees, agents, successors and assigns. This Indemnification shall survive the term of a Contract entered into pursuant to this Solicitation for events that occurred during the Contract term. This Indemnification shall be separate and apart from, and in addition to, any other Indemnification provisions set forth elsewhere in this Contract. It is the intent of the parties that this Indemnification shall be in accord with Section 725.06(2), Florida Statutes.

## **2.7. TERM AND TERMINATION**

### **2.7.1. TERM**

#### **2.7.1.1. TERM OF CONTRACT-DEFINED DATES**

The Contract shall commence on the effective date, and continue and remain in full force and effect as to all its terms, conditions and provisions as set forth herein for one (1) years, (the "Initial Term"), or until the Contract's Maximum Indebtedness is reached, whichever occurs first.

It is at JEA's sole option to renew the Contract for up to an additional, four (4), one (1) year periods. It is at JEA's sole option to renew the Contract.

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

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

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

In the event of termination for convenience, JEA will pay the Company for all disbursements and expenses that the Company has incurred, or has become obligated prior to receiving JEA's notice of termination.

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

JEA will have no liability to the Company for any cause whatsoever arising out of, or in connection with, termination including, but not limited to, lost profits, lost opportunities, resulting change in business condition, except as expressly stated within these Contract Documents.

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

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

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

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

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

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

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

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

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

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

### **2.8.1. PUBLIC RECORDS LAWS**

#### **Access to Public Records**

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

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

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

#### **Request for Redacted Information**

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

#### **Indemnification for Redacted Information**

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

#### **Public Records Clause for Service Contracts**

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

- Keep and maintain public records that ordinarily and necessarily would be required by JEA in order to perform service;
- Provide the public with access to public records on the same terms and conditions that JEA would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or otherwise prohibited by law;
- Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- Meet all requirements for retaining public records and transfer, at no cost, to JEA all public records in possession of the Company upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically shall be provided to JEA in a format that is compatible with the information technology systems of JEA.

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

**JEA**

**Attn: Public Records**

**21 West Church Street**

**Jacksonville, Florida 32202**

**Ph: 904-665-8606**

**publicrecords@jea.com**

#### **2.8.2. PUBLICITY AND ADVERTISING**

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

### **2.8.3. OWNERSHIP OF DOCUMENTS AND EQUIPMENT**

The Company agrees that upon completion of the Services, all drawings, designs, specifications, renderings, notebooks, tracings, photographs, reference books, equipment, expendable equipment and materials, negatives, reports, findings, recommendations, data and memoranda of every description (hereinafter referred to as "Works"), arising out of or relating to the Services rendered by the Company under this Agreement, are to become the property of JEA. Company and JEA agree that said Works shall be considered as works made for hire under the United States Copyright laws. JEA shall have the absolute and exclusive right to own and use all said Works together with any and all copyrights, patents, trademark and service marks associated with said Works. The use of these Works in any manner by JEA shall not support any claim by the Company for additional compensation.

## **2.9. LABOR**

### **2.9.1. NONDISCRIMINATION**

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

The Company shall comply with the following executive orders, acts, and all rules and regulations implementing said orders or acts, which are by this reference incorporated herein as if set out in their entirety:

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

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

### **2.9.2. JEA ACCESS BADGES**

If the scope of work described in this Contract requires a Company to access JEA facilities, each Company employee shall apply for a JEA access badge through JEA's Security Department. An appointment to obtain a JEA access badge can be made by contacting JEA Security at securitybadge@jea.com. Finally, JEA does not allow Company employees to share JEA access badges. A Company whose employees are found to be sharing JEA access badges, will result in the Contract being terminated immediately for default. Additionally, JEA shall be notified within six (6) hours of a lost or stolen JEA security badge or when an employee leaves the Company. Report badge termination notifications to JEA Security at (904) 665-8200.

### **2.9.3. LEGAL WORKFORCE**

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

### **2.9.4. PROHIBITED FUTURE EMPLOYMENT**

It shall be unlawful and a class C offense for any person, who was an officer or employee of JEA, after his or her employment has ceased, to be employed by or enter into any contract for personal services, with a person or company who contracted with, or had a contractual relationship with JEA, while the contract is active or being completed, or within two (2) years of the cessation, completion, or termination of the person's or company's contractual relationship with JEA, where (1) the contract with JEA had a value that exceeded \$250,000, and (2) the officer or employee had a substantial and decision-making role in securing or negotiating the contract or contractual relationship, or in the

approval of financial submissions or draws in accordance with the terms of the contract; except that this prohibition shall not apply to an employee whose role is merely as a review signatory, or to contracts entered into prior to January 1, 2008, or to contracts that have been competitively procured. With respect to this subsection a contract is competitively procured if it has been obtained through a sealed low bid award. A "substantial and decision-making role" shall include duties and/or responsibilities that are collectively associated with: (i) approving solicitation or payment documents; (ii) evaluating formal bids and proposals; and (iii) approving and/or issuing award recommendations for JEA Awards Committee approval. The contract of any person or business entity who hires or contracts for services with any officer or employee prohibited from entering into said relationship shall be voidable at the pleasure of JEA. This prohibition shall not apply to any former officer or employee after two years from cessation from JEA employment.

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

Each party recognizes that the other party has incurred or will incur significant expenses in training its own employees and agrees that it will not pursue or hire, without the other party's consent, the other party's employees or the employees of its subsidiaries for a period of two (2) years from the termination date of this Contract.

#### **2.9.6. 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 Contract Administrator in writing prior to making changes in professional personnel assigned, or to be assigned, as provided in Company's proposal to manage or perform Services under this Contract. The JEA Contract Administrator 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 Contract Administrator, Company shall submit for approval of the JEA Contract Administrator, the name or names of substitute personnel to fill the positions resulting from said rejection. The JEA Contract Administrator 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 Contract Administrator's approval at no cost to JEA.

#### **2.9.7. 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.

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

#### **2.10.1. COMPANY REPRESENTATIVES**

The Company shall provide JEA with the name and responsibilities of the Company Representative, in writing after Award of the Contract and before starting the Work under the Contract. Should the Company need to change the Company Representative, the Company shall promptly notify JEA in writing of the change.

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

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

#### **2.10.3. LICENSES**

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

**2.11.**

**2.12. JEA RESPONSIBILITIES**

**2.12.1. COORDINATION OF SERVICES PROVIDED BY JEA**

The JEA Representative for the Work will, on behalf of JEA, coordinate with the Company and administer this Contract. It shall be the responsibility of the Company to coordinate all assignment related activities with the designated JEA Representative. The 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 this Contract.

**2.13. CHANGES IN THE WORK, CONTRACT TIME OR PRICE**

**2.13.1. SUSPENSION OF SERVICES**

JEA may suspend the performance of the Services by providing Company by verbal or written notice of such suspension. Schedules for performance of the Services shall be amended by mutual agreement to reflect such suspension. In the event of suspension of Services, the Company shall resume the full performance of the Services when directed in writing to do so by JEA. Suspension of Services for reasons other than the Company's negligence or failure to perform, shall not affect the Company's compensation as outlined in the Contract Documents.

**2.14. MISCELLANEOUS PROVISIONS**

**2.14.1. AMBIGUOUS CONTRACT PROVISIONS**

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

**2.14.2. AMENDMENTS**

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

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

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

**2.14.4. CHANGE IN OWNERSHIP OF COMPANY**

The Company agrees to cause any entity that shall acquire ownership of Company to assume this Contract and all of Company's obligations hereunder.

**2.14.5. CUMULATIVE REMEDIES**

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

**2.14.6. ENTIRE AGREEMENT**

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

**2.14.7. EXPANDED DEFINITIONS**

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including without limitation", and the terms "include", "includes" and



"included" have similar meanings. Any reference in this Contract to any other agreement is deemed to include a reference to that other agreement, as amended, supplemented or restated from time to time. Any reference in the Contract to "all applicable laws, rules and regulations" means all federal, state and local laws, rules, regulations, ordinances, statutes, codes and practices.

#### **2.14.8. HEADINGS**

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

#### **2.14.9. INDEPENDENT CONTRACTOR**

Company is performing this Contract as an independent contractor and nothing in this 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.

#### **2.14.10. LANGUAGE AND MEASUREMENTS**

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

#### **2.14.11. MEETINGS AND PUBLIC HEARINGS**

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

#### **2.14.12. NEGOTIATED CONTRACT**

Except as otherwise expressly provided, all provisions of this 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 this Contract. Therefore, doubtful or ambiguous provisions, if any, contained in the Contract shall not be construed against the party who physically prepared this Contract.

#### **2.14.13. NONEXCLUSIVE**

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

#### **2.14.14. NONWAIVER**

Failure by either party to insist upon strict performance of any of the provisions of the Contract will not release either party from any of its obligations under the Contract.

#### **2.14.15. REFERENCES**

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

#### **2.14.16. SEVERABILITY**

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

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

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

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

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

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

#### **2.14.18. SURVIVAL**

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

#### **2.14.19. TIME AND DATE**

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

#### **2.14.20. TIME OF ESSENCE**

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

#### **2.14.21. USE OF JEA CONTRACTS BY THE CITY OF JACKSONVILLE**

Where the City of Jacksonville's or its other independent agencies' or political subdivisions' procurement codes all use of JEA contracts, the Company agrees to extend any pricing and other contractual terms to such entities.

#### **2.14.22. WAIVER OF CLAIMS**

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

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

#### **2.14.23. FORCE MAJEURE**

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

secure approval, validation or sale of bonds; inability of JEA or the Company to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

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

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

### **3. TECHNICAL SPECIFICATIONS & FEMA REQUIREMENTS**

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

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

99475 Appendix A Technical Specifications

### **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](http://www.jea.com).