

**Solicitation #1410335448**  
**Request For Proposal (RFP) for**  
**Lidar Mapping Services**

for



**Jacksonville, FL**

Optional Pre-Response Meeting via WebEx or Teleconference on May 21, 2021 at 10:00 AM EST

Meeting URL:

<https://jeameeting.webex.com/jeameeting/j.php?MTID=ma4809f7c179f7e09f05e35fa4a803939>

Meeting Number (Access Code): 172 888 6851

Meeting Password: gQMeFY2Wd27

Dial In: +1-415-655-0001

Responses are due on June 15, 2021, by 12:00 PM EST  
Responses must be electronically submitted per instructions in this Solicitation

JEA will publicly open all Responses received from qualified Respondents on the Response Due Date,  
via WebEx.

For more information please contact the JEA Buyer at:  
Rodney Lovgren at [lovgrd@jea.com](mailto:lovgrd@jea.com)

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# SOLICITATION

## 1. REQUEST FOR RESPONSES

### 1.1. SCOPE OF WORK

JEA is seeking a consultant/surveyor to provide professional services for an aerial Light Detection and Ranging (LiDAR) survey and Power Line Systems-Computer Aided Design and Draft (PLS-CADD) modeling of JEA's entire Electric Transmission System.

These specifications are for a LIDAR survey used to develop three dimensional PLS-CADD computer models for transmission right of way vegetation management and for the design and analysis of existing and future overhead transmission line projects.

The raw data, aerial photographs, and other collected information shall be processed with final information and engineered products delivered to JEA in accordance with these specifications.

Further information can be found in Appendix A - Technical Specifications.

#### 1.1.1. INVITATION - REQUEST FOR RESPONSE

You are invited to submit a Response in response to the Request for Responses noted below:

**Request for Responses (RFP) Title:** Lidar Mapping Services

**JEA RFP Number:** 1410335448

**Response Due Date:** See CoverPage

**Response Due Time:** 12:00 PM EST (noon)

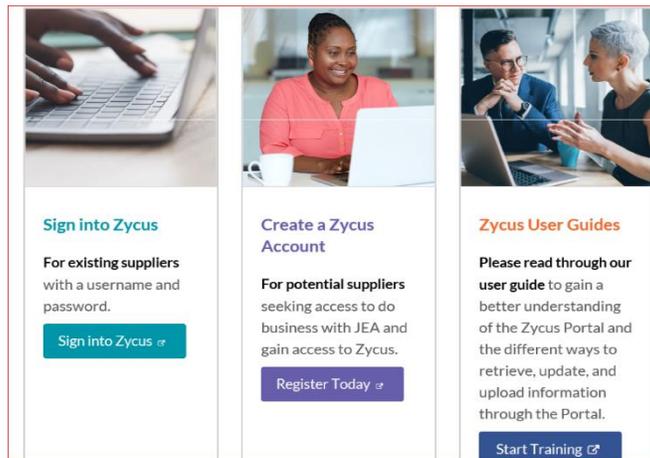
To obtain more information about this Solicitation:

Download a copy of the Solicitation, PDF quality drawings (if applicable) and any required forms at [jea.com](http://jea.com), search key word "Zycus" to connect to the online sourcing platform. Or click the following link:

[https://www.jea.com/about/procurement/zycus\\_portal/](https://www.jea.com/about/procurement/zycus_portal/)

**Closing Date and Time & Response Due Date:** Per Zycus Close Date See Solicitation # on Zycus cloud based sourcing platform for more details.

All Response documentation must reference the RFP Title and Number noted above. All Responses must be made on the appropriate forms as specified within the RFP and uploaded to a JEA's sourcing platform.



**New Users** will need to register to login. Registration will require Company name, Contact and Email Address.

**For potential suppliers**  
seeking access to do  
business with JEA and  
gain access to Zycus.

[Register Today](#)

When users select new registration, the user will enter their email address and may find the company or email address may already be registered if the current email address and company is already registered to do business with JEA.

If you find your email address is already registered follow the prompts for a new activation code, or a password reset as appropriate.

### **Existing Users or New Users with ID (email registered) and password.**

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

Once logged in, Responders will see all events, select the applicable event.

Customer	Event Id	Event Type	Open Date
JEA	1410190846	RFI	10/12/2020...

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

Initial Actions that may be require Acceptance of the Responder may include but are not limited to:

- 1.) Acceptance of iSourcing usage Terms & Conditions.
- 2.) Acceptance of NDA requirements
- 3.) For Request for Quotes (Bids where no exceptions are allowed to terms and conditions), Acceptance of Terms

Supplier Checklist

RFI : 1410190846 | Telephony, Network, Internet & DDoS Services

To confirm participation accept all Terms and Conditions.

Terms and Conditions	Status	Action
<a href="#">Source Usage Terms and Conditions.rtf</a>	No Action Taken Yet	Accept Reject Download
<a href="#">RFI Telephony Network Internet and DDoS Services.docx</a>	No Action Taken Yet	Accept Reject Download

Page 1 of 1

Preview (Other Attachments and RFX Preview will be available after all Terms and Conditions are accepted)

Confirm Participation | Decline Participation

Once the initial conditions are accepted, additional Response information will be available for viewing and response by selecting “confirm participation”. This tells JEA you intend to respond.

Submit Response

RFI Summary

Event Status: Open

Open Date: 10/12/2020 14:21

Close Date: 10/26/2020 17:00

Owner: Nickolas Dambrose

Contact: -

Other Attachments	Size	Uploaded On	Action
<a href="#">Pricing Template.xlsx</a>	9 KB	10/06/2020 09:55	Download

RFI Details (Sections:3 | Questions:6 | Items:0)

- 1.0 Service Level Agreement (Question:1 | Items:0)
- 2.0 Invoicing Practices (Question:1 | Items:0)
- 3.0 Budgetary Cost Estimates (Questions:4 | Items:0)

Respond to each section of the Solicitation, once completed with each section, select “Save”, note that 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.

Important: Kindly export the draft again in case the event has been paused and republished to fill the responses via excel import.

1 of 3 Service ... Mandatory (0/0) Optional (1/1)

2 of 3 Invoic ... Mandatory (0/0) Optional (0/1)

3 of 3 Budgetar ... Mandatory (0/1) Optional (0/3)

Mandatory Questions

Showing: All Questions

1.1

For its Telephony, Network, Internet & DDoS Services, JEA requires a service level agreement including but not limited to liquidated damages for failure to perform. Is this requirement a disqualifier for your ability to respond?

Test Response

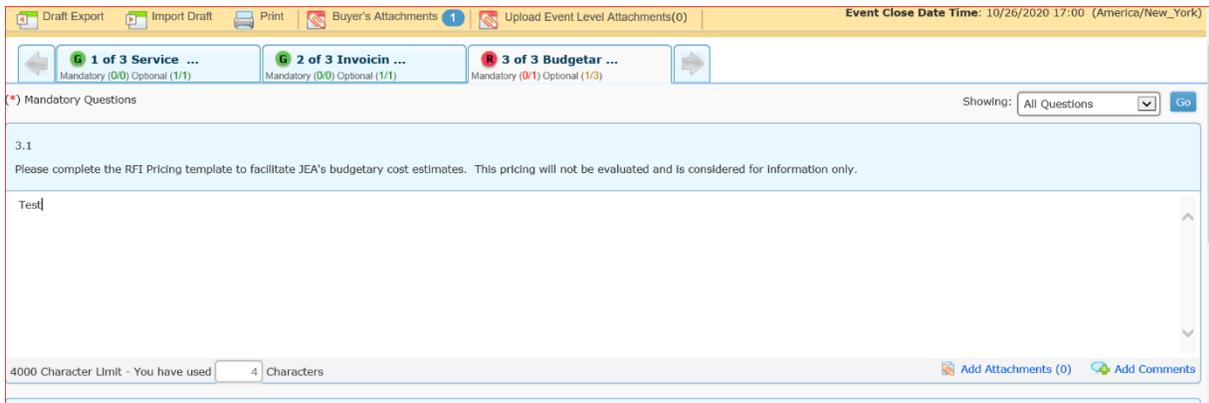
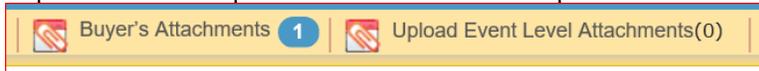
2000 Character Limit - You have used 13 Characters

Back to Prepare Response

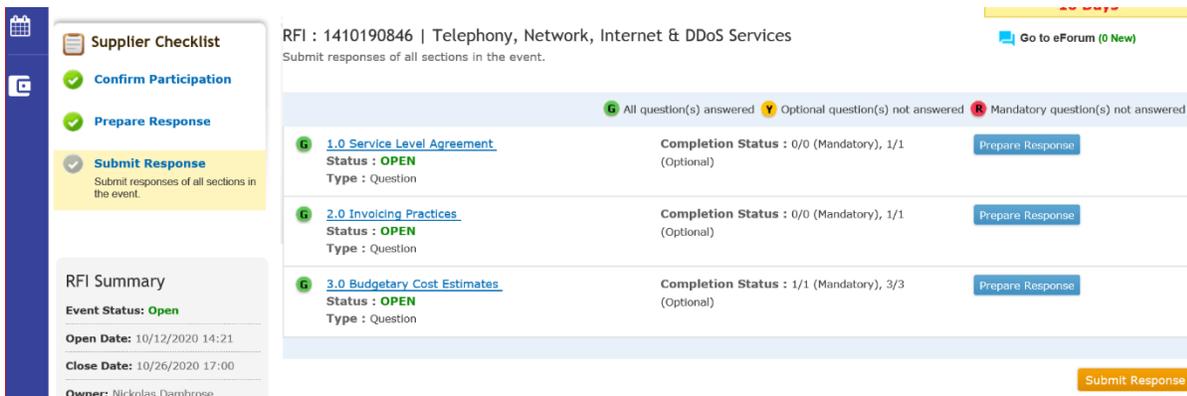
Back to Top Save Go to Submit Response

In most solicitations, JEA will provide technical specifications, pricing tables in excel which the Responder will need to download. Additionally excel pricing tables may need to be uploaded once completed to complete a

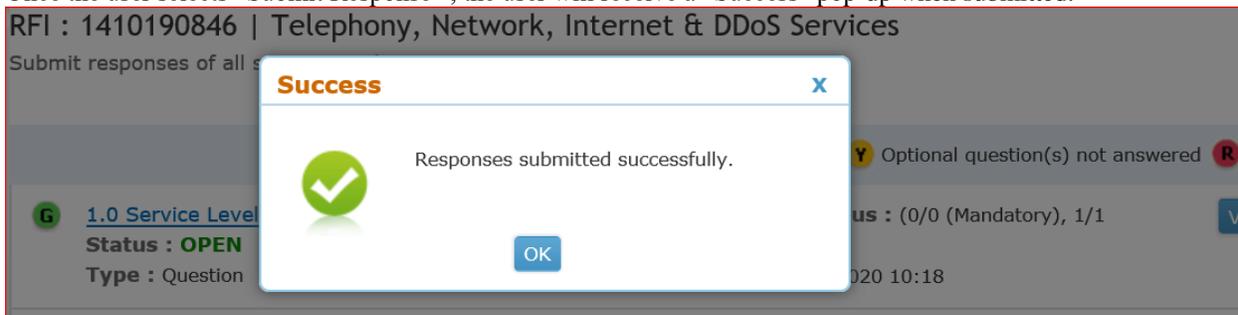
response section. Respondents can download the required attachments by selecting the “Buyers Attachments” icon



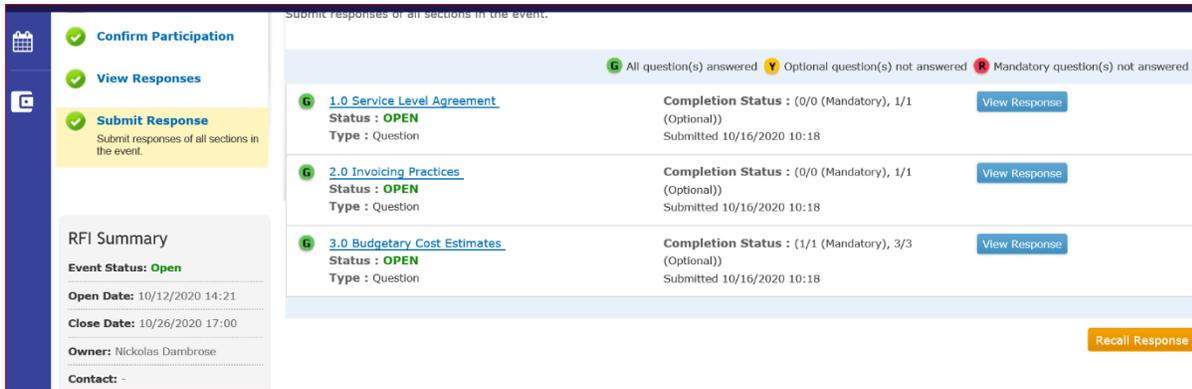
Once the required forms are uploaded and saved, the section light will turn green. Once all sections are completed and green lighted, the user may select “Submit Response”.



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



Once submitted users may recall and modify submitted documentation and submit responses until the Close Date and Time (Response Due Date & Time).



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

The Respondent shall be solely responsible for delivery of its Response to the electronic Zycus platform.

**Responses are due by the time and on the date listed above. Late Responses may not be accepted.**

**Respondents are strongly encourages to acquire log in credentials early as possible. Additionally Respondents are encouraged to submit bids early to ensure uploading process goes smoothly.**

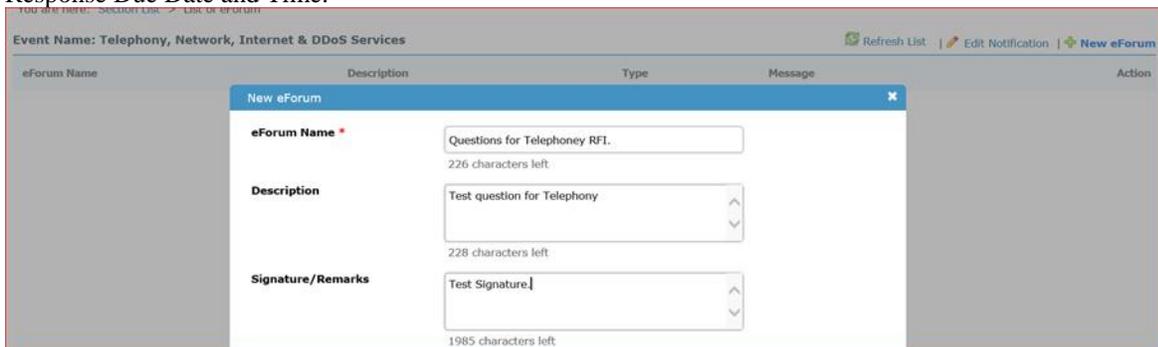
### 1.1.2. OPENING OF RESPONSES

All Responses shall be publicly opened, read aloud and recorded at 2:00 PM on the Response Due Date via WebEx. The details for the WebEx will be on jea.com at the following website: <https://www.jea.com/Events/> no later than 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.

### 1.1.3. QUESTIONS

All questions must be submitted in writing to the JEA Buyer listed below at least five (5) business days prior to the opening date. Questions received within five (5) business days prior to the opening date will not be answered. JEA will accept any questions regarding the submission of Responses into the Zycus e-Sourcing system up to the Response Due Date and Time.



Submitting an inquiry to the eForum section will sent a communication to the buyer. Any comments or queries are not Addendums to the Solicitation. Only Addendum issued and attached to the Solicitation under “Buyers Attachments” will be considered to be a formally approved change or clarification.

For Questions:  
Buyer: Rodney Lovgren

E-mail: lovgrd@jea.com

## 1.2. SPECIAL INSTRUCTIONS

### 1.2.1. MINIMUM QUALIFICATIONS FOR SUBMISSION (RFP)

Respondent shall have the following Minimum Qualifications to be considered eligible to submit a Response in response to this RFP.

It is the responsibility of the Respondent to ensure and certify that it meets the Minimum Qualifications stated below. A Respondent not meeting all of the following criteria will have their Response rejected:

- The successful Proposer shall have successfully completed at least two (2) similar projects within the last three (3) years. A similar project is defined as an aerial LiDAR study where the consultant has surveyed and modeled, in PLS-CADD, overhead electric transmission circuits for a utility company that demonstrates experience in planning, surveying, and PLS-CADD modeling of transmission voltages in excess of 100kV. Collectively the projects must include at least two-hundred 200 miles of surveyed transmission circuits.

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

### 1.2.2. EVALUATION METHODOLOGY

#### 1.2.2.1. COMPETITIVE SEALED RESPONSES - CONSULTANTS' COMPETITIVE NEGOTIATION ACT (CCNA)

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 Respondent's professional personnel, past performance, whether the Respondent is a Jacksonville Small and Emerging Business (JSEB); recent, current and projected workloads of the Respondent, and volume of work previously awarded to each Respondent by JEA. 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.

**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.**

### 1.2.3. BASIS OF AWARD

#### 1.2.3.1. EVALUATED RESPONSE

JEA will use the "Selection Criteria" listed below to evaluate the Responses. JEA may make its Award decision based solely upon the information submitted in the Responses. JEA may also choose to have one or more Respondent make presentations to representatives of JEA. It is always in the best interest of the Respondent to provide informative, concise, well-organized technical and business information relative to the Work, in both the initial submittal of its Response and in any subsequent submittals. **Please note, JEA may reject Responses that request material changes or take exceptions to JEA commercial terms and conditions.** Material changes to the commercial terms and conditions can only be made by JEA prior to public opening of the Responses.

Responses 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 Response. Any tie will be broken using the total of the matrix scores of all evaluators. If a tie persists, the tie will be broken in accordance with the JEA Procurement Code and Operational Procedures.

#### **1.2.4. SELECTION CRITERIA**

##### **1.2.4.1. PROFESSIONAL STAFF EXPERIENCE**

**Maximum score for this criterion is: 30 POINTS**

###### **A. Team Members**

The Proposer shall provide a maximum of four (4) resumes of the professional staff to be assigned to perform the Work. The resumes provided shall identify the Project Manager, Professional Surveyor, Lead Engineer and Pilot (collectively, the "Team Members"). Primary positions (as shown in the attached Evaluation Matrix) shall only serve in one (1) primary role.

Note, the Lead Project Manager must be from the company submitting the Proposal and not a Subcontractor. Persons whose resumes are submitted as a Team Member must actually perform the Work unless Proposer receives prior approval by the JEA Project Manager to use a backup Team Member. Finally, if Proposer submits a resume of a Subcontractor that is employed by a JSEB firm, please note this on the resume.

At a minimum, each resume shall present the Team Member's name, title, years of service with company, applicable professional registrations, education, and work experience. Resumes shall also identify any specialty or technical process expertise. Resumes shall be no more than two (2) pages in length, single sided, and on 8.5" by 11" sized paper. If more than two pages are submitted, only the information contained on the first two pages will be evaluated by JEA. No more than eight (8) resumes will be evaluated.

###### **B. Organizational Chart**

Finally, Proposer 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).

Points will be awarded as described on the Evaluation Matrix attached to this RFP.

##### **1.2.4.2. PROJECT APPROACH AND WORK PLAN**

**Maximum score for this criterion is: 35 POINTS**

Proposer shall provide an explanation of how it typically manages its engagements to realize project budgetary goals, timetables and quality control objectives. Proposer shall explain, for this specific Scope of Work, how it intends to meet the budgetary goals, timetables and quality criteria established herein. Consideration shall be given for cost effectiveness of potential solution(s), creativity and innovation of proposed solutions and comprehensive utilization of proposed personnel to meet the deliverables.

Proposer shall also provide a project schedule indicating: (i) all the activities envisioned to fulfill the requirements of the Work; (ii) the estimated duration for each activity; (iii) the estimated man-hours for each activity; and (iv) the total estimated man-hours each primary Team Member, identified in the Section titled "Professional Staff Experience", will devote to the Work through completion. Additionally, the project schedule must demonstrate the utilization of any Subcontractors.

Points will be awarded as shown on the Evaluation Matrix attached to this RFP.

**Proposer's response above should be limited to no more than ten (10) pages, 1-sided, single-spaced, on 8.5 x 11 sized paper. Please use your own form for this Section. Responses that are longer than ten (10) pages will not be evaluated after page ten (10). The project schedule may be on 11 x 17 sized paper, and is not included in the ten (10) page limit.**

**1.2.4.3. COMPANY EXPERIENCE**

**Maximum score for this criterion is: 25 POINTS**

JEA will evaluate the submitted minimum qualifications of the Proposer. The minimum qualifications submitted to be evaluated for company experience should also provide the following:

1. A summary of two similar projects as described in the minimum qualifications. The examples should be able to demonstrate that Proposer's experience and knowledge qualify them to complete the necessary work in a successful manner.
  - a. Proposer should identify whether any of the proposed Team Members worked in key roles in the projects.
  - b. Proposer should provide detailed information to describe how Proposer managed the engagements to realize project budgetary goals, timetables, and quality control objectives.
  - c. Proposer should describe any working relationship with subcontractors that will be used for this project.

Other past experience/performance for the following topics that can demonstrate successful performance with the unique characteristics of this project listed below.

- Use of PLS-CADD Modeling
- Data Management
- Gathering Aerial LiDAR data
- Gathering and Creation of high resolution digital stills and video
- Generating Thermal rating reports

**Proposer's response to above should be limited to no more than eight (8) pages, 1-sided, single- spaced, on 8.5 x 11 sized paper. Please use your own form for this Section. Responses that are longer than eight (8) pages will not be evaluated after page eight (8).**

**1.2.4.4. PROJECT MANAGER PROXIMITY TO JEA**

**Maximum score for this criterion is: 5 POINTS**

JEA will evaluate the lead Project Manager's proximity from 21 West Church Street, Jacksonville, FL 32202.

**1.2.4.5. JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB)**

**Maximum score for this criterion is: 5 POINTS**

Respondent shall indicate if it is certified as a Jacksonville Small and Emerging Business (JSEB) as defined by Jacksonville Ordinance 2004-602; Chapter 126, Part 6A and 6B.

If Respondent is not a certified JSEB, the Respondent shall list any JSEB certified subcontractors that it intends to utilize in the performance of this Work. The listing should include names of the JSEBs, the type of service they will provide, and the percentage of work being subcontracted. Points will be awarded based on the type and amount of work that will be conducted by JSEB firms.

The points will be awarded as follows:

- COJ/JEA certified JSEB = 5 pts;
- Amount of work that will be subcontracted:

Non-JSEB with JSEB partner:  
Greater than or equal to 5% of work = 4 pts  
Greater than or equal to 4%, but less than 5% of work = 3 pts  
Greater than or equal to 3%, but less than 4% of work = 2 pts  
Greater than or equal to 1%, but less than 3% of work = 1 pts  
Less than 1% of work = 0 pts

Respond on List of JSEB Certified Firms Form (if any).

### **1.2.5. REQUIRED FORMS TO SUBMIT WITH RESPONSE**

To submit a Response in response to this RFP, all of the following forms must be completed and submitted as part of the Response. The Respondent must obtain the required forms, other than the Minimum Qualification Form, by downloading them from JEA.com. If the Respondent fails to complete or fails to submit one or more of the following forms, the Response shall be rejected.

The following forms are required to be submitted:

- Company's Response (free form)
- Response Form (located in Appendix B)
- List of JSEB Subcontractors (if any)
- List of Subcontractors Form (if any)

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

JEA also requires 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 Time and Date. However, failure to submit these documents prior to Contract execution could result in Response rejection.

- Conflict of Interest Certificate Form - This form can be found on JEA.com
- Insurance Certificate
- W-9
- Evidence of active registration with the State of Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org))
- Any technical submittals as required by the Technical Specifications

### **1.2.6. 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 to do so.

### **1.2.7. JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB) PROGRAM REQUIREMENTS**

#### **1.2.7.1. OPTIONAL USE OF JACKSONVILLE SMALL AND EMERGING BUSINESS (JSEB) PROGRAM**

It is at the Company's option as to whether it chooses to subcontract to a JSEB firm. JEA encourages the use of JSEB qualified firms; however, the Company is not required to utilize JSEB firms to be Awarded this Contract.

JSEB firms that qualify for this Contract are only those shown on the current City of Jacksonville JSEB directory appearing at [www.COJ.net](http://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 Bid, revise the JSEB Scope of Work or amount of Work as stated in its Bid without prior written notice to the JEA Contract Administrator, and without subsequent receipt of written approval for the JEA Contract Administrator.

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

Rita Scott  
Procurement/JSEB Manager  
JEA  
scotrl@jea.com

### **1.3. COMPLETING THE SUBMITTAL DOCUMENTS**

#### **1.3.1. SUBMITTING THE RESPONSE**

The Respondent shall submit its Response via Zycus e-sourcing system. **IF RESPONDENT IS INTERESTED IN SUBMITTING A RESPONSE TO THIS RFP, PLEASE EMAIL DAN KRUCK AT [krucdr@jea.com](mailto:krucdr@jea.com) TO RECEIVE THIS RESPONSE FORM IN A WORD FORMAT. REQUESTS MUST BE MADE NO LATER THAN FIVE (5) BUSINESS DAYS BEFORE RESPONSE OPENING.**

#### **1.3.2. OBTAINING OFFICIAL SPECIFICATION DRAWINGS FOR THIS RFP**

If drawings are required to be reviewed prior to submitting a Response, JEA offers electronic drawing files for viewing at no charge at JEA.com.

#### **1.3.3. ADDENDA**

JEA may issue Addenda prior to the Response opening date to revise, in whole or in part, or clarify the intent or requirements of the Solicitation. The Respondent shall be responsible for ensuring it has received all Addenda prior to submitting its Response and shall acknowledge receipt of all Addenda by indicating where requested on the Response Form. JEA will post all Addenda when issued online at jea.com. The Respondent must obtain Addenda from the JEA website. All Addenda will become part of the Solicitation and any resulting Contract Documents. It is the responsibility of each Respondent to ensure it has received and incorporated all Addenda into its Response. Failure to acknowledge receipt of Addenda may be grounds for rejection of a Response.

#### **1.3.4. 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 Purchasing 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 ninety (90) days following the opening of Responses.

### **1.4. GENERAL INSTRUCTIONS**

#### **1.4.1. 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 Response security or bond (if applicable), and Award to the next-ranked company.

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

#### **1.4.2. AVAILABILITY OF RESPONSES AFTER OPENING**

In accordance with the Florida Public Records Law, Florida Statute, Chapter 119, copies of all Responses are available for public inspection thirty (30) days after the opening of Responses or on the date of Award

announcement, whichever is earlier. Respondents may review opened Responses once they are available for public inspection by contacting the designated Buyer or JEA's Public Records custodian whose contact information can be found at jea.com. JEA will post a summary of Response opening results at www.jea.com.

#### **1.4.3. SUBCONTRACTORS**

The Company shall list the names of all major Subcontractors and subsuppliers/shop fabricators that it plans to utilize for the performance of the Work. All major subcontractors shall be listed on the Subcontractors Form which is available at jea.com. Failure to submit this form with the Response shall result in rejection of Company's Response. The Company shall not use the major Subcontractors and subsuppliers/shop fabricators other than those shown on the Subcontractor form unless it shows good cause and obtains the JEA Representative's prior written consent. In cases where the Subcontractor or subsupplier/shop fabricator 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.

If the Company plans to use Subcontractors or subsupplier/shop fabricators to perform over fifty percent (50%) of the Work, the Company shall obtain JEA's approval at least five (5) days prior to the Response Due Date. Failure to obtain JEA approval will disqualify the Company and result in rejection of Company's Response. The markup for any subcontractor work will be capped at ten percent (10%)

#### **1.4.4. THIRD PARTY AGREEMENT REQUESTS**

In the event Company will or may request JEA execute a third party agreement (including but not limited to: a joint check agreement, or revocable or irrevocable letter of direction with surety), then Company will disclose this fact in writing in its Response. This information will be taken into consideration by JEA in evaluating each Response. In the event Company is awarded this Work, then JEA will execute such documents, provided however, the same incorporates any additional language required by JEA's Chief Purchasing Officer.

#### **1.4.5. JEA PUBLICATIONS**

Applicable JEA publications are available at jea.com.

#### **1.4.6. 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 bid or request for Responses, 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.

#### **1.4.7. ETHICS (RFP)**

By signing the 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 (1) Response in response to this RFP. If JEA has reasonable cause to believe the Respondent has submitted more than one (1) Response for the same Work, other than as a Subcontractor or subsupplier, JEA shall disqualify the Response and may pursue debarment actions.

The Company 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. 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 Companies, JEA will reject any and all Responses from the suspected Company and will proceed to debar Company from future JEA Awards in accordance with the JEA Purchasing Code.

JEA is prohibited by its Charter from awarding contracts to JEA officers or employees or companies 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 will 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 Company listed on the Convicted Vendor list for any transaction exceeding \$35,000 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor list.

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

#### **1.4.8. EX PARTE COMMUNICATION**

Ex Parte Communication is strictly prohibited. Ex Parte Communication is defined as any inappropriate communication concerning a Solicitation between a firm submitting a Response 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 Solicitation in which a Bidder becomes privy to information not available to the other Respondents. Social contact between Respondents and JEA representatives should be kept to an absolute minimum during the solicitation process.

Failure to adhere to this policy will disqualify the noncompliant Company's Response. Any questions or clarifications concerning a Solicitation must be sent in writing via email to the JEA Buyer at least five (5) business days prior to the opening date. If determined by JEA, that a question should be answered or an issue clarified, JEA will issue an addendum to all Respondents.

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

#### **1.4.9. RESERVATIONS OF RIGHTS TO JEA**

The Solicitation provides potential Companies with information to enable the submission of written offers. The Solicitation 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 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. 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 Solicitations were issued. JEA may award multiple or split Contracts if it is deemed to be in JEA's best interest.

#### **1.4.10. CERTIFICATION AND REPRESENTATIONS OF THE COMPANY**

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

- a. That it has carefully examined all available records and conditions, including sites if applicable, and the requirements and specifications of Solicitation prior to submitting its Response. Where the Respondent visits sites, no Work or other disturbance is to be performed while at the site without written permission by JEA in advance of the site visit. The Respondent shall comply with all safety requirements described in the Response and shall be prepared to show proof of a minimum of \$1 million of general liability insurance or the amount specified in this Solicitation (whichever is greater).
- 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 the individual signing the Response is a duly authorized agent or officer of the firm. Responses submitted by a corporation must be executed in the corporate name by the President or Vice President. If an individual other than the President or Vice President signs the Response, satisfactory evidence of authority to sign must be submitted upon request by JEA. If the Response is submitted by a partnership, the Response must be signed by a partner whose title must under the signature. If an individual other than a partner signs the Response, satisfactory evidence of authority to sign must be submitted upon request by JEA.
- d. The corporation or partnership must be in active status at the Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)) prior to Award.
- e. That the firm 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.
- f. That it has read, understands and will comply with these instructions and the Section titled Ethics.

#### **1.4.11. PROHIBITION AGAINST CONTINGENT FEES**

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

#### **1.4.12. PROTEST OF RFP AND AWARD PROCESS**

Companies shall file any protests regarding this RFP in writing and in accordance with the JEA Procurement Code, as amended from time to time. The JEA Procurement Code is available online at [jea.com](http://jea.com).

#### **1.4.13. SUNSHINE LAW**

##### **General**

Article I, Section 24, Florida Constitution, guarantees every person access to all public records and Chapter 119, Florida Statutes, provide 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 Solicitation are public records and available for public inspection unless specifically exempt by law.

**IF A RESPONDENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTORS 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**

**Redacted Submissions**

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 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 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, liabilities, losses, settlements, costs and expenses (including but not limited to reasonable attorney fees and costs) arising from or relating to Respondent's determination that the redacted portions of its response to this Solicitation are not subject to disclosure.

**2. CONTRACT TERMS**

**2.1. DEFINITIONS**

**2.1.1. ACCEPTANCE**

JEA's written notice to the Company that all Work as specified for an individual Task Order has been completed to JEA's satisfaction. Acceptance is only applicable to the entirety of the Task Order. Acceptance does not in any way limit JEA's rights under the Contract or applicable laws, rules and regulations.

### **2.1.2. 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.

### **2.1.3. 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 bidder or Respondent.

### **2.1.4. 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.

### **2.1.5. 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.

### **2.1.6. COMPANY REPRESENTATIVE**

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

### **2.1.7. 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.

### **2.1.8. 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.

### **2.1.9. 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.

### **2.1.10. CONTRACT DOCUMENTS**

Contract Documents, also referred to as the "Contract" means the executed Contract, all Solicitation documents and Bid 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.

#### **2.1.11. 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.

#### **2.1.12. 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.

#### **2.1.13. ENVIRONMENTAL REGULATIONS**

All laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders, and decrees, now or hereafter enacted, promulgated, or amended, of the United States, the states, the counties, the cities, or any other political subdivisions in which the Work Location is located, and any other political subdivision, agency or instrumentalality exercising jurisdiction over JEA, the Work Location, or the use of the Work Location, relating to pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials (as defined in this Contract) into the environment (including, without limitation, ambient air, surface water, ground water or land or soil).

#### **2.1.14. HAZARDOUS MATERIALS**

Any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. '9601 et seq.) ("CERCLA") or any regulations promulgated under or pursuant to CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. '6901 et. seq.) ("RCRA") or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. '2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic under Environmental Requirements (as hereinafter defined) or the common law, or any other applicable laws relating to the Licensed Property. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Licensed Property, (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Licensed Property or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Licensed Property or adjacent property; or (C) which, if it emanated or migrated from the Licensed Property, could constitute a trespass.

#### **2.1.15. 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.

#### **2.1.16. 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.

#### **2.1.17. 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.

#### **2.1.18. 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.

**2.1.19. 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.

**2.1.20. 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.

**2.1.21. RESPONSE**

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

**2.1.22. RESPONDENT**

The respondent to this RFP.

**2.1.23. REQUEST FOR RESPONSES**

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

**2.1.24. SOLICITATION**

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

**2.1.25. SUBCONTRACTOR**

A provider of services performing Work under contract for the Company.

**2.1.26. 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. A Task Order may be issued as an attachment to a Purchase Order, but the Task Order is neither a Purchase Order, nor a Notice to Proceed.

**2.1.27. TERM**

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

**2.1.28. UNIT PRICES**

The Bidder's charges to JEA for the performance of each respective unit of Work as defined on the Bid Documents, Bid Workbook, Bid Form or in the Contract Documents.

**2.2. 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 Bid 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:

- Executed Contract Amendments
- Exhibits to Contract Documents
- Executed Contract Document
- Purchase Order(s)
- Addenda to JEA Solicitation
- Drawings associated with this Solicitation
- Exhibits and Attachments to this Solicitation
- Technical Specifications associated with this Solicitation
- This Solicitation
- Company's Response Documents
- 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.

### **2.3. PRICE AND PAYMENTS**

#### **2.3.1. 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:

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

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

#### **2.3.2. PAYMENT METHOD – PROFESSIONAL SERVICES**

For individual tasks or services, the Company shall submit an Invoice to JEA upon successful completion and JEA Acceptance of the individual tasks or services.

For reoccurring tasks or services, the Company shall submit an Invoice to JEA once per month upon successful completion and JEA's Acceptance of the reoccurring take or services that occurred during that month.

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 task being invoiced is not in accordance with the Contract Documents.

#### **2.3.3. INVOICING PROCESS**

Within sixty (60) days from completion of the Work, the Company shall submit all Invoices in accordance with the payment method agreed upon in these Contract Documents. Invoices shall be submitted to the following address: JEA Accounts Payable, P.O. Box 4910, Jacksonville, FL 32201-4910.

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 Respondent the revised amount within ten (10) days.

JEA may withhold payment if the Respondent 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.

#### **2.3.4. 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.

#### **2.3.5. TRUTH IN NEGOTIATION CERTIFICATE**

Proposer understands and agrees that execution of the Contract by Proposer 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, Proposer 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, Proposer 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

### **2.4. TERM AND TERMINATION**

#### **2.4.1. TERM OF CONTRACT – THROUGH COMPLETION OF WORK**

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

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

#### **2.4.2. 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.

### **2.5. TERMINATION FOR DEFAULT**

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

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

- The Company suspends the whole or any part of the Work to the extent that it impacts the Company's ability to meet the Work schedule, or the Company abandons the whole or any part of the Work;
- The Company, at any time, violates any of the conditions or provisions of the Contract Documents, or the Company fails to perform as specified in the Contract Documents, or the Company is not complying with the Contract Documents;
- The Company attempts to willfully impose upon JEA items or workmanship that are, in JEA's sole opinion, defective or of unacceptable quality;
- The Company breaches any of the representations or warranties;
- The Company is determined, in JEA's sole opinion, to have misrepresented the utilization of funds or misappropriate property belonging to JEA; or
- 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.

**2.6. SUSPENSION OF SERVICES**

JEA may suspend the performance of the Services by providing Company with a five (5) day 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 a 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 due to the Company's negligence or failure to perform, may affect the Company's compensation as outlined in the Contract and/or result in a the termination of the Contract.

**2.7. INSURANCE, INDEMNITY AND RISK OF LOSS**

**2.7.1. INSURANCE REQUIREMENTS**

Before starting and until expiration of the Term, 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:

<u>Schedule</u>	<u>Amount</u>
<u>Workers' Compensation</u>	
Florida Statutory coverage and Employer's Liability (including appropriate Federal Acts)	Statutory Limits (Workers' Compensation) \$500,000 each accident (Employer's Liability)

<u>Commercial General Liability</u>	
Premises-Operations	\$1,000,000 each occurrence
Products-Completed Operations	\$2,000,000 annual aggregate for bodily injury and property damage, combined single limit
Contractual Liability	
Independent Contractors	
Broad Form Property Damage	
Explosion, Collapse and Underground Hazards (XCU Coverage)	
 <u>Automobile Liability</u>	
All autos-owned, hired, or non-owned	\$1,000,000 each occurrence, combined single limit
 <u>Excess or Umbrella Liability</u>	
<b>(This is additional coverage and limits above the following primary insurance: Employer’s Liability, Commercial General Liability, and Automobile Liability)</b>	\$2,000,000 each occurrence and annual aggregate
 <u>Professional Liability</u>	
Errors & Omissions; Insurance Limits:	\$1,000,000 each claim; \$2,000,000 annual aggregate
 <u>Aviation Liability</u>	
Aviation owned, hired or non owned:	\$1,000,000 each occurrence, combined single limit

Company’s Commercial General Liability, Excess or Umbrella Liability, and Professional Liability policies shall be effective through completion of the Work. The above Indemnification provision 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, Employer’s Liability, and Professional Liability. Such insurance shall be primary to any and all other insurance or self-insurance maintained by JEA. Company shall include a Waiver of Subrogation on all required insurance in favor of JEA, its board members, officers, employees, agents, successors and assigns.

Such insurance shall be written by a company or companies licensed to do business in the State of Florida and satisfactory to JEA. Prior to commencing any Work under this Contract, certificates evidencing the maintenance of the insurance shall be furnished to JEA for approval.

Company’s and its subcontractors’ Certificates of Insurance shall be mailed to JEA (Attn. Procurement Services), Customer Care Center, 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. Company shall submit subcontractors’ Certificates of Insurance to JEA prior to allowing subcontractors to perform Work on JEA’s job sites.

**2.7.2. INDEMNIFICATION**

Company shall hold harmless, indemnify, and defend JEA against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, reasonable attorney’s fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to

property, arising out of or incidental to the negligence, recklessness or intentional wrongful misconduct of the Company and any person or entity used by Company in the performance of this Contract or Work performed thereunder. For purposes of this Indemnification, the term "JEA" shall mean JEA as a body politic and corporate and shall include its governing board, officers, employees, agents, successors and assigns. This indemnification shall survive the term of a Contract entered into pursuant to this solicitation, for events that occurred during the Contract term. This indemnification shall be separate and apart from, and in addition to, any other indemnification provisions set forth elsewhere in this Contract.

### **2.7.3. TITLE AND RISK OF LOSS**

Ownership, risks of damage to or loss of the Work shall pass to JEA upon Acceptance. The Company shall assume all risk of loss or damage to the Work while items are in transit and/or in the Company's custody until such time that JEA issues written notice of Acceptance.

JEA's receipt or delivery of any equipment or other materials will not constitute JEA's Acceptance of the Work and will not constitute a waiver by JEA of any right, claim or remedy. In the event of loss or damage to the Work, the Company shall bear all costs associated with any loss or damage until Acceptance by JEA.

For equipment and materials removed from JEA sites or the Work locations for repairs, service or duplication, JEA will retain the title to equipment and materials removed.

### **2.7.4. ENVIRONMENTAL INDEMNIFICATION**

The Company shall hold harmless, indemnify and defend JEA and Florida Power and Light (FPL), 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 and FPL 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.

## **2.8. WARRANTIES AND REPRESENTATIONS**

### **2.8.1. 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.

## **2.9. JSEB COMPLIANCE**

### **2.9.1. 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 JSEB Manager, and without subsequent receipt of written approval from the JEA JSEB Manager and the COJ Ombudsman.

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 paid to the JSEB for providing a bona fide service such as professional, technical, consultant, or managerial services shall be counted towards a JSEB participation requirement.

Payment terms for participating JSEB firms shall be the same or better than the payment terms the Company receives from JEA. The Company shall outline the payment terms with the JSEB firm in a contract agreement for the services the JSEB is providing. The Company shall obtain written approval from the JEA JSEB Manager prior to withholding any payment from a 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, a monthly report of the amount paid to the JSEB. The report is due by the 30<sup>th</sup> of the month via email sent to [JSEBProgram@jea.com](mailto:JSEBProgram@jea.com), for the duration of the project. The report shall be made using the form "Monthly Report for COJ/JEA JSEB Participation" available at [www.jea.com](http://www.jea.com) or by contacting the JEA JSEB Manager at [JSEBProgram@jea.com](mailto:JSEBProgram@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 breach.
- Suspend or debar the Company from bidding on any JEA projects as follows:
  - First offense: six month suspension
  - Second offense: one year debarment
  - Third offense: three year debarment
- Revoke Company's JSEB certification if the Company itself is certified as a JSEB.

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

### **2.10.1. 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.

### **2.10.2. 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.

### **2.10.3. COMPLETION OF WORK (PO)**

The Company shall begin Work within 10 days after the date of written Purchase Order from JEA to begin Work, and shall complete the Work by the date set forth in the Contract Documents. The Company further understands and agrees that time is of essence and should the Company fail to complete the Work on or before the date established for Final Completion, the Company shall be solely responsible for additional costs as defined in the Contract.

### **2.10.4. 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.

### **2.10.5. CONDITIONS OF PROVISIONING**

The Company understands and agrees that it shall be solely responsible for providing everything necessary to perform the Work and to be in full compliance with the Contract Documents, except for those items specifically listed herein as being provided by JEA.

If Company's Scope of Work is to supply JEA with inventory items, the Company shall the identify inventory items that are in high demand and take appropriate steps to minimize delivery lead time in the event of demand spikes or emergency requirements.

Any use of JEA furnished items on non-JEA work is a breach of the Contract and a violation of the law. All JEA furnished items are the property of JEA when issued, stored by Company, and used in performance of the Work. The Company agrees that it shall use all JEA furnished items in a manner consistent with industry practice, codes, laws, considering the condition of the JEA furnished item, the skills of the individuals using the JEA furnished item, and all environmental conditions. The Company understands and agrees that where JEA and the Company shall share JEA furnished items, JEA usage shall always have priority over Company usage, and the Contract Administrator shall have sole authority to resolve any usage dispute and such resolution shall not result in any claim by Company.

The Company agrees to return to JEA, and to the location as established by a JEA Representative, any unused or salvageable items prior to final payment. The Company agrees that JEA has the right to audit and investigate the Company at any time how the Company is using JEA furnished items. JEA will bill the Company for unaccountable JEA furnished material at the current JEA cost.

## **2.11. VENDOR PERFORMANCE EVALUATION**

### **2.11.1. VENDOR PERFORMANCE EVALUATION**

Use of Vendor Performance Evaluation Scorecards

JEA may evaluate the Company's performance using the evaluation criteria shown on the vendor scorecard available which are available upon request.

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

#### Frequency of Evaluations

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

#### Unacceptable Performance

- If at any time, JEA determines, using the criteria described on the scorecard, that the performance of the Company is Unacceptable, the Contract Administrator and Chief Procurement Officer or his designated alternate will notify the Company of such in a letter. The Company shall have 10 days to respond to the Contract Administrator. Such response shall include, and preferably be delivered in-person by an officer of the Company, the specific actions that the Company will take to bring the Company's performance up to at least Acceptable Performance.
- Within 30 days from date of the first Unacceptable Performance letter, the Contract Administrator and Chief Purchasing Officer or his designated alternate will notify the Company by letter as to whether its performance, as determined solely by JEA, is meeting expectations, or is continuing to be Unacceptable. If the Company's performance is described in the letter as meeting expectations, no further remedial action is required by the Company, as long as Company's performance continues to be Acceptable.
- If the Company's performance as described in the letter continues to be Unacceptable, or is inconsistently Acceptable, then the Company shall have 15 days from date of second letter to demonstrate solely through its performance of the Work, that it has achieved Acceptable Performance. At the end of the 15-day period, JEA will prepare a scorecard documenting the Company's performance from the start of Work, or date of most recent scorecard, whichever is latest, and giving due consideration to improvements the Company has made in its performance, or has failed to make. If the scorecard shows Company's performance is Acceptable, then no further remedial action is required by Company as long as Company's performance remains Acceptable. If the scorecard shows the Company's performance is Unacceptable, JEA will take such actions as it deems appropriate including, but not limited to, terminating the Contract for breach, suspending the Company from bidding on any JEA related solicitations, and other remedies available in the JEA Purchasing Code and in law. Such action does not relieve the Company of its obligations under the Contract, nor does it preclude an earlier termination.
- In the event that the Contract Term or the remaining Term of the Contract does not allow for the completion of the deficient performance notification cycles described above for those in danger of receiving an Unacceptable Performance scorecard, JEA may choose to accelerate these cycles at its sole discretion.
- If the Company receives five or more letters of deficiency within any 12 month period, then JEA will prepare a scorecard describing the deficiencies and the Company's performance will be scored as Unacceptable.

#### Acceptable Performance

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

#### Disputes

In the event that the Company wants to dispute the results of its scorecard performance evaluation, the Company must submit a letter to the Chief Procurement Officer supplying supplemental information that it believes JEA failed to take into account when preparing the scorecard. Such letter, along with supplemental information, must be

submitted no later than 10 days following the Company's receipt of the scorecard. If the Chief Procurement Officer decides to change the scorecard, the Company will be notified and a revised scorecard will be prepared, with a copy issued to the Company. If the Chief Procurement Officer decides that no change is warranted, the decision of the Chief Procurement Officer is final. If the Company is to be suspended from consideration for future Award of any contracts, the Company may appeal to the Procurement Appeals Board as per JEA Procurement Code.

#### Public Records

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

## **2.12. CHANGES TO WORK OR SCHEDULE**

### **2.12.1. 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.

### **2.12.2. 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.

### **2.12.3. SUSPENSION OF SERVICES**

JEA may suspend the performance of the Services by providing Company with a five (5) day 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 a 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 due to the Company's negligence or failure to perform, may affect the Company's compensation as outlined in the Contract and/or result in the termination of the Contract.

### **2.12.4. 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.

## **2.13. LABOR**

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

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

### **2.13.2. 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 Response 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.

### **2.13.3. 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.

### **2.13.4. NONDISCRIMINATION**

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

- Additionally, the Company shall comply with the following executive orders, acts, and all rules and regulations implementing said orders or acts, which are by this reference incorporated herein as if set out in their entirety:
- The provisions of Presidential Order 11246, as amended, and the portions of Executive Orders 11701 and 11758 as applicable to Equal Employment Opportunity;
- The provisions of section 503 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA); and
- The provisions of the Employment and Training of Veterans Act, 38 U.S.C. 4212 (formerly 2012).

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

### **2.13.5. 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.

### **2.13.6. PROHIBITED FUTURE EMPLOYMENT**

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

except that this prohibition shall not apply to an employee whose role is merely as a review signatory, or to contracts entered into prior to January 1, 2008, or to contracts that have been competitively procured. With respect to this subsection a contract is competitively procured if it has been obtained through a sealed low bid award. A "substantial and decision-making role" shall include duties and/or responsibilities that are collectively associated with: (i) approving solicitation or payment documents; (ii) evaluating formal bids and Responses; and (iii) approving and/or issuing award recommendations for JEA Awards Committee approval. The contract of any person or business entity 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.

## **2.14. MISCELLANEOUS PROVISIONS**

### **2.14.1. 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.

### **2.14.2. DISPUTES**

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

### **2.14.3. 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.

### **2.14.4. HEADINGS**

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

### **2.14.5. 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.

### **2.14.6. 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.

### **2.14.7. BACKGROUND CHECKS AND OTHER INFORMATION 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, including, but not limited to, individuals 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:

- a) Social Security Number (SSN) Trace;

- b) Criminal Records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal);
- c) Background checks undertaken by JEA for its own employees who have duties similar to the duties of the Company's employee(s); and
- d) Background checks which are required pursuant to applicable background screening policies adopted by JEA from time to time, including, but not limited to, background checks required in connection with obtaining a JEA access badge or logical access to JEA systems.

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 also shall have the right to require that JEA conduct its own background checks on the Company's employees and to screen all such employees. In such event, the Company shall cooperate and provide JEA with all information requested by JEA to enable JEA to complete the background screening. 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. In addition, the Company must review JEA's Personnel Risk Assessment Review Process Contractors – CIP, FACTA and HIPAA. If applicable under such process, the Company must complete the background screening process specified therein and complete JEA's PRA Contractor Evaluation Form – Contractor Background Check Attestation (the "PRA Form") for each applicable employee.

#### **2.14.8. 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 described in Section \_\_\_\_ above, 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:

- 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.

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

#### **2.14.9. 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 must be notified within 12 hours or sooner of a lost or stolen JEA access badge or when an individual leaves the Company or any subcontractor. The Company shall bear any costs associated with issuance, and production, of any lost or stolen JEA access badge. The Company is required to report all badge loss, or termination, notifications to the JEA Representative and JEA Security. JEA Security can be contacted at (904) 665-8200 and [security@jea.com](mailto: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.

#### **2.14.10. FORCE MAJEURE**

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

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

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

#### **2.14.11. 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. 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.

#### **2.14.13. 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.

#### **2.14.14. 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 the most recent fiscal year upon JEA's request, not later than five days after receipt of written request.

##### Content and Retention of Records

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

##### Inspection /Audit of Records

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

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

##### Cost of Audits

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

#### Billing Adjustments and Recoveries

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

#### Failure to Comply

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

#### **2.14.15. 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.

#### **2.14.16. 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.

#### **2.14.17. TIME AND DATE**

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

#### **2.14.18. TIME OF ESSENCE**

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

#### **2.14.19. 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.

### **3. TECHNICAL SPECIFICATIONS/DETAILED SCOPE OF WORK**

#### **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.

### **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).