



A NEW DAY.

Bid Specifications for
CEI Services for the Ortega Hills Connector Road

Company	Fennell IP, LLC
Buyer	Greg Birdsong
E-mail	gbirdsong@rcbfproperties.com
Website	www.rcbfproperties.com

This document has important legal consequences. The information contained in this document is proprietary of Fennell IP, LLC (“Developer” or “Buyer”). It shall not be used, reproduced, or disclosed to others without the express and written consent of Fennell IP, LLC.

All responses to this solicitation must be submitted to this location:

Driver, McAfee, Hawthorne & Diebenow, PLLC
Attn: Greg Birdsong and Stephanie Burch
1 Independent Drive, Suite 1200
Jacksonville, FL 32202

All Proposers shall respond with one (1) original and three (3) hard copies of this solicitation, plus any additional information required, to the address above prior to the day and time listed in this solicitation. All Bids must be signed by an officer or employee having authority to legally bind the Proposer. All copies shall be placed in a sealed package. The outside must be marked with the RFP title and Proposer’s name, address, contact person, and telephone number. LATE PROPOSALS WILL NOT BE CONSIDERED. It is the sole responsibility of Proposer to ensure all copies are EXACT replications of the original Proposal. Photocopies will be used for the purpose of evaluating the Proposals. Any information contained in the original Proposal which has not been transferred to the photocopies will NOT be considered. The original Proposal will be used solely for official record keeping and auditing purposes.

In addition, an electronic copy of the Proposal must be sent to:
Greg Birdsong (gbirdsong@rcbfproperties.com) and Stephanie Burch (sburch@drivermcafee.com).

If any questions arise during the proposal period of this project, contact Stephanie Burch at sburch@drivermcafee.com.

Information and documents regarding this solicitation will be posted to the website noted above. Updates to information and documentation will be posted as they become available to Developer.

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1 Overview

1.1 General Information

Title **CEI Services for the Ortega Hills Connector Road**
Synopsis **This is a Request for Proposals (RFP) for a Contractor to provide Professional Construction Engineering and Inspection (CEI) services which are required for constructability reviews, contract administration, and inspection for the Ortega Hills Connector Road project. This project will construct a new two-lane road and related facilities to provide vehicular access connecting Ortega Hills Drive northward to the current terminus of Golden Wings Road within the Timuquana Commerce Center.**
Buyer **Greg Birdsong** Outcome **Contract Purchase Agreement**
E-Mail gbirdsong@rcbfproperties.com

1.2 Schedule

Preview Date Open Date **May 7, 2026 12:00 PM**
Close Date **June 10, 2026 3:00 PM** Award
Date Time Zone **Eastern**
Standard Time
Pre-Bid Conference **n/a**
Location
Pre-Bid Date/Time **n/a**
Question Cutoff **May 27, 2026 @5:00 PM**
Date/Time

1.3 Negotiation Controls

Response Visibility **Sealed**

Lines Settings

Rank Indicator **1,2,3...**
Ranking Method **Multi attribute scoring**

1.4 Response Rules

This negotiation is governed by all the rules displayed below.

	Rule
<input checked="" type="checkbox"/>	Suppliers are allowed to revise their submitted response up until Bid closing

2 Requirements

**Response is required*

Proposers must satisfy the following mandatory minimum requirements. By submitting a Response, Supplier warrants and represents that it satisfies these requirements. Failure to meet any of the requirements may result in the response being rejected as non-responsive. Suppliers must respond to each section through the drop-down selection or arrows at the top right.

2.1 Affirmation

*1. Name and title of person submitting bid: _____

*2. Name of company: _____

*3. No Alterations: Proposer has not altered the original Solicitation Document in any way and further understands that any such alteration of the original solicitation document may result in rejection of the bid.

Select one of the following:

☐ Acknowledge

*4. Solicitation Silence: The Solicitation Silence policy is in effect for this solicitation and all communications related to this solicitation must be in writing to the designated procurement representative. Violations of the solicitation silence policy may result in the rejection/disqualification of the submission.

Select one of the following:

☐ Acknowledge

*5. Legal authorization and solicitation specific minimum requirements: All Proposers must be legally authorized to do business in Duval County and shall comply with all minimum requirements for this bid. Failure to submit evidence for meeting any of these requirements may be grounds for rejection. Vendor shall provide proof of applicable local business licenses and particulars such as specific licensure, experience on similar projects, years of expertise in the area etc.

Select one of the following:

☐ Acknowledge

Comments:

- *6. Certification of No Conflict of Interest: Proposer certifies that no official or employee of the City or independent agency requiring the goods or services described in the specifications has a material financial interest in the Proposer's company. Supplier must complete and submit the attached Conflict of Interest Statement fully detailing any potential conflicts.

Attachments:

File Name or URL	Type	Description
CONFLICT OF INTEREST CERTIFICATION	File	

Select one of the following:

- ☐ a. Proposer certifies that no official or employee of the City or independent agency requiring the goods or services described in the specifications has a material financial interest in the Contractor's company.
- ☐ b. Proposer cannot certify that no official or employee of the City or independent agency requiring the goods or services described in the specifications has a material financial interest in the Contractor's company.

- *7. Equal Business Opportunity Program: Pursuant to Part 6 of Chapter 126, Jacksonville Ordinance Code, the City of Jacksonville encourages the utilization and participation of Jacksonville Small and Emerging Businesses (JSEBs) in its contract awards based upon availability. It is the City's intent in adopting this program to reflect the philosophy with regards to enhancing participation of JSEBs in all areas of procurement.

Attachments:

File Name or URL	Type	Description
JSEB Project Goals Language.pdf	File	Equal Business Opportunity Program

- ☐ Acknowledge

2.2 Submittal Statement

*1. Submittal Statement

Proposer certifies that this proposal is made in good faith, without collusion or connection with any other entity bidding on this work.

Proposer has examined and read all Drawings, Specifications, General and Special Conditions, and other Contract Documents, and all Addenda thereto; and is acquainted with and fully understands the extent and character of the work covered by this Proposal and the specified requirements, for the proposed work.

Proposer certifies that no officer or agent of the Developer will directly or indirectly benefit from this bid. Proposer states that this Proposal is made in conformity with the Contract Documents and agrees that in case of any discrepancy or differences between its Proposal and the Contract Documents, the provisions of the latter shall prevail.

Proposer certifies that it has carefully examined the foregoing Proposal after the same was completed and has verified every item placed thereon; and agrees to indemnify, defend and save harmless the Developer against any cost, damage or expense which may be incurred or caused by any error in the Proposer's preparation of same.

Proposer states that all applicable taxes are included in the unit prices or Lump Sum Bid and acknowledges this project is not exempt from the State or Local Sales or Use taxes, and payment of such taxes is the responsibility of the Proposer.

The undersigned Proposer agrees to keep its bid in effect for 120 calendar days after the Bid Opening date to allow the Developer time to award the bid, should it be awarded, and time to prepare and execute the contract (or issue the purchase order). This time period begins at the time bids are opened and ends upon the issuance of Notice to Proceed (NTP) by the Developer. The bid prices shall remain in effect throughout the life of the Contract. Failure of the Developer to issue NTP within the specified time period shall allow Proposer to withdraw its Bid and terminate its contract without penalty or forfeiture of Bid Bond. Failure of the Developer to issue NTP within the specified time period shall not entitle Proposer to an adjustment of its Bid prices, unless mutually agreeable by the Developer.

Proposer certifies, under penalty of perjury and contract rescission, that it has all required licenses to perform the work required to fulfill the terms of the contract resulting from a successful bid. Furthermore, the Proposer affirms that all subcontractors requiring to be licensed are listed in its response and are properly licensed to perform work on their respective portions of this project.

Acknowledged by: _____

Print Name: _____

Title: _____

Company: _____

2.3 General Requirements

- *1. Scope of Services: The Developer is currently accepting bids to obtain source(s) of supply for the item(s) or service(s) as outlined in the bid documents provided. See the attachment(s) for additional information.

Attachments:

File Name or URL	Type	Description
Plans and Specifications	File	Plans and Specifications
Landscape Plans and Specifications	File	Landscape Plans and Specifications
CEI Scope of Services	File	Scope of Services

☐ Acknowledge

- *2. Contractors must satisfy the following mandatory minimum requirements in order to have their responses evaluated. By submitting a response, Contractor warrants and represents that it satisfies these requirements.

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Failure to meet these requirements will result in the response not being evaluated and being rejected as non-responsive:

- A. Authorized and licensed under Florida statutes to perform the professional Services sought by this RFP
- B. Must Possess a Local Business Tax Certificate, if applicable

☐ Acknowledge

*3. Please review and acknowledge the attached requirements.

Attachments:

File Name or URL	Type	Description
Executive Order 98-01.pdf	File	
EXECUTIVE ORDER NO. 2013-05.pd	File	

☐ Acknowledge

*4. Revisions to the Solicitation

The following sections are hereby removed from the *Terms and Conditions*. Please disregard these sections in their entirety.

A.4 Quantities

C.10 Delivery

C.12 Discounts

C.29 "Or Equal" Interpretation

C.30 Performance Bond

C.31 Pickup and Returns

C. 31 Prices

C. 41 Quotations

Select one of the following:

☐ Acknowledge

*6. Response Format

To maintain comparability and facilitate the evaluation process, Responses shall be organized in the manner set forth below. Tab delineations for each of the five (5) sections listed below would be helpful. Section 5, the Statement of Qualifications, is limited to a maximum of **TEN** written pages.

1) Title Page: Include only RFP Title and Proposer's full name, address, phone number, and email address.

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2) Cover Letter: Include only the following:

- RFP Title
- Proposer's full name, address, phone number, and email address
- Name of the person(s) who will be authorized to make representations for the Proposer, their title(s), addresses (including email address) and phone numbers
- Proposer's federal ID number
- Written acknowledgement that (i) the Response is based on the terms set forth in the RFP and all amendments thereto posted on Developer's website as of the date of the Response, and (ii) the Proposer will be responsible for monitoring Developer's website for subsequent amendments and for either maintaining, amending, or withdrawing the Response prior to the Response Due Date based on those subsequent amendments.
- Signature of Authorized Representative

3) Required Forms. (Not included as part of Ten-page limitation) Attach all forms identified in RFP, each signed by an authorized representative. Examples of the forms that may be required and placed in Section 3 include:

- Local Business Tax Certificate
- Business References (include bank reference letters, financial reports, insurance certificates, etc.); If the Proposer desires, the Company financial reports may be submitted in a separate .pdf file from the proposal file; however, the file name must include the word "Confidential"; For example, "XYZ Engineering – Confidential Financial Info.pdf"
- Certificate of Insurance
- Equal Business Opportunity Program forms (if JSEB participation is part of the grading criteria)
- Resumes of Project Team
- Attachment A – Volume of Local Government Work Within the last five years (if applicable)

4) Proof of Minimum Requirements. (Not included as part of Ten-page limitation) Responses will ONLY be accepted from companies meeting the minimum requirements in Section 2.3.2 of this solicitation. Proposer must address and provide clear documentation that they meet all minimum requirements.

5) Statement of Qualifications. (**Maximum of 10 written pages for this section**) This portion of the Response will be used to provide the information Developer needs to evaluate how well the Proposer meets the criteria listed in Section 2.3 – Evaluation Criteria. Failure to provide adequate information on any criterion will result in lower scores and could result in rejection of the Response as non-responsive. Please divide this portion of the Response into seven subsections (one subsection for each of the listed criteria).

Attachments:

File Name or URL	Type	Description
Volume of Work.pdf	File	

Select one of the following:

- ☐ a. Acknowledge
- ☐ b. Submit Completed Proposal following the RESPONSE FORMAT

2.4 Requirements

1. Introduction

Fennell IP, LLC ("**Buyer**") intends to hire an individual or firm ("**Proposer and or Consultant**") to provide the professional services described in this Request for Proposal ("**RFP**"). Persons interested in submitting a response to this RFP (a "**Response**") should carefully review this RFP for instructions on how to respond and for the applicable contractual terms.

2. Documents Available for Inspection

During preparation of a response to this RFP, the following material is available for review by Proposers:

- Invitation to Bid
- Plans and Specifications
- Landscape Plans and Specifications

Arrangements for inspection should be made with the Contact Person identified in the RFP. Copies of documents will be furnished to the extent permitted by law.

3. Application of Chapter 287.055, Florida Statutes and Chapter 126, Ordinance Code, and Other Laws. The selection of and contracting with a Proposer under the RFP will be in accordance with Section 287.055, Florida Statutes (the "Consultants' Competitive Negotiation Act") and Parts 2 and 7 of Chapter 126, of the Jacksonville Ordinance Code. Other provisions of federal, state, county and local laws, and administrative procedures, policies or rules may apply to the RFP and any claims or disputes arising hereunder. Lack of knowledge of the law or administrative procedures, policies, or rules by any Proposer shall not constitute a cognizable defense against their effect.

4. Questions and Requests for Amendment to RFP. If a Proposer (i) has questions about the RFP, (ii) finds discrepancies, omissions or ambiguities in the RFP, or (iii) believes any term or condition of the RFP is unreasonable, Proposer should request an amendment to the RFP. The request should reference the RFP section at issue and include any specific language that Proposer recommends using.

All requests for amendment must be submitted in writing (via email to sburch@drivermcafee.com) and, unless otherwise specified in the RFP, be received by the Contact Person at least **ten (10) calendar days** before the Response Due Date. Questions and requests for amendments directed to the Contact Person or to any other Developer personnel shall not constitute a formal protest of the RFP. Failure to request an interpretation or change will be considered evidence that Proposer understands and agrees to the provisions of the RFP.

The posting of a written amendment is the only official method by which interpretations, clarifications, changes or additional information will be given by Developer prior to the opening of Responses. Any other interpretation, clarification, change or information will have no legal effect.

Developer reserves the right to amend, cancel or reissue the RFP at its discretion. Developer reserves the right to request or obtain additional information about any and all Proposals submitted in response to this RFP. The Developer may also issue addenda to this RFP which will be sent to each Proposer who received this RFP. This includes the right to change the Response Due Date and the Contract award date. Notice of all amendments and cancellations will be posted on Developer's website (please contact the Contact Person if you are uncertain of the website address or if you experience problems accessing it). Proposer is responsible for monitoring this website for new or changing information.

5. Cost of Developing RFP Response. All costs related to the preparation of RFP Responses and any related

activities are the sole responsibility of Proposer. Developer assumes no liability for any costs incurred by Proposers throughout the entire selection process.

6. Response Ownership. All Responses, including attachments, supplementary materials, addenda, etc., shall become property of Developer and shall not be returned to Proposer. Developer will have the right to use any and all ideas or adaptation of ideas presented in any Response. Acceptance or rejection of a Response shall not affect this right.

7. Public Records Law; Process For Protecting Trade Secrets and Other Information. Article 1, Section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public records. As such, all responses to the RFP are public records unless exempt by law. If Proposer considers any portion of its Response to be exempt from disclosure under Florida law, Proposer must provide Developer with a separate redacted copy of the Response and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation. Proposer shall be responsible for defending its determination that the redacted portions of its Response are confidential, trade secret or otherwise not subject to disclosure. Further, Proposer shall protect, defend, and indemnify Developer for any and all claims arising from or relating to Proposer's determination that the redacted portions of its Response are confidential, trade secret or otherwise not subject to disclosure. If Proposer fails to submit a Redacted Copy with its Response in accordance with Section 2.4 above, Developer is authorized to produce the entire Response in answer to a public records request.

In accordance with Section 119.0701, Florida Statutes, the Proposer shall:

- (a) Keep and maintain public records required by Developer or City to perform the services; and
- (b) Upon request from City's custodian of public records, provide City with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law; and
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of this Contract if Proposer does not transfer the records to Developer or City; and
- (d) Upon completion of this Contract, transfer to Developer or City at no cost all public records in possession of Proposer or keep and maintain public records required by Developer or City to perform the service. If Proposer transfers all public records to Developer or City upon completion of this Contract, Proposer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Proposer keeps and maintains public records upon completion of this Contract, Proposer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Developer or City upon request from Developer or City's custodian of public records in a format that is compatible with City's information technology systems.

The above requirements apply to a "Contractor" as defined in Section, 119.0701, Florida Statutes.

IF PROPOSER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROPOSER'S DUTY TO PROVIDE PUBLIC RECORDS

RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT (904) 255-7674; PRR@COJ.NET; CITY OF JACKSONVILLE, PUBLIC RECORDS REQUEST, 214 N. HOGAN STREET, SUITE 1180, JACKSONVILLE, FLORIDA 32202.

8. Multiple Responses from Same Proposer; No Collusion. More than one Response from an individual firm, partnership, corporation or association under the same or different names is not permitted. Reasonable grounds for believing that a Proposer is involved in more than one Response for the same work will be cause for rejection of all Responses in which such Proposer is believed to be involved. Any or all Responses will be rejected if there is reason to believe that collusion exists between Proposers. Responses in which the prices obviously are unbalanced will be grounds for rejection.

9. Convicted Vendor List. A person or affiliate placed on the State of Florida convicted vendor list pursuant to Section 287.133, Florida Statutes, following a conviction for a public entity crime may not provide a Response to this RFP for a period of 36 months from the date of being placed on the convicted vendor list.

10. Discriminatory Vendor List. An entity or affiliate placed on the State of Florida discriminatory vendor list pursuant to Section 287.134, Florida Statutes, may not:

- Submit a bid on a contract to provide any goods or services to a public entity;
- Submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- Submit bids on leases of real property to a public entity;
- Perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- Transact business with any public entity.

11. Proposer Representations. In submitting a Response, Proposer understands, represents, and acknowledges the following (if Proposer cannot so certify to any of following, Proposer shall submit with its Response a written explanation of why it cannot do so).

- Proposer currently has no delinquent obligations to the City of Jacksonville or any of its independent agencies.
- The Response is submitted in good faith and without any prior or future consultation or agreement with any other respondent or potential respondent;
- To the best of the knowledge of the person signing the Response, neither the Proposer, its affiliates, subsidiaries, owners partners, principals or officers:
 - o is currently under investigation by any governmental authority for conspiracy or collusion with respect to bidding on any public contract;
 - o is currently under suspension or debarment by any governmental authority in the United States;
 - o has within the preceding three years been convicted of or had a civil judgment rendered against it, or is presently indicted for or otherwise criminally or civilly charged, in connection with (i) obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; (ii) violation of federal or state antitrust statutes; or (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

- o has within the preceding three-year period had one or more federal, state, or local government contracts terminated for cause or default.
- Proposer is not listed on either the Scrutinized Companies with Activities in Sudan or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees, and/or costs. [This certification applies to contracts of \$1,000,000 or more. A list of the companies can be found as a link to "PFIA Quarterly Reports" at www.sbafla.com/fsb/]
- Proposer has read and understands the RFP terms and conditions, and the Response is submitted in conformance with those terms and conditions.
- All representations made by Proposer to Developer or City in connection with the RFP have been made after a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the Response.
- Proposer shall indemnify, defend, and hold harmless Developer and City and its employees against all cost, damage, or expense which may be incurred or be caused by any error in the Response.
- All information provided by, and representations made by, Proposer are material and important and may be relied upon by Developer and City in awarding the Contract.

12. Provision of Services. Proposer shall provide Developer with all of the services and deliverables described in the RFP, the Response and the resulting Contract (collectively, the "Services"). If any services, functions or responsibilities are not specifically described in the RFP, the Response or the resulting Contract but are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the scope of the Services to the same extent and in the same manner as if specifically described herein.

13. Relationship of the Parties. In performance of the Services, Proposer shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of Developer. Proposer shall be solely responsible for the labor, supplies, materials, means, methods, techniques, sequences and procedures utilized to perform the Services in accordance with the Contract.

14. Developer's Right to Make Changes. Developer may unilaterally require, by written order, changes altering, adding to, or deducting from the Services ("Changes"), provided that such Changes are within the general scope of the Contract. Developer will make an equitable adjustment in the Contract price or delivery date if the Change materially affects the cost or time of performance. Such equitable adjustments require the written consent of Proposer, which shall not be unreasonably withheld. The Parties will cooperate with each other in good faith in discussing the scope and nature of the Change, the availability of Proposer personnel, the expertise and resources to provide such Change, and the time period in which such Change will be implemented.

15. Service Warranties. Proposer warrants that the Services shall be performed and delivered in a professional, first-class manner in accordance with the Contract and the standards prevailing in the industry. Proposer shall also undertake the following actions without additional consideration during the term of the Contract and for one year thereafter: (i) promptly making necessary revisions or corrections to resolve any errors and omissions on the part of Proposer; and (ii) conferring with Developer for the purpose of interpreting any of the Services or information furnished. Acceptance of the Services by Developer shall not relieve Proposer of these responsibilities. The warranties and covenants in this paragraph will extend to all subcontractors as well.

The foregoing warranties and covenants shall not apply (i) with respect to any portions of the Service that

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have been produced by anyone other than Proposer or its subcontractors; (ii) to any modifications made by anyone other than Proposer or its subcontractors or without Proposer's specific prior written consent; or (iii) to any use of the Service in a manner or for any purpose other than those contemplated in the Contract. EXCEPT AS EXPRESSLY STATED IN THE CONTRACT, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PROPOSER'S WARRANTIES EXTEND SOLELY TO DEVELOPER.

16. Developer Will Assist Proposer. At Proposer's request, Developer will provide reasonable assistance and cooperation to Proposer, including the supply of any data and information necessary for Proposer to provide the Services. Developer will also designate a Contract Manager who will, on behalf of Developer, work with Proposer and administer the Contract in accordance with its terms.

17. Location Requirements for Services. Unless otherwise stated in the RFP or the Response, the majority of the Services shall be performed within Duval County, Florida and no Services will be performed outside of the United States. These restrictions may be modified in writing if Developer determines, in its sole discretion, that the restrictions impose an undue burden on Proposer's ability to perform the Services as contemplated in the Contract.

18. Use of Subcontractors; Flow-Down Provisions. Except to the extent the use of subcontractors is disclosed in the Response or consented to in writing by Developer, Proposer shall not be allowed to subcontract or assign any of its duties and obligations hereunder. In all cases, Proposer will be responsible for the acts or omissions of its subcontractors. Proposer will ensure that all relevant contractual obligations will flow down to the subcontractors and will be incorporated into the subcontracts (including the obligations relating to insurance, indemnification, delays, intellectual property rights, public records, non-discrimination, audits, security, location of services, termination, transition assistance, warranties, and the manner in which the Services are to be performed).

19. Meetings and Reports. Proposer must attend all meetings and public hearings relative to the Services where its presence is determined to be necessary and requested by Developer and Proposer can reasonably schedule its appearance. Unless otherwise agreed, Proposer shall provide a monthly report summarizing Proposer's performance. Proposer shall provide other periodic reports respecting the Services as Developer reasonably requests.

20. Ownership of Works.

(a) The term "Work" shall mean each deliverable, drawing, design, specification, rendering, notebook, tracing, photograph, reference book, equipment, expendable equipment and material, negative report finding, recommendation, data and memorandum of every description, shared with or delivered to Developer pursuant to the Contract.

(b) With the exception of Proposer's pre-existing intellectual capital and third-party intellectual capital as described in Section below, Developer shall own all right, title and interest, including ownership of copyright (limited to the extent permitted by the terms of any governing licenses), in and to each Work including, but not limited to, software, source code, reports, deliverable, or work product developed by Proposer specifically for Developer in connection with the Contract, and derivative works relating to the foregoing. The use of these Works in any manner by Developer shall not support any claim by Proposer for additional compensation.

(c) Each Work, and any portion thereof, shall be a "work made for hire" for Developer pursuant to federal copyright laws. Any software, report, deliverable, or work product as used in connection with the Work, but previously developed by Proposer specifically for other customers of Proposer or for the purpose of providing substantially similar services to other Proposer customers, generally shall not be considered

"work made for hire", so long as the foregoing are not first conceived or reduced to practice as part of the Work. To the extent any of the Works are not deemed works made for hire by operation of law, Proposer hereby irrevocably assigns, transfers, and conveys to Developer, or its designee, without further consideration all of its right, title and interest in such Work, including all rights of patent, copyright, trade secret, trademark or other proprietary rights in such materials. Except as provided in the foregoing sentences, Proposer acknowledges that Developer shall have the right to obtain and hold in its own name any intellectual property right in and to the Work. Proposer agrees to execute any documents or take any other actions as may reasonably be necessary, or as Developer may reasonably request, to perfect or evidence Developer's ownership of the Work.

21. Intellectual Property.

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

(b) If the Work contains, has embedded in, or requires for the use of, any third party intellectual property, or if the third party intellectual property is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of the Work, Proposer shall secure for Developer an irrevocable, perpetual, royalty free and fully paid-up right to use all third party intellectual property. Proposer shall secure such right at its expense and prior to incorporating any third party intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) into any Work, including, without limitation, all drawings or data provided under the Contract, and such right must include, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right and a right to sublicense all or any portion of the foregoing rights to an affiliate or a third party service provider. This subparagraph does not apply to standard office software (e.g., Microsoft Office).

(c) Should Developer, or any third party obtaining such Work through Developer, use the Work or any part thereof for any purpose other than that which is specified in the Contract, it shall be at Developer's and such third party's sole risk.

22. Software Development Processes and Standards. To the extent any software is developed, modified, or otherwise procured under the Contract, Proposer will use commercially-accepted software development and documentation processes and standards.

23. Limitation of Warranty for Developer-Furnished Software. In lieu of any other warranty expressed or implied herein, Developer warrants that any programming aids and software packages supplied for Proposer use as Developer-furnished property shall be suitable for their intended use on the system(s) for which designed. In the case of programming aids and software packages acquired by Developer from a commercial source, such warranty is limited to that set forth in the contractual document covering the product(s). Should Developer furnish Proposer with any programming aids or software packages that are found not to be suitable for their intended use on the system(s) for which designed, Proposer shall notify Developer and supply documentation regarding any defects and their effect on progress on the Contract. Developer will consider equitably adjusting the delivery performance dates or compensation, or both, and any other contractual provision affected by the Developer-furnished property in accordance with the procedures provided for in Section 3.3 above ("Developer's Right to Make Changes").

24. Loss of Data. If any Developer data or record is lost or corrupted due to the negligence of Proposer or any of its subProposers or agents, Proposer shall be responsible for correcting and recreating all production,

test, acceptance and training files or databases affected which are used in the provision of services, at no additional cost to the Developer in the manner and on the schedule set by Developer. This remedy shall be in addition to any other remedy Developer may be entitled to by law or the Contract.

25. Purchase Orders. If the Contract requires a Service to be ordered by Developer via purchase order, Proposer shall not deliver or furnish the Service until a Developer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by Developer directly with Proposer, and shall be deemed to incorporate by reference the Contract. Any discrepancy between the Contract terms and the terms stated on the Proposer's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to Developer.

26. Best Pricing for Comparable Services to Other Government Entities. Compensation for the Services shall be as set forth in the Contract. During the Contract term, if Proposer offers better pricing to other government entities for substantially the same or a smaller quantity of Services upon the same or similar terms of the Contract ("Better Pricing"), then the price under the Contract shall be immediately reduced to the better price. Developer may require Proposer to certify on an annual basis that Better Pricing (as defined above) does not exist.

27. Invoicing and Payment.

(a) Unless otherwise specified in the RFP, payment to Proposer for Services shall be made on a monthly basis for the Services provided by Proposer for the preceding month. Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. Developer may require any other information from Proposer that Developer deems necessary to verify its obligation to pay under the Contract. Payments will be made to Proposer approximately thirty (30) days after receipt and acceptance of a proper invoice. Developer does not pay service charges, interest or late fees unless required by law.

(b) To the extent Proposer's fees include reimbursement for travel or travel-related expenses, such travel and travel-related expenses shall be subject to and governed by the provisions and limitations of Chapter 106, Part 7, Jacksonville Ordinance Code.

(c) Developer's obligations to make payment are contingent upon availability of lawfully appropriated funds for the Services.

28. Intentionally Omitted.

29. Right of Setoff. Developer may, in addition to other remedies available at law or equity and upon notice to Proposer, retain such monies from amounts due Proposer as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted in good faith by Developer (or any other local government entity or authority located in Duval County, Florida) against Proposer.

30. Retention of Records / Audits.

(a) Proposer must establish and maintain books, records, contracts, sub-contracts, papers, financial records, supporting documents, statistical records and all other documents pertaining to the Contract (collectively, the "Records"), in whatsoever form or format (including electronic storage media) is reasonable, safe and sufficient.

(b) Proposer must retain all Records for a minimum period of three (3) years after the final payment is made under the Contract. If an audit has been initiated and audit findings have not been resolved

at the end of the three (3) year period, the Records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the Contract, at no additional cost to Developer. Records shall be retained for longer periods when the retention period exceeds the time frames required by law or ordinance.

(c) At all reasonable times for as long as the Records are maintained, Proposer must allow persons duly authorized by Developer (including Developer's auditor and inspector general offices), and to have full access to and the right to examine, copy or audit any of the Records, regardless of the form in which kept. Proposer will not charge Developer for any setup, supervision or space in connection with the examination and audit. Photocopying charges will not exceed the actual and reasonable cost of the copies to Proposer, and Developer shall be permitted to bring its photocopying equipment if Developer so desires.

(d) Proposer must comply with and cooperate in any audits or reports requested by Developer and must ensure that all related party transactions are disclosed to the auditor.

(e) Proposer must permit Developer to interview any of Proposer's employees, subProposers and subProposer employees to assure Developer of the satisfactory performance of the terms and conditions of the Contract. Unless the parties agree otherwise or Developer is willing to pay for the employee's reasonable travel expenses, the interviews will be conducted at the employee's primary place of work. Proposer will not charge Developer for any employee time unless the interview time for that employee exceeds eight (8) hours in a calendar year.

(f) Following any audit or review, if performance of Proposer is, in the opinion of Developer, deficient, Developer will deliver to Proposer a written report of the deficiencies and request for development by Proposer of a corrective action plan. Proposer hereby agrees to prepare and submit, to Developer, said corrective plan within ten (10) days of receiving Developer's written report. Thereafter, Proposer must correct all deficiencies in the corrective action plan within a reasonable time after Developer's receipt of the corrective action plan.

(g) All reports and other information provided by Proposer pursuant to this Section shall be submitted under penalties of perjury, under Section 837.06, Florida Statutes.

(h) Proposer must include the aforementioned audit, inspection, investigation and record-keeping requirements in all subcontracts and Contract assignments.

(i) Proposer agrees to reimburse Developer for the reasonable costs of investigation incurred by Developer for audits, inspections and investigations that uncover a material violation of the Contract. Such costs shall include the salaries of investigators, including overtime, travel and lodging expenses, and expert witness and documentary fees. Proposer shall not be responsible for any costs of investigations that do not uncover a material violation of the Contract.

31. Developer's Right to Suspend Work. Developer may in its sole discretion suspend any or all activities under the Contract by providing a written notice to Proposer at least five (5) days in advance that outlines the particulars of suspension. Within ninety (90) days of providing such notice, or within any longer period agreed to by Proposer, Developer shall either (1) authorize the resumption of work, at which time activity shall resume, or (2) terminate the Contract in accordance with the applicable termination provisions. Suspension of work shall not entitle Proposer to any additional compensation. The parties will reasonably amend any schedules relating to performance of the Services to reflect the suspension of work hereunder. Proposer shall not be entitled to receive compensation for any work it performs after being excused from providing it hereunder.

32. Developer's Right to Terminate for Convenience. Developer reserves the right to terminate the Contract at any time and for any reason by giving written notice to Proposer. If the Contract is terminated for convenience as provided herein, Developer will be relieved of all further obligations other than payment for that amount of Services actually performed to the date of termination. Access to any and all work papers will be provided to the District after the termination of the Contract. The parties understand and agree that Proposer shall not have a reciprocal right to terminate the Contract for convenience; it being understood that Developer's payment for Services forms the consideration for Proposer not having this right. In the event of Developer's termination of the Contract, Developer (in its sole discretion) may also require Proposer to provide the Transition Services as set forth in Section 3.26 below.

33. Developer's Remedies Upon Proposer Default. Any one or more of the following events, if not cured within ten (10) calendar days after Proposer's receipt of written notice thereof, shall constitute an "Event of Default" on the part of Proposer: (1) Proposer fails to perform the Services within the time specified in the Contract or any extension, (2) Proposer fails to maintain adequate progress, thus endangering performance of the Contract, (3) Proposer fails to honor any other material term of the Contract, or (4) Proposer fails to abide by any statutory, regulatory, or licensing requirement. Developer may extend the 10-day cure period in its discretion.

In addition, the following shall constitute an immediate Event of Default with no right cure: (i) Proposer is found to have made a false representation or certification in its Response, or (ii) Proposer has been placed on the list maintained under Section 287.135, Florida Statutes, of companies with activities in Sudan or in Iran Petroleum Energy Sector.

Upon an "Event of Default" on the part of Proposer, Developer will be entitled to terminate the Contract and pursue such other remedies available at law or equity, including the recovery of any procurement costs and delay damages. The rights and remedies available to Developer under the Contract are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by a party, shall be deemed to be in exclusion of any other.

If, after termination, it is determined that Proposer was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience.

34. Proposer Remedies Upon Developer Default. Developer shall be in default if Developer fails to honor any material term of the Contract, and such failure is not cured within forty-five (45) calendar days after receipt of written notice thereof from Proposer. In the event of Developer's default, Proposer will be entitled to terminate the Contract and pursue such other remedies available at law or equity as it deems appropriate. **Except as expressly provided elsewhere in the Contract, Proposer will not be entitled to recover any lost profits or consequential damages.** The rights and remedies available to Proposer under the Contract are distinct, separate and cumulative remedies, and no one of them shall be deemed to be in exclusion of any other.

35. Transition Services. At any time prior to the date the Contract expires or terminates for any reason (the "Termination Date"), Developer may request Proposer to provide reasonable transition assistance services ("Transition Assistance"). Proposer shall provide such Transition Assistance until such time as Developer notifies Proposer that Developer no longer requires such Transition Assistance, but in no event for more than 180 days following the Termination Date.

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

reasonable non-disclosure agreements required by Proposer.

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

36. Force Majeure, Notice of Delay, and No Damages for Delay. Neither party shall be responsible for delays in performance if the delay was beyond that party's control (or the control of its employees, subProposers or agents). Proposer shall notify Developer in writing of any such delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Proposer could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date Proposer first had reason to believe that a delay could result. Based upon such notice, Developer will give Proposer a reasonable extension of time to perform; provided, however, that Developer may elect to terminate the Contract in whole or in part if Developer determines, in its sole judgment, that such a delay will significantly impair the value of the Contract to Developer. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. **THE FOREGOING SHALL CONSTITUTE PROPOSER'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** No claim for damages, other than for an extension of time, shall be asserted against Developer. Proposer shall not be entitled to an increase in the Contract price or payment of any kind from Developer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

37. No Waiver. The delay or failure by a party to exercise or enforce any of its rights under the Contract shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Unless otherwise agreed in writing, Developer's payment for the Services shall not release Proposer of its obligations under the Contract and shall not be deemed a waiver of Developer's right to insist upon strict performance hereof.

38. Qualification of Proposer Employees, SubProposers, and Agents. All Proposer employees, subProposers and agents performing work under the Contract shall be properly trained and qualified. Upon request, Proposer shall furnish a copy of technical certification or other proof of qualification. All employees, subProposers and agents performing work under the Contract must comply with all reasonable administrative requirements of Developer and with all controlling laws and regulations relevant to the services they are providing under the Contract. Developer may conduct, and Proposer shall cooperate in, a security background check or other assessment of any employee, subProposer or agent furnished by Proposer. Developer may refuse access to, or require replacement of, any personnel for reasonable cause.

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

As a condition to providing services to Developer, Proposer (and any subproposer) will enroll and participate in the federal E-Verify Program within thirty days of the effective date of the Contract. Proof of enrollment and participation will be made available to Developer upon request.

39. Security Procedures. Proposer and its employees, subproposers and agents shall comply fully with all generally applicable security procedures of the United States, the State of Florida and Developer in performance of the Contract. Developer agrees that any security procedures imposed by Developer specifically for the Contract will be reasonable and will not impose any unreasonable costs or hardships.

40. Restrictions on the Use or Disclosure of Developer's Information. Proposer shall not use, copy or disclose to third parties, except in connection with performing the Services, any information obtained by Proposer or its agents, subproposers or employees in the course of performing the Services, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of Buyer. At Buyer's request, all information furnished by Buyer will be returned to Buyer upon completion of the Services. Proposer shall not be required to keep confidential any information that has already been made publicly available through no fault of Proposer or that Proposer developed independently without relying on Buyer's information. To ensure confidentiality, Proposer shall take appropriate steps as to its employees, agents, and subproposers, including the insertion of these restrictions in any subcontract agreement. The warranties of this paragraph shall survive the Contract.

41. Protection of Proposer's Trade Secrets and Other Confidential Information. All documents received by Developer in connection with this Agreement are subject to Chapter 119, Florida Statutes (the "Florida Public Records Law"). Any specific information that Proposer claims to be a trade secret or otherwise exempt from the Florida Public Records Law must be clearly identified as such by Proposer on all copies furnished to Developer. Developer agrees to notify Proposer of any third-party request to view such information, but it is Proposer's obligation to obtain a court order enjoining disclosure. If Proposer fails to obtain a court order enjoining disclosure within five (5) business days of Proposer's receiving notice of the request, Developer may release the requested information. Such release shall be deemed for purposes of the Contract to be made with Proposer's consent and will not be deemed to be a violation of law, including but not limited to laws concerning trade secrets, copy right or other intellectual property.

42. Assignment. Each party binds itself and its respective successors and assigns in all respects to all of the terms, conditions, covenants and provisions of the Contract. Proposer shall not sell, assign or transfer any of its rights (including rights to payment), duties or obligations under the Contract without the prior written consent of Developer. In the event of any assignment, Proposer shall remain liable for performance of the Contract unless Developer expressly waives such liability. Developer may assign the Contract with prior written notice to Proposer of its intent to do so. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee or agent of Developer.

43. Notice and Approval of Changes in Ownership. Because the award of the Contract may have been predicated upon Proposer's ownership structure, Proposer agrees that any transfer of a substantial interest in Proposer by any of its owners shall require Developer's prior written approval, which approval shall not be unreasonably withheld or unreasonably delayed. By execution of the Contract, Proposer represents that it has no knowledge of any intent to transfer a substantial interest in Proposer. A substantial interest shall mean at least 25% of the voting shares in Proposer. This section shall not apply to (i) transfers occurring upon the incapacitation or death of an owner; (ii) transfers associated with an initial public offering on the NYSE or NASDAQ markets; or (iii) transfers to a company whose stock is publicly traded on the NYSE or NASDAQ markets.

44. Assignment of Antitrust Claims. Proposer and Developer recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by Developer. Therefore, Proposer hereby assigns to Developer any and all claims under the antitrust laws of Florida or the United States for overcharges of goods, materials or services purchased in connection with the Contract.

45. Equal Employment Opportunity. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the provisions of the Equal Opportunity for Individuals with Disabilities Act in 42 U.S.C. Section 12112, the Listing of

Employment Openings for Veterans Clause in Title 41, Part 50-260.2 of the Code of Federal Regulations and the Disabled Veterans and Veterans of the Vietnam era Clause in Title 41, Part 60-250.5 of the Code of Federal Regulations, are incorporated herein by reference if and to the extent applicable. If Proposer is exempt from any of the above cited terms, written evidence of such exempt status must be provided to Developer.

46. Other Non-Discrimination Provisions. As required by Section 126.404, Jacksonville Ordinance Code, Proposer represents that it has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employment relations, throughout the term of the Contract. Proposer agrees that, on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Community Relations Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of the Contract; *provided however*, that Proposer shall not be required to produce, for inspection, records covering periods of time more than one (1) year prior to the effective date of the Contract. Proposer agrees that, if any of the products or Services to be provided pursuant to the Contract are to be provided by a subProposer, the provisions of this Section shall be incorporated into and become a part of the subcontract.

47. Prompt Payment to Subproposers and Suppliers. The following is required by Chapter 126, Part 6, Jacksonville Ordinance Code; provided however, if Proposer does not use JSEB subproposers, as identified below, this Section 3.38 shall not apply:

(a) *Generally.* When Proposer receives payment from Developer for labor, services or materials furnished by subproposers and suppliers hired by Proposer, Proposer shall remit payment due (less proper retainage) to those subproposers and suppliers within fifteen (15) calendar days after Proposer's receipt of payment from Developer. Nothing herein shall prohibit Proposer from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subproposers and suppliers. In the event of such dispute, Proposer may dispute the disputed portion of any such payment only after Proposer has provided notice to the Developer and to the subproposer or supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to Developer and said subproposer or supplier within ten (10) calendar days after Proposer's receipt of payment from Developer. Proposer shall pay all undisputed amounts due within the time limits imposed by this Section.

(b) *Jacksonville Small and Emerging Business Enterprise and Minority Business Enterprise Participation.* Notwithstanding Chapter 126, Part 6 of the Jacksonville Ordinance Code, Proposer shall pay all contracts awarded with certified Jacksonville Small and Emerging Business Enterprises ("JSEB"), as defined therein, their pro rata share of their earned portion of the progress payments made by Developer under the Contract within seven (7) business days after Proposer's receipt of payment from Developer (less proper retainage). The pro-rata share shall be based on all work completed, materials and equipment furnished, or services performed by the certified JSEB at the time of payment. As a condition precedent to progress and final payments to Proposer, Proposer shall provide to Developer, with its requisition for payment, documentation that sufficiently demonstrates that Proposer has made proper payments to its certified JSEB's from all prior payments Proposer has received from Developer. Proposer shall not unreasonably withhold payments to certified JSEB's if such payments have been made to Proposer. If Proposer withholds payment to its certified JSEB's, which payment has been made by Developer to Proposer, Proposer shall return said payment to Developer. Proposer shall provide notice to Developer and to the certified JSEB's whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to Developer and said JSEB's within five (5) calendar days after Proposer's receipt of payment from Developer. Proposer shall pay all undisputed amounts due within the time limits imposed in this Section. The failure to pay undisputed amounts to the JSEB's within seven (7) business days shall be a breach of the Contract, compensable by one per-cent (1%) of the outstanding invoice being withheld by

Developer, not as a penalty, but as liquidated damages to compensate for the additional contract administration by Developer.

(c) *Third Party Liability.* The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between Developer and any subproposer, supplier, JSEB or any third party or create any Developer liability for Proposer's failure to make timely payments hereunder. However, Proposer's failure to comply with the Prompt Payment requirements shall constitute a material breach of Proposer's contractual obligations to Developer. As a result of said breach, Developer, without waiving any other available remedy it may have against Proposer, may: (i) issue joint checks; and (ii) charge Proposer a 0.2% daily late payment charge or the charges specified in said Chapter 126 of the Jacksonville Ordinance Code for JSEB's and in Chapter 218, Florida Statutes, for non-JSEB's, whichever is greater.

48. Conflicts of Interest. Proposer acknowledges that Section 126.112 of the Jacksonville Ordinance Code requires that a public official who has a financial interest in a bid or contract make a disclosure at the time that the bid or contract is submitted or at the time that the public official acquires a financial interest in the bid or contract, including but not limited to the public official's name, public office or position held, bid or proposal number, and the position or relationship of the public official with the Proposer or Proposer.

49. Contingent Fees Prohibited. Proposer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Proposer, to solicit or secure the Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona-fide employee working solely for Proposer, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of the Contract. For the breach or violation of these provisions, Developer 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.

50. Truth in Negotiation Certificate. The execution of the Contract by Proposer shall be deemed to be a simultaneous execution of a Truth-In-Negotiation Certificate, whereby Proposer 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 Developer determines the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of the Contract.

51. Compliance with Applicable Laws. Proposer (and any subProposers) must comply with all applicable federal, state and local laws, rules and regulations as the same exist and as may be amended from time to time, including, but not limited to:

- Section 287.055, Florida Statutes (the Consultants' Competitive Negotiation Act);
- Chapter 119, Florida Statutes (the Florida Public Records Law);
- Section 286.011, Florida Statutes (the Florida Sunshine Law);
- Chapter 602, Jacksonville Ordinance Code (the Jacksonville Ethics Code);
- Chapter 126, Jacksonville Ordinance Code (the Jacksonville Purchasing Code); and
- All licensing and certification requirements applicable to performing the Services.

52. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of Proposer, other entities may be permitted to make purchases at the terms and conditions contained herein. These purchases are independent of the agreement between Developer and Proposer, and Developer shall not be a party to such transactions.

53. Warranty of Ability to Perform. Proposer warrants that (i) it is ready, willing and able to perform its obligations under the Contract, and (ii) to the best of Proposer's knowledge, there are no pending or threatened actions, proceedings, investigations or any other legal or financial conditions that would in any way prohibit, restrain, or diminish Proposer's ability to satisfy its Contract obligations. Proposer shall immediately notify Developer in writing if its ability to perform is compromised in any manner during the term of the Contract.

54. Warranty of Authority to Sign Contract. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

55. Governing State Law/Severability/Venue/Waiver of Jury Trial. The rights, obligations and remedies of the parties as specified under the Contract shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of the Contract be determined by the courts to be illegal, unenforceable or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired. Venue for litigation of the Contract shall be exclusively in courts of competent jurisdiction located in Jacksonville, Duval County, Florida. The parties waive any and all rights to a jury trial with respect to disputes arising under the Contract.

56. Construction. Both parties acknowledge that they have had the opportunity to provide meaningful input into the terms and conditions contained in the Contract. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared the Contract. Article headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

57. Office of Inspector General. The Developer of Jacksonville has established an Office of Inspector General, Section 602.301, Part 3, Chapter 602, Ordinance Code, as may be amended. The Inspector General's authority includes but is not limited to the power to: review past, present, and proposed Developer contracts, transactions, accounts, and records; require the production of records; and, audit, investigate, monitor, and inspect the activities of the Developer, its officials, employees, Proposers, their subProposers and lower tier subProposers, and other parties doing business with the Developer and/or receiving Developer funds in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Section 602.309, Ordinance Code.

58. Ethics Provisions for Vendors/Suppliers. The Proposer, by affixing its signature to the proposal form, and/or the acceptance of a purchase order, represents that it has reviewed the provisions of the Jacksonville Ethics Code contained in chapter 602, Jacksonville Ordinance Code and the provisions of the Purchasing code contained in chapter 126, Jacksonville Ordinance Code and has read and will comply with the Mandatory Ethics Training for Suppliers located on the [Procurement Website](#)..

59. Employment Eligibility. Pursuant to the provisions of section 448.095, Florida Statutes, the parties agree to the following. For purpose of this section, the term "contract" includes this Agreement and any contract between the Proposer and any of its subproposers:

- (a) The Proposer and any of its subproposers shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Proposer and any of its subproposers may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
- (b)
 1. If the Proposer enters into a contract with a subproposer, the subproposer must provide the Proposer with an affidavit stating that the subproposer does not employ, contract with, or subcontract with an unauthorized alien.
 2. If the Developer has a good faith belief that a subproposer knowingly violated this subsection, but the Proposer otherwise complied with this subsection, then the Developer shall promptly notify

the Proposer and order the Proposer to immediately terminate the contract with the subproposer.

3. A contract terminated under subparagraph 1. or subparagraph 2. shall not a breach of contract and may not be considered as such.

- (c) 1. The Developer, the Proposer, or any of the Proposer's subproposers who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09 1), Florida Statutes, shall terminate the contract with the person or entity.
2. If the Developer has a good faith belief that a subproposer knowingly violated this subsection, but the Proposer otherwise complied with this subsection, the Developer shall promptly notify the Proposer and order the Proposer to immediately terminate the contract with the sub-Proposer.
3. A contract terminated under subparagraph 1. or subparagraph 2. shall not be a breach of Contract and may not be considered as such.
- (d) The Developer, Proposer, or any of Proposer's subproposers may file an action with a circuit county court to challenge a termination under paragraph (c) no later than 20 calendar days after the date on which the contract was terminated.
- (e) If the Developer terminates the Agreement with Proposer under paragraph (c), the Proposer may not be awarded a public contract for at least 1 year after the date on which the Agreement was terminated.
- (f) The Proposer is liable for any additional costs incurred by the Developer as a result of the termination of a contract.

Attachments:

File Name or URL	Type	Description
General Requirements for Professional Services	File	

Select one of the following:

☐ a. Acknowledge

2.5 Insurance Requirements

*1. Insurance Requirements

Developer reserves the right to review the attached insurance requirements for construction projects in excess of \$3,000,000 and make changes when deemed necessary. Compensation will be provided for justifiable, documented corresponding increases in insurance costs.

B. Indemnification and Insurance Requirements.

B.1. Requirements

Indemnification

Applicant and its subcontractors (the "Indemnifying Party") shall hold harmless, indemnify, and defend the City of Jacksonville and their respective members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

- a. General Tort Liability, for any negligent act, error or omission, recklessness, or intentionally wrongful conduct on the part of the Indemnifying Party that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Party's performance of the Agreement, operations, services or work performed hereunder; and
- b. Environmental Liability, to the extent this Agreement contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up, or damages whether arising out of or relating to the operation or other activities performed in connection with the Agreement; and
- c. Intellectual Property Liability, to the extent this Agreement contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services provided under this Agreement (the "Service(s)"), any product generated by the Services, or any part of the Services as contemplated in this Agreement, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Party shall, immediately, make every reasonable effort to secure within sixty (60) days, for the Indemnified Parties, a license, authorizing the continued use of the Service or product. If the Indemnifying Party fails to secure such a license for the Indemnified Parties, then the Indemnifying Party shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to the City, so that the Service or product is non-infringing.

If an Indemnified Party exercises its right under this Agreement, the Indemnified Party will (1) provide reasonable notice to the Indemnifying Party of the applicable claim or liability, and (2) allow Indemnifying Party, at its own expense, to participate in the litigation of such claim or liability to protect its interests. The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by, any insurance provided pursuant to the Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of the Agreement.

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

Insurance

Without limiting its liability under this Contract, Provider shall at all times during the term of this Contract procure prior to commencement of work and maintain at its sole expense during the life of this Contract (and Provider shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	\$ 100,000 Each Accident \$ 500,000 Disease Policy Limit \$ 100,000 Each Employee/Disease

This insurance shall cover the Applicant (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Damage to Rental Premises
	\$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Automobile Liability	\$1,000,000	Combined Single Limit
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Services)		

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Professional Liability	\$1,000,000	per Claim and Aggregate
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Any entity hired to perform professional services as a part of this contract shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Contract and with a three-year reporting option beyond the annual expiration date of the policy.

Additional Insurance Provisions

- a. **Certificates of Insurance.** Applicant shall deliver the City of Jacksonville Certificates of Insurance that shows the corresponding City Contract or Bid Number in the Description, Additional Insureds, Waivers of Subrogation and & statement as provided below. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- b. **Additional Insured:** All insurance except Worker's Compensation, shall be endorsed to name the City of Jacksonville and their respective members, officers, officials, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and, if products and completed operations is required, CG2037, Automobile Liability CA2048.
- c. **Waiver of Subrogation.** All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and their respective members, officers, officials, employees, and agents.
- c. **Carrier Qualifications.** The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- e. **Applicant Insurance Primary.** The insurance provided by the Applicant shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City of Jacksonville and their respective members, officers, officials, employees, and agents.
- f. **Deductible or Self-Insured Retention Provisions.** All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Applicant. Under no circumstances will the City of Jacksonville and their respective members, officers, officials, employees and agents be responsible for paying any deductible or self-insured retention related to this Agreement.
- g. **Agreement Insurance Additional Remedy.** Compliance with the insurance requirements of this Agreement shall not limit the liability of the Applicant or its Subcontractors, employees or agents to the City of Jacksonville and their respective members, officers, officials, employees and agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.
- h. **Waiver / Estoppel.** Neither approval by City of Jacksonville nor failure to disapprove the insurance furnished by Applicant shall relieve Applicant of Applicant's full responsibility to provide insurance as required under this Contract / Agreement / Lease.
- i. **Notice.** The relieve Applicant shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Contractor, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- j. **Survival.** Anything to the contrary notwithstanding, the liabilities of the Applicant under this Agreement shall survive and not be terminated, reduced, or otherwise limited by any expiration or termination of insurance coverage.
- k. **Additional Insurance.** Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City of Jacksonville may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or

may not require that the City of Jacksonville and their respective members, officers, officials, employees and agents also be named as an additional insured.

1. Special Provision: Prior to executing this Agreement, Applicant shall present this Agreement and insurance requirements to its Insurance Agent Affirming: (1) That the Agent has personally reviewed the insurance requirements of the Contract Documents, and (2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Agreement.

Bonds and Other Performance Security – NOT APPLICABLE TO THIS CONTRACT

Select one of the following:

- ☐ a. Acknowledge

2.6 Sample Contract

- *1. Please review and acknowledge the attached sample Professional Design Services Contract. Attachments:

File Name or URL	Type	Description
Sample Professional Services Contract	File	

Select one of the following:

- ☐ a. Acknowledge

2.7 Evaluation Criteria

Section Maximum Score: 100

- *1 **COMPETENCE.** Provide names and resumes of all individuals to be assigned to this project who have worked on similar projects as identified in this RFP. List the previous projects these individuals have worked on similar to the one in the RFP, which have been satisfactorily completed. **(30 points maximum score)**

Maximum Score: 30

Select one of the following:

- ☐ a. Acknowledge

- *2. **CURRENT WORKLOAD.** Provide an itemized list of current projects and workload including status for each. Describe ability of firm to perform this project given its current workload. **(5 points maximum score)**

Maximum Score: 5

Select one of the following:

- ☐ a. Acknowledge

- *3. FINANCIAL RESPONSIBILITY.** Describe form of business, i.e., proprietorship, partnership, corporation; years in business; changes in ownership; bank reference(s); past, present, pending and/or threatened legal proceedings within any forum; and any other information the Contractor may wish to supply to demonstrate financial responsibility. If the proposer desires, their Company Financial Information can be submitted in a separate .pdf file from the proposal file. However, the file name must include the word "Confidential". For Example: "XYZ Engineering – Confidential Financial Info.pdf" Failure to provide all listed information and documentation will result in score less than maximum for this criterion. **(5 points maximum score)**

Maximum Score: 5

Select one of the following:

☐ a. Acknowledge

- *4 ABILITY TO OBSERVE AND ADVISE WHETHER PLANS AND SPECIFICATIONS ARE BEING COMPLIED WITH, WHERE APPLICABLE.** Describe experience, ability, and understanding of Contractor and assigned personnel in observing and monitoring instruction or direction to similarly related tasks. **(25 points maximum score)**

Maximum Score: 25

Select one of the following:

☐ a. Acknowledge

- *5 PAST AND PRESENT RECORD OF PROFESSIONAL ACCOMPLISHMENTS WITH CITY AGENCIES AND OTHERS.**
- Describe any outstanding accomplishments that relate to specific services being sought including awards and recognition **(5 points maximum score)**

Maximum Score: 5

Select one of the following:

☐ a. Acknowledge

- *6 ABILITY TO DESIGN AN APPROACH AND WORK PLAN TO MEET THE PROJECT REQUIREMENTS.** Describe the Contractor's understanding of the requirements of this solicitation, and its ability, approach and/or plan to satisfy the same in complete compliance with all applicable federal, state and local laws, statutes, ordinances, rules and regulations. **(20 points maximum score)**

Maximum Score: 20

Select one of the following:

☐ a. Acknowledge

- *7. AN OVERALL WILLINGNESS TO MEET BOTH TIME AND BUDGET REQUIREMENTS FOR**

THE PROJECT. In an effort to remain consistent with Chapter 287, Florida Statutes, responding to this evaluation criterion necessitates that a proposer include statements and references demonstrating that the proposer met both time and budget requirements on projects of similar size and scope that were completed by the proposer within the past three years and that the proposer is meeting both time and budget requirements on projects of similar size and scope that are currently being performed by the proposer (“Reference Projects”). As part of its response to this evaluation criterion, the proposer:

1. Must submit an expressed statement of its overall willingness to meet both time and budget requirements for the project in question; and
2. Should submit, without limitation, project narratives, schedules, cost and fee summaries and owner references for any Reference Projects.
3. During contract negotiations, successful proposers will be required to provide a Schedule of Proposed Rates on the forms provided. Such rates and costs will be used in the negotiation of fees and shall remain in effect throughout the length of the contract, except such rates may be adjusted when an amendment to the original agreement is being negotiated; provided any increases in rates shall not exceed actual increases in the CPI since the date of response to the RFP. Unless specifically identified otherwise on the form, rates for subconsultants also shall not exceed those shown on the form.
4. Proposed Overhead rate is limited to 175% of direct labor. Proposed overhead rates in excess of 175% shall conform to Federal Acquisition regulations as established by a governmental audit certified to by a Certified Public Accountant. However, under no circumstance shall the overhead rate exceed 200%. Profit rate shall only be applied to direct labor plus overhead. No mark-up or profit shall be paid on non-labor-related costs such as reimbursables or on services provided by subconsultants or others. **(10 Points maximum score)**

Maximum Score: 10

Select one of the following:

- ☐ a. Acknowledge

3 Contract Terms and Conditions

A. Solicitation Overview

A.1. Scope of Work

Developer is currently accepting bids to obtain source(s) of supply for the item(s)/service(s) as outlined in the bid documents provided. The purpose of this bid invitation is to obtain information about your firm and its ability to provide these item(s)/service(s) and to obtain pricing commitments for CEI Services for the Ortega Hills Connector Road as listed in the bid documents.

A.2. Award

Award will be made to the highest ranked, responsive, responsible Proposer.

A.3. Term of Agreement

The term of the agreement is a One-time Purchase and will commence upon execution of the contract and will continue until completion and acceptance of the stated Scope of Work as specified.

A.4. Quantities

Quantities indicated are fixed.

B. Equal Business Opportunity Plan

B.1. Encouragement Plan for Jacksonville Small and Emerging Business Program

It is an official policy of the City of Jacksonville to encourage the maximum participation of **Jacksonville Small Emerging Business (JSEB)** in its contract awards based upon availability. **Under the encouragement plan, vendors are required to make all efforts reasonably necessary to ensure that City certified JSEB have a full and fair opportunity to compete for performance on this project.**

Proposers/Suppliers/Consultants or any entity doing business with the City shall not discriminate on the basis of race, ethnicity, national origin or gender in the award and performance of the work under this contract.

Please use the attached form 1 (Schedule of Participation) to submit JSEB Participation on this Bid. You may contact the Jacksonville Small & Emerging Business Office at (904) 255-8620 to verify the status of a JSEB or visit our web site at www.JSEB.coj.net.

C. General Conditions

C.1. Assignment

The Proposer shall not assign, transfer, convey, sublet, novation, or otherwise dispose of this Agreement, or of any or all of its rights, title, or interests therein, or its power to execute such agreement to any person, firm, or corporation without prior written authorization by the Developer.

C.2. Audit Provision

A person or entity providing capital improvements, contractual services, supplies, professional design services, or professional services purchased by the Developer pursuant to a method of purchase, unless otherwise provided herein, shall agree and be deemed to have agreed by virtue of doing business under contract with the Developer to all access and examination at all reasonable times by the Council Auditor or any duly authorized representative of the Council

Auditor to business records directly pertinent to the transaction until the expiration of three years after final payment pursuant to the transaction. No examination shall be conducted until the Council Auditor has made a recommendation to the Council President that the examination should be conducted and until the Council President has approved the conducting of the examination.

C.3. Bid / Surety Requirements

All bids that may require a bid security or surety in the form of a certified check, cashier's check or bid bond in the amount as prescribed in the bid documents must accompany the bid submission prior to the scheduled bid opening. Certified and cashier's checks will be deposited by the Developer and reimbursement checks will be issued once an award is made. Failure to submit the above information timely will be grounds for rejection of bid.

C.4. Cartage

No charge will be allowed for cartage or packages unless by special agreement.

C.5. Certificate of Insurance

Each supplier shall maintain, for the entire term of this bid, current insurance coverage as stated in the bid documents. All insurance certificates shall list the Developer and the City of Jacksonville as an additional insured. The awarded vendor will be required to submit a copy of the insurance certificate within ten (10) days from date of receipt of award notice. Bid number should be listed on certificate.

C.6. COJ - Debarment List

In accordance with the City of Jacksonville's Procurement Code, the Chief of Procurement and all agencies are advised to cease doing business with disqualified suppliers as they appear on the Disqualified/Probationary Suppliers list located on the [Supplier Portal](#).

C.7. Collusion

THE PROPOSER, BY AFFIXING HIS SIGNATURE TO THIS PROPOSAL, AGREES TO THE FOLLOWING: "PROPOSER CERTIFIES THAT THIS BID IS MADE WITHOUT ANY PREVIOUS UNDERSTANDING, AGREEMENT OR CONNECTION WITH ANY PERSON, FIRM, OR CORPORATION MAKING A BID FOR THE SAME ITEMS, AND IS IN ALL RESPECTS FAIR, WITHOUT OUTSIDE CONTROL, COLLUSION, FRAUD OR OTHERWISE ILLEGAL ACTION."

C.8. Compliance with Specifications

The Proposer, by affixing its signature to the bid form submitted, agrees to provide item(s)/service(s) in accordance with the bid documents provided. Proposer must bid only a single offering for each bid item. Multiple offerings, alternates (unless stated) and or stipulations may be cause for bid rejection. Proposer should bid only on forms provided herein unless otherwise stated. Bid submissions shall be in ink or typewritten. All corrections must be initialed.

C.9. Data Required to be Submitted

Whenever the specifications indicate a product or a particular manufacturer, model, or brand in the absence of any statement to the contrary by the Proposer, the bid will be interpreted as for the exact brand, model, or manufacturer specified, together with all accessories, qualities, tolerances, compositions, etc. enumerated in the detailed specifications.

If no particular brand, model or make is specified, and if no data is required to be submitted with this bid, the successful contractor, after award and before manufacturer or shipment, may be required to submit working drawings or detailed descriptive data sufficient to enable the Developer to judge contractor is in compliance with if each requirement of the specifications.

C.10. Delivery

A packing list shall accompany all shipments, which shall indicate, at a minimum, the following: purchase order number, item number and description, date of shipment, quantity ordered and shipped, unit price, and unit of measure.

C.11. Deviations to Specifications

In addition to the requirements of paragraph five, all deviations from the specifications must be noted in detail by the Proposer in writing at the time of the submittal of the formal bid. The absence of a written list of specification deviations at the time of submittal of the bid will hold the Proposer strictly accountable to the Developer to the specifications as written. Any deviation from the specifications as written not previously submitted, as required by the above, will be grounds for rejection of the material and/or equipment when delivered.

C.12. Discounts

ALL DISCOUNTS OTHER THAN PROMPT PAYMENT TO BE INCLUDED IN BID PRICE. PROMPT PAYMENT DISCOUNTS OF LESS THAN THIRTY (30) DAYS WILL NOT BE CONSIDERED IN DETERMINING LOW BID.

C.13. Intentionally Omitted

C.14. Errors in Bids

Proposers or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the Proposer's own risk and Proposer cannot secure relief on the plea of error. Neither law nor regulations make allowance for errors either of omission or commission on the part of Proposers. In case of error in extension of prices in the bid, the unit price will govern.

C.15. Escalation / De-escalation

All pricing submitted shall remain firm for the first year of the initial contract period. After the first year of the contract term, a supplier may submit in writing a request for price escalation/de-escalation for the percentage of change as listed in the Consumer Price Index (CPI) and/or documentation notifying of an industry-wide increase. The Developer reserves the right to decline any price increase request.

C.16. Ethics Provision for Vendors / Suppliers

The Proposer, by affixing its signature to the proposal form, represents that it has reviewed the provisions of the Jacksonville Ethics Code contained in the Ordinance Code and the provisions of the Purchasing code contained in the Ordinance Code and has read and will comply with the Mandatory Ethics Training for Suppliers located on the [Procurement Website](#).

C.17. Extension

In addition to any renewal options contained herein, the Developer has the right to extend any award resulting from this Bid for the period of time necessary for the Developer to release, award, and implement a replacement agreement for the commodities and/or contractual services provided in this Bid. Such extension shall be based upon the same prices, terms, and conditions set forth in this Bid.

C.18. Favored Nation Clause

Based on similar size and quantity, it is understood that the Proposer is providing the Developer the same or better pricing than other governmental agencies. If during the term of this Agreement, the Proposer offers other governmental agencies better pricing for the same item, the Proposer agrees to offer the Developer the reduced price.

C.19. Force Majeure, Notice of Delay, and No Damages for Delay

Neither party shall be responsible for delays in performance if the delay was beyond that party's control (or the control of its employees, subcontractors, or agents). Supplier shall notify Buyer in writing of any such delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that creates or will create the delay first arose if Supplier could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date Supplier first had reason to believe that a delay could result. Based upon such notice, Buyer will give Supplier a reasonable extension of time to perform; provided, however, that Buyer may elect to terminate the Contract in whole or in part if Buyer determines, in its sole judgment, that such a delay will significantly impair the value of the Contract to Buyer. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. **THE FOREGOING SHALL CONSTITUTE SUPPLIER'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** No claim for damages, other than for an extension of time, shall be asserted against Buyer. Supplier shall not be entitled to an increase in the Contract price or payment of any kind from Buyer for direct, indirect, consequential, impact, or other costs, expenses, or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

C.20. Guarantee

Contractor will unconditionally guarantee the materials and workmanship on all equipment furnished by it for a period of one year from date of acceptance of the items delivered and installed, unless otherwise specified herein. If, within the guarantee period, any defects or signs of deterioration are noted, which, in the opinion of the Developer are due to faulty design, installation, workmanship, or materials, upon ratification, the Contractor, at its expense, will repair or adjust the equipment or parts to correct the condition or replace the part or entire unit to the complete satisfaction of the Developer. Repairs, replacements or adjustments will be made only at such times as will be designated by the Developer as least detrimental to the operation of Developer business.

C.21. Invoicing

Invoices will be issued once supplies/services are delivered and/or rendered to the Developer. Payment terms are net thirty (30) days. All original invoices shall be submitted to: Greg Birdsong, Fennell IP, LLC, gbirdsong@rcbfproperties.com.

C.22. Laws and Regulations

Applicable provisions of all federal, state, county, and local laws, and all ordinances, rules, and regulations shall govern the development, submittal, and evaluation of all Bids received in proposal hereto and shall govern any and all claims and disputes which may arise between the Proposers submitting a proposal hereto and the Developer by and through its officers, employees, and authorized representatives, or any other persons, natural or otherwise; lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof.

C.23. Legal Workforce

Owner shall consider the employment, by Supplier/Contractor, of unauthorized aliens a violation of section 274A (e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of the Contract upon thirty (30) days' prior written notice of such cancellation, notwithstanding any other provisions to the contrary in the Specifications and other Contract Documents.

Supplier/Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of:

- a. all persons employed by the Supplier/Contractor during the term of the Contract to perform employment duties within Jacksonville, Duval County, Florida;
- b. all persons, including subcontractors, assigned by the Supplier/Contractor to perform work pursuant to the Contract with the Owner.

C.24. Licenses Requirement

Proposers / Suppliers responding to a solicitation issued by the Developer agree to obtain and maintain all applicable local, state and federal licenses required by law.

C.25. Marketing / Advertising

By submitting or being awarded this Bid, Proposer agrees not to use the results as a part of any marketing and/or commercial advertising using the Developer's name, logos, etc. without the express written consent of the Developer and the City of Jacksonville.

C.26. Nondiscrimination Provisions

As required by the Ordinance Code, Contractor represents that it has adopted and will maintain throughout the term of this contract a policy of nondiscrimination or harassment against any person with regard to race, color, sex (including pregnancy), sexual orientation, gender identity or expression, religion, political affiliation, national origin, disability, age, marital status, veteran status, or any other impermissible factor in recruitment, hiring, compensation, training, placement, promotion, discipline, demotion, transfers, layoff, recall, termination, working conditions and related terms and conditions of employment. Contractor agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records by the Executive Director of the Community Relations Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of the Contract; provided however, that Contractor shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the effective date of the Contract. Contractor agrees that if any of the products or Services to be provided pursuant to the Contract are to be provided by a subcontractor, the provisions of this section shall be incorporated into and become a part of the subcontract.

C.27. Office of Inspector General

The City of Jacksonville has established an Office of Inspector General. The Inspector General's authority includes but is not limited to the power to: review past, present, and proposed City contracts, transactions, accounts, and records; require the production of records; and, audit, investigate, monitor, and inspect the activities of the City, its officials, employees, suppliers, their subcontractors and lower tier subcontractors, and other parties doing business with the City and/or receiving City funds in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of the Ordinance Code.

C.28. Office of the Ombudsman

Failure to comply with the terms and conditions of a contract and/or failure to respond to the Notice of Non-Compliance may result in, but not be limited to, withholding of payment (s), breach of contract, cancellation of contract, filing against performance bonds(s) and disciplinary action, including contractor debarment, in accordance with the Ordinance Code. If a payment or performance dispute arises as to whether the contractor is in non-compliance, the complainant shall engage the Office of the Ombudsman to investigate the matter. During the period of any contest or dispute, the contractor shall otherwise continue to perform under the contract unless instructed otherwise.

C.29. "Or Equal" Interpretation

Even though a particular manufacturer's name or brand is specified, bids will be considered on other brands or on the products of other manufacturers unless noted otherwise. On all such bids, Proposer will clearly indicate the product (brand and model number) on which it is bidding, and will supply a sample or sufficient data in detail to enable an intelligent comparison to be made with the particular brand or manufacturer specified. All samples will be submitted in accordance with procedures outlined in the paragraph on **SAMPLES**. Catalog cuts and technical descriptive

data will be attached to the original copy of the bid where applicable. Failure to submit the above information may be a sufficient ground for rejection of bid.

C.30. Performance Bond

When applicable, the successful Proposer on this bid must furnish a performance bond as indicated in the specifications, made out to the Developer and the City of Jacksonville, Florida, and prepared on an approved form as security for the faithful performance of its contract within ten (10) days of its notification that its bid has been accepted. The surety thereon must be a surety company authorized and licensed to transact business in the State of Florida. Attorneys in fact who sign bonds must file with each bond a certified copy of their power of attorney to sign said bonds. The successful Proposer or Proposers, upon failure or refusal to furnish within ten (10) days after its notification the required performance bonds, will pay to the Developer, as liquidated damages for such failure or refusal, an amount in cash equal to the security deposited with its bid.

C.31. Pickup and Returns

Developer reserves the right to return an order in whole or in part if the merchandise is not in compliance with the bid specifications. Developer will determine compliance with bid specifications. Pick up and returns will be made within forty-eight (48) hours of notification at no charge to the Developer.

C.32. Prices

All unit prices shall include freight, delivery, and handling charges to the delivery location as outlined in the bid documents.

C.33. Intentionally Omitted

C.34. Prohibition Against Considering Social

PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING

Pursuant to Section 287.05701, Florida Statutes, as amended, Contractor is hereby notified that the Developer in awarding contracts to vendors may not:

- (1) Request documentation or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor; and
- (2) Give preference to a vendor based on the vendor's social, political, or ideological interests.

C.35. Prompt Payment to Subcontractors and Suppliers

The following is required by the Ordinance Code; provided however, if Supplier does not use JSEB subcontractors, as identified below, this section shall not apply:

- a. Generally - When Supplier receives payment from Developer for labor, services, or materials furnished by subcontractors and suppliers hired by Supplier, Supplier shall remit payment due (less proper retainage) to those subcontractors and suppliers within fifteen (15) calendar days after Supplier's receipt of payment from Developer. Nothing herein shall prohibit Supplier from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subcontractors and suppliers. In the event of such a dispute, Supplier may withhold the disputed portion of any such payment only after Supplier has provided notice to Developer and to the subcontractor or supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to Developer and said subcontractor or supplier within ten (10) calendar days after Supplier's receipt of payment from Developer. Supplier shall pay all undisputed amounts due within the time limits imposed by this section.

- b. Jacksonville Small Business Enterprise (JSEB) and Minority Business Enterprise (MBE)
 - Notwithstanding the Ordinance Code, Supplier shall pay all contracts awarded with certified JSEBs and MBEs as defined therein their pro-rata share of their earned portion of the progress payments made by Developer under the applicable contract within seven (7) business days of Supplier's receipt of payment from Developer (less proper retainage). The pro-rata share shall be based on all work completed, materials, and equipment furnished or services performed by the certified JSEB or MBE at the time of payment. As a condition precedent to progress and final payments to Supplier, Supplier shall provide to Developer, with its requisition for payment, documentation that sufficiently demonstrates that Supplier has made proper payments to its certified JSEB or MBE from all prior payments that Supplier has received from Developer. Supplier shall not unreasonably withhold payments to certified JSEB or MBE if such payments have been made to the Supplier. If Supplier withholds payment to its certified JSEBs or MBEs, which payment has been made by Developer to Supplier, Supplier shall return said payment to Developer. Supplier shall provide notice to Developer and to the certified JSEB or MBE whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and be delivered to Developer and said subcontractor or supplier within five (5) calendar days after Supplier's receipt of payment from Developer. Supplier shall pay all undisputed amounts due within the time limits imposed by this section. The failure to pay undisputed amounts to the JSEB or MBE within seven (7) business days shall be a breach of contract, compensable by 1% of the outstanding invoice's being withheld by the Developer as liquidated damages. Continued failure to adhere to this clause may be cause for termination.
- c. Third-Party Liability – The Prompt Payment requirements hereunder shall, in no way, create any contractual relationship or obligation between Developer and any subcontractor, supplier, JSEB, MBE, or any third-party or create any Developer liability for Supplier's failure to make timely payments hereunder. However, Supplier's failure to comply with the Prompt Payment requirements shall constitute a material breach of its contractual obligations to Developer. As a result of said breach, Developer, without waiving any other available remedy it may have against Supplier, may: (i) issue joint checks; and (ii) charge Supplier a 0.2% daily interest penalty or the penalties specified in the Ordinance Code for JSEBs or MBEs and in Chapter 218, Florida Statutes, for non-JSEB or non-MBE, whichever is greater.

C.36. Intentionally Omitted

C.37. Public Entity Crime Information

A person or affiliate who has been placed on the State of Florida convicted vendor list following a conviction for a public entity crime may not: submit a bid on a contract to provide any goods or services to a public entity; submit a bid on a contract with a public entity for the construction or repair of a public building or public work; submit bids on leases of real property to a public entity; be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; or transact business with any public entity for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

C.38. Public Records

In accordance with Section 119.0701, Florida Statutes, the Contractor shall:

- a. Keep and maintain public records required by Developer to perform the services; and
- b. Upon request from Developer's custodian of public records, provide Developer with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law; and
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of this Contract if Contractor does not

transfer the records to Developer; and

- d. Upon completion of this Contract, transfer to Developer at no cost all public records in possession of Contractor or keep and maintain public records required by Developer to perform the service. If Contractor transfers all public records to Developer upon completion of this Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Developer upon request from Developer's custodian of public records in a format that is compatible with Developer's information technology systems.

The requirements in this solicitation apply to a "Contractor" as defined in Section, 119.0701 Florida Statutes. For the purposes of this solicitation "Supplier" is to be defined the same.

C.39. Intentionally Omitted

C.40. Question Cutoff

All questions regarding the bid documents, specifications, or pertaining to the Pre-Bid Conference MUST be submitted in writing by sending an email to gbirdsong@rcbfproperties.com and sburch@drivermcafee.com. Answers to questions received timely will be issued by an addendum. Questions submitted after the cutoff date on the solicitation schedule may not get answered.

C.41. Quotations

No Proposer will be allowed to offer more than one price on each item even though he or she may feel that he or she has two or more types or styles that will meet specifications. Proposers must determine for themselves which to offer. **IF SAID PROPOSER SHOULD SUBMIT MORE THAN ONE PRICE ON ANY ITEM, ALL PRICES FOR THAT ITEM WILL BE REJECTED.**

C.42. Report of Unsatisfactory Products and / or Services

A Supplier Performance Report form will be utilized to document unsatisfactory performance during the term of this Bid. The report may become an important part of the Proposer's history. The report and process will assist the Developer in determining whether there is a continuing pattern of problems which may need to be addressed through termination of contract and/or suspension of the Supplier from future Bidding.

C.43. Reporting

Developer may request during the term of this Bid, reports, including but not limited to usage, pricing, and delivery. Suppliers will be required to provide reports requested in hard copy and electronic format as required.

C.44. Reservations

Developer reserves the right to reject any or all bids or any parts thereof and/or to waive information if such action is deemed to be in the best interests of the Developer.

Developer reserves the right to cancel any contract, if in its opinion, Contractor fails at any time to perform adequately the stipulations of this invitation to bid, and the general conditions and specifications which are attached and made part of this bid, or in any case of any attempt to willfully impose upon Developer materials or products or workmanship which is, in the opinion of Developer, of an unacceptable quality. Any action taken in pursuance of this latter stipulation will not affect or impair any rights or claim of Developer to damages for the breach of any covenants of the contract by the Contractor. Developer also reserves the right to reject the bid of any Proposer who has previously failed to perform adequately after having once been awarded a

prior bid for furnishing materials similar in nature to those materials mentioned in the bid.

Should the contractor fail to comply with the conditions of this Contract or fail to complete the required work or furnish the required materials within the time stipulated in the Contract, Developer reserves the right to purchase on the open market or to complete the required work at the expense of Contractor or by recourse to provisions of the faithful performance bond if such bond is required under the conditions of this bid.

Should the Contractor fail to furnish any item or items, or to complete the required work included in this Contract, Developer reserves the right to withdraw such items or required work from the operation of this Contract without incurring further liabilities on the part of Developer thereby.

SHOULD ANY PROPOSER HAVE ANY QUESTIONS AS TO THE INTENT OR MEANING OF ANY PART OF THIS SOLICITATION IT SHOULD CONTACT THE PROCUREMENT DIVISION IN TIME TO RECEIVE A WRITTEN REPLY BEFORE SUBMITTING ITS BID.

All items furnished must be completely new, and free from defects unless specified otherwise. No others will be accepted under the terms and intent of this bid.

Developer reserves the right to terminate the Contract at any time and for any reason by giving written notice to Contractor unless otherwise specified within the solicitation documents. If the Contract is terminated for convenience as provided herein, Developer will be relieved of all further obligations other than payment for that amount of goods or services actually provided to the date of termination.

C.45. Right to Reject

Developer reserves the right to reject any or all bid(s), to waive minor irregularities and/or to accept the bid(s), which in its sole judgment best serves the interests of the Developer.

C.46. Samples

The samples submitted by Proposers on items for which they have received an award may be retained by Developer until the delivery of contracted items is completed and accepted. Proposers whose samples are retained may remove them after delivery is accepted.

Samples on which Proposers are unsuccessful must be removed as soon as possible after an award has been made on the item or items for which the samples have been submitted. The Developer will not be responsible for such samples if not removed by the Proposer within thirty (30) days after the award has been made. The Developer reserves the right to consume any or all samples for testing purposes.

Proposers will make all arrangements for delivery of samples to place designated as well as the removal of samples. Cost of delivery and removal of samples will be borne by the Proposer.

All sample packages will be marked "Sample for the Procurement Division" and each sample will bear the name of the Proposer, item number, bid number and will be clearly tagged or marked in a substantial manner. Failure of the Proposer to clearly identify samples as indicated may be considered sufficient reason for rejection of bid.

C.47. Solicitation Silence Policy

City's Procurement Division has implemented a Solicitation Silence Policy that prohibits certain oral communication regarding a solicitation during the period the policy is in effect. Written communications to the Chief of the Procurement Division or his or her staff are allowed at all times.

Prohibitions

- a) Any oral communication regarding a particular solicitation is prohibited between a potential supplier, service provider, Proposer, lobbyist, or consultant and Developer or City employees, staff, or hired consultant.
- b) Exceptions to the Solicitation Silence Policy - Unless specifically provided in the

applicable solicitation document, the Solicitation Silence Policy does not apply to the following:

- 1) communications regarding a particular solicitation between the Chief of the Procurement Division or his or her staff responsible for administering the procurement process for such solicitation, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- 2) communications between a potential supplier, service provider, Proposer, consultant, or lobbyist and City employees responsible for administering the Jacksonville Small Emerging Business Program, provided the communication is limited strictly to matters of programmatic process or procedures;
- 3) communications with the Office of General Counsel and his or her staff;
- 4) emergency procurement of goods and services pursuant to Chapter 126.102(e), *Ordinance Code*;
- 5) oral communications at pre-bid conferences;
- 6) oral presentations before publicly noticed committee meetings;
- 7) contract negotiations during any duly noticed public meeting;
- 8) duly noticed site visits to determine competency of Proposers during the period between bid opening and the issuance of the Chief of Procurement Division's written recommendation; and
- 9) communications in writing at any time to the Chief of Procurement Division or his or her staff unless specifically prohibited by the applicable solicitations document.

Commencement and Termination of the Solicitation Silence Period

- c) The period of Solicitation Silence commences after the advertisement of the solicitation document. The period of Solicitation Silence terminates after the Developer or Chief of the Procurement Division issues a written recommendation to the corresponding awarding committee. If the awarding committee refers the Chief's recommendation back for further review, the Solicitation Silence period shall be reinstated until such time as the Chief issues a subsequent recommendation.

Written Communication during the Solicitation Silence Period

- d) When the Solicitation Silence period is in effect, any communication shall be in writing unless one of the exceptions applies. Written communication may be in the form of letter, email, or facsimile.

If Not an Exception

- e) If an oral inquiry calls for an answer or response that is not within the scope of the exception, Proposer should request that the question be presented in writing to the Chief of the Procurement Division or his or her staff for a response.

C.48. Intentionally Omitted

C.49. Submission of Bids

All Bid submissions must be hand delivered and transmitted electronically through the email addresses included with the bid notification. It is the sole responsibility of the Supplier to ensure that its Bid response is hand delivered and submitted through email no later than the time and date specified in the Bid or subsequent addenda.

- a. Proposer is responsible for allowing adequate time to deliver its submittal through hand delivery and email before the electronic submission deadline. If technical difficulties arise during submission of the Bid response, it is the Proposer's

responsibility to contact the Developer representatives at the phone numbers listed on the bid form. Developer shall not be responsible for delays caused in any occurrence.

- b. Submittals sent by mail, facsimile, telephone, or any other means not specified herein will not be accepted. Proposer or Proposer may be allowed to withdraw its bid or proposal at any time prior to opening. Bid submittals may not be withdrawn after the bid due date. Once the Bid response is submitted, a confirmation number will appear on the Supplier Portal.
- c. Each Bid submittal must include all acknowledgements checked, required attachments, and the Bid Form with the signature in the space(s) provided of an officer or employee having authority to bind the Proposer. Only the terms and conditions of this Bid, as released by the Developer or amended via addendum, are valid. Any modification to any term or condition by the Contractor is not binding unless it is expressly agreed to in writing by Developer.

C.50. Supplier Accessibility

Developer or its representative must be able to contact, during normal business hours, by telephone or email any supplier providing goods or services to Developer. Any supplier accessibility requirements outlined in the specifications supersede this section.

C.51. Supplier Representation

If this Agreement is for goods or services of \$1 million or more, the Developer, pursuant to Section 287.135(3)(c), Florida Statutes, may terminate this Agreement at Developer's option if Contractor:

- a. Is found to have submitted a false certification under Section 287.135(5), Florida Statutes;
- b. Has been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel;
- c. Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; or
- d. Has been engaged in business operations in Cuba or Syria.

C.52. Intentionally Omitted

C.53. W-9 Requirement

All Proposers are encouraged to submit with their bid submission a W-9. It is the supplier's responsibility to ensure that the Developer has a current W-9 on file.

D. PROTEST PROCEDURES

D.1 Purpose and Scope

- a. These protest procedures are promulgated pursuant to § 126.106(e), Ordinance Code, which authorizes the Chief of the Procurement Division (the "Chief") to "prepare and publish rules and regulations governing bid protests." In the event a court of competent jurisdiction declares any provision of these Procurement Protest Procedures to be unconstitutional, invalid, or otherwise unenforceable, then all remaining provisions shall be severable, valid, and enforceable regardless of the invalidity of any other provision.
- b. In accordance with the procedures contained herein, any person or entity that is adversely affected by a decision or an intended decision concerning a solicitation, solicitation documents, award, or any other process or procedure prescribed in the Code and who has

standing to protest said decision or intended decision under Florida law (the "Protestant"), must timely file a written Notice of Protest seeking to challenge the decision or intended decision.

- c. The issue(s) raised, and the information contained in the Notice of Protest and any supplemental documentation filed in accordance with §126.106(e)(4), Ordinance Code, must clearly identify and explain the factual and legal basis for any relief sought, and shall be the only issue(s) and information the Protestant may present for consideration before the applicable committee.

D.2 Definitions

For the purpose of these Bid Protest Procedures, the following definitions are provided:

- a. "Competitive solicitation" or "solicitation" shall include without limitation an invitation to bid, competitive sealed bid, multistep competitive sealed bid, competitive sealed proposal, or a request for proposals and/or qualifications.
- b. "Posting" means the notification of solicitations, decisions or intended decision, or other matters relating to procurement on a centralized Internet website, by placing the same on the bulletin board(s) designated by the Procurement Division for this purpose, or as may be consistent with §126.102(m) Ordinance Code.
- c. "Exceptional purchase" means any purchase excepted by law or rule from the requirements for competitive solicitation, including without limitation purchases pursuant to §126.107, 126.206, 126.207, 126.211, 126.307, 126.309, 126.311, 126.312, or 126.313 Ordinance Code.
- d. "Electronic transfer" is limited solely to facsimile transmissions that appear legibly on paper at the place of filing.
- e. "Final Agency Action" means a final decision that results from a proceeding hereunder, and includes actions which are affirmative, negative, injunctive, or declaratory in form.
- f. "Procurement process" has the same meaning as "contract solicitation or award process."

D.3 Timely Notice of Protest

- a. Recommendations of Award and/or Bid Rejection.

A Protestant shall have forty-eight (48) hours after either the posting or written notification of a decision or intended decision, whichever is earlier, in which to file a written Notice of Protest in order to timely challenge or seek relief from a Procurement Division recommended award of an exceptional purchase or an award or recommended conclusion to any bid or proposal solicitation process, including without limitation: (i) a recommendation to reject a bid or proposal; (ii) a contract award; or (iii) the short listing of Proposers or proposers.

- b. Bid/Proposal Specifications and/or Requirements.

A Protestant shall have ten (10) business days after the posting of a solicitation or forty eight (48) hours after the posted date and time of a pre-bid or pre-proposal conference, whichever is earlier, or forty eight (48) hours after the posting of an addendum, in which to file a written Notice of Protest in order to timely challenge the requirements, terms and/or conditions contained in bid or proposal documents, including without limitation any provisions governing or establishing: (i) the basis for making the award in question; (ii) evaluation criteria; (iii) equipment, product, or material specifications; (iv) proposed project schedules; (v) statements regarding participation goals or other equal opportunity measures; or (vi) other general solicitation or project requirements.

- c. Computation of Time

Computation of the time limitations or periods contained herein shall be governed by and

shall be pursuant to Florida Rule of Civil Procedure 1.090(a) Florida Rule of Judicial Administration 2.514. Failure to file a written Notice of Protest within the applicable time limitation or period shall constitute a waiver of any right, remedy, or relief available hereunder.

d. Form and Content of the Notice of Protest

A written Notice of Protest shall: (i) be addressed to the Developer;

(ii) identify the solicitation, decision, or recommended award in question by number and title or any other language sufficient to enable the Developer to identify the same; (iii) state the timeliness of the protest; (iv) state Protestant's legal standing to protest; and (v) clearly state with particularity the issue(s), material fact(s) and legal authority upon which the protest is based.

D.4 Request for Extension to File Supplemental Protest Documentation

At the time of filing a timely Notice of Protest hereunder, a Protestant may request an extension of three (3) business days after the date its Notice of Protest is timely received in which to provide supplemental protest documentation. Failure to do so or to timely submit the supplemental protest documentation shall constitute a waiver of any right to the same.

D.5 Delivery of Protest

The timely filing of a Notice of Protest shall be accomplished when said notice is received by the Developer within the applicable time limitation or period contained herein. Filing a notice may be accomplished by manual transfer via hand-delivery or email to Stephanie Burch at 1 Independent Drive, Suite 1200, Jacksonville, FL 32202 or sburch@drivermcafee.com. The responsibility and burden of proof that its Notice of Protest has been timely and properly received shall rest with the Protestant, regardless as to the method of delivery employed.

D.6 Stay of Procurement During Protest

The Developer shall not proceed further with the competitive solicitation of or with the award of the contract until the purchasing agent, after consultation with the head of the using agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the Developer.

D.7 Authority to Resolve

Upon the receipt of a timely filed written Notice of Protest, the Developer shall have the authority to settle and resolve the timely filed protest.

a. Developer: If in working with the protestant, and the respective requirement owner/s (Using Agency), the Developer or his/her designee cannot settle or resolve the Protest, and there was not a mutual agreement made, the Developer shall promptly issue a decision in writing, emailed to the Protestant that states; the reasons for the action taken; and informs the Protestant of its right to an administrative review as provided in the Jax P-Code.

b. Administrative Review Protest: The Protestant shall have forty-eight (48) hours after receiving the written decision via email from the Developer or his/her designee to timely file a protest seeking Developer's administrative review of the originally filed protest. This protest shall follow the same methods of format and delivery previously used for the original protest.

D.8 Administrative Review Process

Upon receipt of a timely filed protest requesting an administrative review, the Developer or his/her designee shall schedule and provide the aggrieved respondent with notice of the time, date, and place where the administrative review will be heard. Any other actual or prospective respondents, other than the Protestant, who will be directly affected by the resolution of the protest shall also be given notice of the protest hearing, the Notice of Protest, and any supplemental protest documentation shall be made available to them upon a written request for

the same.

a. **Procedures:** Hearings hereunder shall begin with a general statement of the rules and procedures prescribed herein by a representative of the committee, followed by a general statement of the facts by a representative of the Developer. Representatives of the Protestant, limited solely to its owners, officers, employees and/or legal counsel, will then be required to present its case based solely upon the issue(s) and information contained in the Notice of Protest and any timely submitted supplemental protest documentation.

b. All respondents or potential respondents to the intended decision in question, who would be directly affected by the resolution of the protest shall be given an opportunity to be heard and to present information before the committee, which will be followed by a statement and the presentation of information from the Developer and other governmental representatives. The Protestant must establish by the preponderance of the evidence that the protest should be granted based upon the law, facts and information presented. The committee is entitled to ask questions of any party at any time during the hearing.

c. For hearings hereunder, the formal rules of evidence pursuant to the Florida Evidence Code may be relaxed at the sole discretion of the presiding chairperson of the applicable committee. Hearsay evidence may be admissible and used to supplement or explain other evidence.

d. Unless otherwise provided by the Code, the burden of proof shall rest with the Protestant. The standard of proof for proceedings hereunder shall be whether a Developer recommendation or the decision or intended decision in question was clearly erroneous, arbitrary, or capricious, fraudulent, or otherwise without any basis in fact or law. In any protest proceeding challenging a decision or intended decision to reject all bids, proposals, or replies, the standard of review shall be whether the decision or intended decision is illegal, arbitrary, dishonest, or fraudulent.

e. A majority vote of the members of the applicable committee shall be required to grant a protest hereunder; otherwise, the protest shall be denied, and, upon execution by the CEO or his designee, said vote and/or decision of the Developer shall be posted and shall represent final agency action.

E. Addenda

E.1. Amendments / Addenda

All addenda will be listed here accordingly. Addenda are issued for clarification of information provided with the above titled project and will become part of the solicitation. If an addendum is issued after a Supplier has already submitted a response to the solicitation, the Supplier will be required to acknowledge the addendum to validate its response again. If this is not done, the submission will be withdrawn and cannot be considered. It is recommended that all suppliers check the system for any addenda they may have missed prior to the electronic submission deadline.

4. Attachments

4.1 Conflict of Interest Certification

4.2 JSEB Project Goals Language

4.3 Plans and Specifications

4.4 Landscape Plans and Specifications

4.5 CEI Scope of Services

4.6 Executive Order 98-01

4.7 Executive Order 2013-05

4.8 Volume of Work

4.9 General Requirements for Professional Services

4.10 Sample Professional Services Contract