

o. McCarthy, John P. - VP & Chief Supply Chain Officer[jmccar@jea.com]; Dykes, Melissa H. - resident/COO[dykemh@jea.com]; Martin, Ian M[ian.m.martin@jpmorgan.com]; Pedersen, William[William.Pedersen@morganstanley.com]; Gredell, Jason[jason.gredell@jpmchase.com]; Freebird All[scampi\_all@jpmorgan.com]; scampi-ms[scampi\_ms@morganstanley.com]; Hyde, Kevin E.[KHye@foley.com]; Hosay, Robert L.[RHosay@foley.com]; Grossman, Benjamin J.[BJGrossman@foley.com]; Amdur, Stephen B.[stephen.amdur@pillsburylaw.com]; Lima, Augusto C.[augusto.lima@pillsburylaw.com]; Aminolsharei, Narges[narges.aminolsharei@pillsburylaw.com]; Pudig, Mel[mel.pudig@pillsburylaw.com]; McCartin, Harriet[harriet.mccartin@pillsburylaw.com]; Rhode, Lynne C. (City of Jacksonville)[rhodlc@jea.com]; Kebudi, Izzet[Izzet.Kebudi@morganstanley.com]; Plunkett, Kevin[kevin.plunkett@jpmorgan.com]; Marth, Stuart[Stuart.Marth@morganstanley.com]; October, David[David.October@morganstanley.com]; Anderson, Eric [eric.j.anderson@jpmorgan.com]; Manheimer, Edward[Edward.Manheimer@morganstanley.com]; Spitzley, Ray[Ray.Spitzley@morganstanley.com]  
o: Murphy, Jarrod D.[jarrod.murphy@pillsburylaw.com]; Vinyard, Herschel T. - Chief Administrative Officer[vinyht@jea.com]  
om: Powers, Ted[ted.powers@pillsburylaw.com]  
ent: Tue 10/8/2019 6:59:22 PM (UTC-04:00)  
ubject: RE: Project Scampi - Bidder NDA  
[Project Scampi - Bidder NDA \(FP&L version\).docx](#)  
[Project Scampi - Bidder NDA.docx](#)

\* EXTERNAL EMAIL MESSAGE \*\*

All,

Attached are final versions of the NDA.

Best,  
Ted

Ted Powers | Special Counsel  
Pillsbury Winthrop Shaw Pittman LLP  
31 West 52nd Street | New York, NY 10019-6131

t +1.212.858.1141

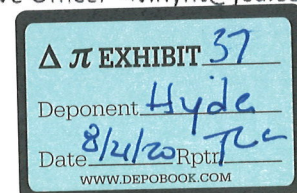
ted.powers@pillsburylaw.com | website bio

**From:** Powers, Ted  
**Sent:** Tuesday, October 8, 2019 3:28 PM  
**To:** 'McCarthy, John P. - VP & Chief Supply Chain Officer' <McCaJP@jea.com>; 'Dykes, Melissa H. - President/COO' <dykemh@jea.com>; 'Martin, Ian M' <ian.m.martin@jpmorgan.com>; 'Pedersen, William' <William.Pedersen@morganstanley.com>; 'Gredell, Jason' <jason.gredell@jpmchase.com>; 'Freebird All' <scampi\_all@jpmorgan.com>; 'scampi-ms' <scampi\_ms@morganstanley.com>; 'khyde@foley.com' <khyde@foley.com>; 'RHosay@foley.com' <RHosay@foley.com>; 'BJGrossman@foley.com' <BJGrossman@foley.com>; Amdur, Stephen B. <stephen.amdur@pillsburylaw.com>; Lima, Augusto C. <augusto.lima@pillsburylaw.com>; Aminolsharei, Narges <narges.aminolsharei@pillsburylaw.com>; Pudig, Mel <mel.pudig@pillsburylaw.com>; McCartin, Harriet <harriet.mccartin@pillsburylaw.com>; Rhode, Lynne C. (City of Jacksonville) <rhodlc@jea.com>; 'Kebudi, Izzet' <Izzet.Kebudi@morganstanley.com>; 'Plunkett, Kevin' <kevin.plunkett@jpmorgan.com>; 'Marth, Stuart' <Stuart.Marth@morganstanley.com>; 'October, David' <David.October@morganstanley.com>; 'Anderson, Eric J' <eric.j.anderson@jpmorgan.com>; 'Manheimer, Edward' <Edward.Manheimer@morganstanley.com>; 'Spitzley, Ray' <Ray.Spitzley@morganstanley.com>  
**Cc:** Murphy, Jarrod D. <jarrod.murphy@pillsburylaw.com>; 'Vinyard, Herschel T. - Chief Administrative Officer' <vinyht@jea.com>  
**Subject:** RE: Project Scampi - Bidder NDA

All,

Please confirm that you are signed off on the letter by no later than 6 pm EST.

Best,



8.7.20.ltr.Resp.Docs-002008

**EXHIBIT 37**

ieu

**From:** Powers, Ted

**Sent:** Monday, October 7, 2019 8:25 PM

**To:** 'McCarthy, John P. - VP & Chief Supply Chain Officer' <McCaJP@jea.com>; 'Dykes, Melissa H. - President/COO' <dykemh@jea.com>; 'Martin, Ian M' <ian.m.martin@jpmorgan.com>; 'Pedersen, William' <William.Pedersen@morganstanley.com>; 'Gredell, Jason' <jason.gredell@jpmchase.com>; 'Freebird All' <scampi\_all@jpmorgan.com>; 'scampi-ms' <scampi\_ms@morganstanley.com>; 'khyde@foley.com' <khyde@foley.com>; 'RHosay@foley.com' <RHosay@foley.com>; 'BJGrossman@foley.com' <BJGrossman@foley.com>; Amdur, Stephen B. <stephen.amdur@pillsburylaw.com>; Lima, Augusto C. <augusto.lima@pillsburylaw.com>; Aminolsharei, Narges <narges.aminolsharei@pillsburylaw.com>; Pudig, Mel <mel.pudig@pillsburylaw.com>; McCartin, Harriet <harriet.mccartin@pillsburylaw.com>; 'Rhode, Lynne C. (City of Jacksonville)' <rhodlc@jea.com>; 'Kebudi, Izzet' <Izzet.Kebudi@morganstanley.com>; 'Plunkett, Kevin' <kevin.plunkett@jpmorgan.com>; 'Marth, Stuart' <Stuart.Marth@morganstanley.com>; 'October, David' <David.October@morganstanley.com>; 'Anderson, Eric J' <eric.j.anderson@jpmorgan.com>; 'Manheimer, Edward' <Edward.Manheimer@morganstanley.com>; 'Spitzley, Ray' <Ray.Spitzley@morganstanley.com>

**Cc:** Murphy, Jarrod D. <jarrod.murphy@pillsburylaw.com>; 'Vinyard, Herschel T. - Chief Administrative Officer' <vinyht@jea.com>

**Subject:** RE: Project Scampi - Bidder NDA

All,

Attached are revised drafts of the NDA (one for all bidders, other than F&PL, and one for FP&L) reflecting our discussion.

Best,

Ted

The contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender or the Pillsbury Winthrop Shaw Pittman Help Desk at Tel: 800-477-0770, Option 1, immediately by telephone or by return E-mail and delete this message, along with any attachments, from your computer. Thank you.

[Date], 2019

**Private and Confidential**

[Bidder Company Name]  
[Address]  
[City, State Zip]

Re: Confidentiality Agreement

Ladies and Gentlemen:

[Insert Bidder Name] (“you” or “your”) has expressed an interest in exploring a possible negotiated transaction, however structured (the “**Possible Transaction**”), involving, directly or indirectly, you and/or one or more of your affiliates, on the one hand, and JEA (together with its subsidiaries, divisions, and affiliates, the “**Company**”), on the other hand, and, accordingly, the Company is prepared to make available to you and your Representatives (as hereinafter defined) certain information concerning the business, financial condition, operations, assets and liabilities of the Company on the terms, and subject to the conditions, set forth herein. This letter agreement (the “**Agreement**”) sets forth the terms and conditions on which any such information will be provided. The parties hereto acknowledge that, in connection with JEA’s Invitation to Negotiate #127-19 for Strategic Alternatives, as amended from time to time (the “**ITN**”), the Possible Transaction will be subject to the JEA Procurement Code (as defined in the ITN) and Florida law. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the ITN.

1. As a condition to you and your Representatives being furnished information concerning the Company and the Possible Transaction, you agree to treat, and will cause your affiliates and your and their respective directors, officers, employees, managers, agents, general partners and advisors (including attorneys, accountants, consultants, and financial advisors) (collectively “**Representatives**”) to treat, any such information that is furnished to you or your Representatives by or on behalf of the Company prior to, on, or after the date of this Agreement, regardless of the form in which such information is provided or communicated, together with any notes, reports, analyses, compilations, studies, interpretations, or other information or documents prepared by you or your Representatives that contain, are based on or derived from, or otherwise reflect, in whole or in part, such information (collectively, the “**Evaluation Material**”), in accordance with the provisions of this Agreement. The term “**Evaluation Material**” does not include any information that (a) becomes available to you or your Representatives on a non-confidential basis from a source other than the Company or any Company Party (as defined below); provided that such source is not known by you or your Representatives, after reasonable inquiry, to be bound by a confidentiality agreement with, or other contractual, legal, or fiduciary obligation of confidentiality to, the Company with respect to such information; (b) was within your or your Representative’s possession prior to its being furnished to you or your Representatives by or on behalf of the Company; provided that the

source of such information is not known by you or your Representatives, after reasonable inquiry, to be bound by a confidentiality agreement with, or other contractual, legal, or fiduciary obligation of confidentiality to, the Company with respect to such information; or (c) is independently developed by you or your Representatives without use of or reference to the Evaluation Material. As used in this Agreement, the term “**person**” shall be broadly interpreted to include the media and any individual, corporation, company, partnership, trust, limited liability company, or other entity. Notwithstanding any other provision hereof, this Agreement does not constitute or create any obligation of the Company or the Company Parties to provide any information to you and under no circumstances is the Company or the Company Parties obligated to disclose or make available any information that in their sole and absolute discretion they determines not to disclose.

2. You and your Representatives will not use the Evaluation Material for any purpose whatsoever, other than evaluating, negotiating, and/or consummating the Possible Transaction. Except as expressly permitted by the terms of this Agreement or with the prior written consent of the Company, you and your Representatives will not disclose the Evaluation Material to any person and will keep the Evaluation Material confidential; provided that the Evaluation Material may be disclosed to your Representatives who need to know such information for the purposes of assisting or advising you in connection with your evaluation, negotiation, and/or consummation of any Possible Transaction. You agree to inform any Representatives receiving Evaluation Material of the confidential nature of such Evaluation Material and to direct and cause such Representatives to comply with the terms of this Agreement as if such Representatives were direct parties hereto. You agree to provide a list of those persons (by entity) to whom such Evaluation Material has been disclosed promptly following the Company’s written request. For the avoidance of doubt, you agree that neither you nor any of your Representatives will disclose Evaluation Material to any actual or potential sources of financing (equity, debt, or otherwise) without the prior written consent of the Company. You agree to use, and will cause your Representatives to use, reasonable best efforts to protect the secrecy of and avoid disclosure or use of the Evaluation Material in order to prevent it from falling into the public domain or the possession of other persons, other than those of your Representatives authorized by this Agreement to have the Evaluation Material. You agree to promptly notify the Company in writing of any misuse or misappropriation of the Evaluation Material that may come to your attention. You shall be responsible to the Company for any breach by any of your Representatives of any of the terms of this Agreement, except for any Representative that (a) executes and delivers a joinder to this Agreement in a form satisfactory to the Company or (b) executes a separate confidentiality agreement with the Company relating to a Possible Transaction. For the avoidance of doubt, any failure by your Representatives to comply with your instructions or directions with respect to the provisions of this Agreement shall constitute a breach of such provisions by your Representatives.

3. Except with the prior written consent of the Company, you agree that (a) you will not, directly or indirectly, act as a joint-bidder or co-bidder with any person with respect to the Possible Transaction, offer to any person an equity participation in the Possible Transaction, or offer to any person any other form of joint acquisition or participation with respect to the Possible Transaction and (b) neither you nor any of your Representatives have entered into or will enter into any discussions, negotiations, agreements, arrangements, or understandings (whether written or oral) with any person, other than your Representatives, regarding the

Possible Transaction. You further agree that neither you nor any of your Representatives will, without the prior written consent of the Company, enter into any agreement, arrangement, or understanding with any other person that expressly requires such person to provide you with financing or other potential sources of capital or financial advisory services on an exclusive basis in connection with a Possible Transaction.

4. Without the prior written consent of the Company, you agree that you and your Representatives will not disclose to any person either the fact that you have requested or received the Evaluation Material, that you or the Company are considering the Possible Transaction, that any investigations, discussions, or negotiations are taking place concerning the Possible Transaction, or any of the terms, conditions, or other facts with respect to any such Possible Transaction, including the status thereof and the existence and terms of this Agreement (collectively, "**Transaction Information**"), except as expressly permitted by paragraph 6 hereof. The parties hereto acknowledge and agree that the confidential nature of the Possible Transaction and Transaction Information may be limited by the Florida Public Records Laws.

5. You understand that J.P. Morgan Securities LLC ("**JPM**") and Morgan Stanley & Co. LLC ("**Morgan**") will arrange for appropriate contacts for due diligence purposes and, accordingly, you will not, and will cause your Representatives not to, contact any employees, customers, suppliers, or subcontractors of the Company, or other persons having a business relationship with the Company, regarding the Company, the Possible Transaction, or the Evaluation Material. JPM and Morgan, together with their affiliates, including their and their affiliates' respective directors, officers, agents, employees and each other person, if any, controlling JPM and Morgan or its respective affiliates, shall be deemed a Company Party. You will ensure that all (a) communications regarding the Possible Transaction, (b) requests for additional information, (c) requests for facility tours or management meetings, and (d) discussions or questions regarding procedures will be submitted or directed exclusively to the Designated Procurement Representatives and/or the Negotiation Team (as defined in the ITN), as applicable, or as otherwise directed under the ITN or otherwise by the Company. Unless otherwise agreed by the Company in writing, none of you nor any of your Representatives will initiate any communications with any Company Party concerning the Evaluation Material or the Possible Transaction, in each case other than individuals who have been specifically designated and approved in writing by the Company for such communications. For the avoidance of doubt, nothing herein shall prevent communications in the ordinary course of business unrelated to the Evaluation Material or the Possible Transaction or in connection with general market due diligence on a no names basis in connection with the Possible Transaction; provided that you and your Representatives do not identify the Company or disclose any Evaluation Material, the Transaction Information, or any terms or conditions with respect to a Possible Transaction. Nothing contained in this Agreement shall be construed so as to create an association, trust, agency, or other business entity or relationship between the Company or any of the Company Parties, on the one hand, and you or any of your Representatives, on the other hand.

6. In the event that you or your Representatives are requested or required by law, regulation, regulatory authority, judicial or governmental order, or investigative demand, subpoena, or similar process to disclose any Evaluation Material or Transaction Information, you will provide the Company with prompt written notice of such request or requirement, to the extent you may legally do so, and the documents requested thereby, so that the Company may

seek an appropriate protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event the Company determines to seek such protective order or other remedy, you or your Representative(s), as applicable, will reasonably cooperate with the Company, at the Company's cost, in seeking such protective order or other remedy. If, failing the entry of a protective order, you or your Representative(s), as applicable, are, upon the advice of counsel, compelled to disclose Evaluation Material or Transaction Information, you or your Representative(s), as applicable, may disclose only that portion of the Evaluation Material or Transaction Information that is compelled to be disclosed; provided, however, that you give the Company written notice of the information to be disclosed (including copies of the relevant portions of the relevant documents) as far in advance of its disclosure as is practicable, use reasonable best efforts to limit any such disclosure only to the matters required to be disclosed, and use your reasonable best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such information. In any event, you and your Representatives will not oppose action by the Company to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Evaluation Material or Transaction Information. Notwithstanding any other provision of this Agreement, no prior notice or other action shall be required in respect of any disclosure made to any banking, financial, accounting, securities, or similar supervisory authority exercising its routine supervisory or audit functions; provided that such disclosure is made in the ordinary course and is not specific to the Company, the Possible Transaction, or the Evaluation Material; provided, further, that either you or your Representative, as applicable, advises the applicable banking, financial, accounting, securities, or similar supervisory authority of the confidential nature of such Evaluation Material and Transaction Information.

7. If you decide not to proceed with the Possible Transaction, you shall promptly inform the Company in writing of that decision. At any time upon the request of the Company in its sole discretion and for any reason or no reason, you and your Representatives will promptly destroy all Evaluation Material (and any copies thereof) in your and your Representatives' possession, and, upon the Company's request, you shall provide the Company with prompt written confirmation of your compliance with this paragraph; provided, however, that you and your Representatives may retain (i) Evaluation Material to the extent necessary to comply with applicable legal or regulatory requirements, internal audit, or bona fide internal document retention policies or (ii) copies of Evaluation Material subject to automatic electronic archiving and back-up procedures; provided, further, that neither you nor any your Representatives shall take any steps to access such retained Evaluation Material, except as required to comply with applicable legal or regulatory requirements or such policies. Notwithstanding the destruction of the Evaluation Material, you and your Representatives shall continue to be bound by your obligations of confidentiality and other obligations and agreements hereunder.

8. In consideration of the Evaluation Material being furnished to you, you hereby agree that for a period of one (1) year from the date of this Agreement, you will not, without the prior written consent of the Company, directly or indirectly (through your Representatives, professional search firms, or otherwise in each case acting at your direction or on your behalf), in any individual, representative, or other capacity, employ or engage, or solicit for employment or engagement, any director, officer, or senior management level employee of the Company with whom you had contact in connection with the Possible Transaction or otherwise seek to induce or encourage any such employee to leave their employment or engagement with the Company;

provided that nothing herein shall restrict or prohibit the solicitation of any such person resulting from generalized searches for employees through the use of bona fide public advertisements in the media or any recruitment efforts conducted by any recruitment agency, in each case that are not targeted specifically at the Company or its employees; provided that such entities have not been, directly or indirectly, instructed by you to solicit the employees of the Company (provided that you shall continue to be restricted from hiring any such employee who responds to any such general solicitation, other than any such employee who has ceased to be employed by the Company for more than six (6) months).

9. You acknowledge and agree that none of the Company or any of its directors, officers, stockholders, employees, affiliates, representatives, advisors, or agents, including JPM and/or Morgan (collectively "**Company Parties**"), is making any representation or warranty, express or implied, as to the accuracy or completeness of the Evaluation Material or any other information provided to you or your Representatives by or on behalf of the Company in connection with matters contemplated hereby. None of the Company or any other Company Party will have any liability or legal obligation of any kind to you or any other person or entity resulting from use of or reliance on the Evaluation Material by you or any of your Representatives, or any errors therein or omissions therefrom, or otherwise relating to, arising out of, or resulting from the Evaluation Material, except as may be expressly provided in a definitive written agreement between you and the Company relating to the Possible Transaction, when, as, and if executed. Unless and until such a definitive written agreement is entered into, none of the Company, any Company Party or you or your Representatives by virtue of this Agreement, such party's conduct, or any other written or oral expression, will be under any legal obligation of any kind whatsoever with respect to the Possible Transaction, except for the matters specifically agreed to in this Agreement. Without limiting the generality of the foregoing and subject to the JEA Procurement Code and the terms of the ITN, you acknowledge and agree that the Company reserves the right, in its sole discretion, to conduct and change the process with respect to the Possible Transaction, including to reject any and all proposals made by you or any of your Representatives with regard to the Possible Transaction, to negotiate with other interested parties, to terminate discussions and negotiations with you at any time, and to enter into a definitive agreement with any person without prior notice to you or any other persons. You agree that you and your Representatives shall file any protests and appeals in connection with the ITN and/or the ITN Process in writing solely in accordance with the JEA Procurement Code, as amended from time to time, and this Agreement and through no other means, methodologies, or artifices. In particular, you agree that you and your Representatives will not seek, directly or indirectly, to challenge, interfere with, finance, or otherwise assert any claim, action, or other proceeding, including, without limitation, by governmental, regulatory, legislative, or other means, against, any Possible Transaction, JEA or any Company Party in connection with the ITN and/or the ITN process, except as expressly permitted by the JEA Procurement Code.

10. You further acknowledge and agree that money damages would not be a sufficient remedy for any breach of this Agreement by you or your Representatives and that the Company shall be entitled to specific performance and injunctive or other equitable relief (without proof of damages) as a remedy for any such breach or threatened breach, and you further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of

this Agreement, but shall be in addition to all other remedies available at law or equity to the Company. Each party further agrees not to raise as a defense or objection to the request or granting of such relief that any breach of this Agreement is or would be compensable by an award of money damages.

11. To the extent that any Evaluation Material includes materials subject to attorney-client privilege, neither the Company nor any Company Party is waiving, and shall not be deemed to have waived or diminished, its attorney work-product protections, attorney-client privileges or similar protections and privileges as a result of disclosing any Evaluation Material (including Evaluation Material related to pending or threatened litigation) to you or any of your Representatives. In addition, you hereby agree that the Company retains its entire right, title, and interest, including all intellectual property rights, in and to all its Evaluation Material. You hereby agree that any disclosure of such Evaluation Material hereunder shall not be construed as an assignment, grant, option, license, or other transfer of any such right, title, or interest, by implication, estoppel, or otherwise, whatsoever to you or any of your Representatives.

12. Unless approved in advance in writing by the Company, you agree that neither you nor any of your Representatives that has received Evaluation Materials or is acting on behalf of or in concert with you will, for a period of two (2) years after the date of this Agreement, directly or indirectly (including through the Company Parties):

- a. make any statement or proposal to the Board or any other governing body of the Company or to the Jacksonville City Council regarding, or make any public announcement, proposal, or offer with respect to, or otherwise solicit, seek, or offer to effect (including, for the avoidance of doubt, indirectly by means of communication with the press or media): (i) any business combination, acquisition, merger, tender offer, exchange offer, or similar transaction involving the Company or any of its subsidiaries or any entity formed in connection with a Possible Transaction or for purposes of effecting an initial public offering or cooperative ownership entity of all or a portion of the business of the Company (collectively, the “**Company Group**”); (ii) any restructuring, reorganization, recapitalization, liquidation, or similar transaction involving the Company Group; (iii) any acquisition of any of the Company Group’s loans, debt securities, or assets, or rights or options to acquire interests in any of the Company Group’s loans, debt securities, or assets; (iv) any proposal to seek representation on the Board or any other governing body of any member of the Company Group or otherwise seek to control or influence the management, Board, any other governing body, or policies of any member of the Company Group; (v) any request or proposal to waive, terminate, or amend the provisions of this Agreement; or (vi) any proposal, arrangement, or other statement that is inconsistent with the terms of this Agreement, including this Section 12.a;
- b. instigate, encourage, or assist any person (including forming a “group” with any such third party) to do, or enter into any discussions or agreements with any person with respect to, any of the actions set forth in Section 12.a;



- c. take any action that would reasonably be expected to require any member of the Company Group or any of their respective affiliates to make a public announcement regarding any of the actions set forth in Section 12.a; or
- d. acquire (or propose or agree to acquire), of record or beneficially, by purchase or otherwise, any loans, debt securities, or assets of the Company Group, or rights or options to acquire interests in any of the Company Group's loans, debt securities, or assets.

13. You represent and warrant to the Company that (a) this Agreement is a valid and binding obligation of yours, enforceable against you in accordance with its terms, and (b) the execution and delivery of this Agreement by you does not conflict with or constitute a violation of or default under your organizational documents, any statute, law, regulation, order, or decree applicable to you, or any contract, commitment, agreement, arrangement, or restriction of any kind to which you are a party or by which you are bound.

14. In the event of any claim, action, or legal proceeding regarding or arising from this Agreement, the prevailing party shall be entitled to recover its reasonable expenses, attorneys' fees, and costs incurred therein or in the enforcement or collection of any judgment or award rendered therein.

15. This Agreement and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of, or relate to this Agreement, or the negotiation, execution, or performance of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida without regard to the principles of conflicts of laws in any jurisdiction. Each party hereto consents and submits to the exclusive jurisdiction of the courts of the State of Florida located in Duval County and the courts of the United States located in the Middle District of Florida for the adjudication of any claim, action, or legal proceeding relating to or arising out of this Agreement and the transactions contemplated hereby (and each party hereto agrees not to commence any claim, action, or legal proceeding relating thereto, except in any such court). Each party hereto hereby irrevocably and unconditionally waives any objection that it may now or hereafter have to the laying of venue in such courts and agrees not to plead or claim in any such court that any such claim, action, or legal proceeding brought in any such court has been brought in an inconvenient forum. Furthermore, you hereby irremovably and unconditionally waive any objection that you may now or hereafter have to the process and limitations on protesting and appealing the ITN and/or the ITN process contained in the JEA Procurement Code and agree not to plead or make a claim, action, or legal proceeding, whether political, regulatory, or otherwise, and will not sponsor, promote, or introduce legislation in connection with the ITN and/or the ITN process, except as may be permitted by the JEA Procurement Code. Each party hereto hereby agrees that service of any process, summons, notice, or document by U.S. registered mail addressed to such party hereto shall be effective service of process for any such claim, action, or legal proceeding brought against such party hereto in any such court. Each party hereto agrees that a final judgment in any such suit, action, or proceeding brought in any such court shall be conclusive and binding upon such party hereto and may be enforced in any other courts to whose jurisdiction such party hereto is or may be subject by suit upon such judgment.

16. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY CLAIM, ACTION, OR LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.

17. No waiver, modification of, or amendment to this Agreement shall be binding, unless in writing and executed by both parties, which such waiver, modification, or amendment shall specifically refer to the provision to be waived, modified, or amended and shall explicitly make such waiver, modification, or amendment. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. No failure or delay by the Company in exercising any right, power, or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power, or privilege. The covenants and obligations made by you under this Agreement shall survive the termination of any discussions and/or business relationship between you and the Company for the term of this Agreement. The terms, conditions, and covenants of this Agreement shall be binding upon you, your Representatives, and each of your respective successors and permitted assigns, and are for the benefit of the Company, the Company Parties, and their respective successors and permitted assigns. This Agreement may not be assigned by you without the prior written consent of the Company. The Company may assign this Agreement without your consent to any member of the Company Group or to any purchaser of the Company or all or substantially all of the assets of the Company.

18. Unless otherwise expressly provided in this Agreement, your and your Representatives' obligations under this Agreement shall expire upon the date that is the earlier of (a) two (2) years following the date hereof and (b) the consummation of the Possible Transaction; provided, however, that your and your Representative's confidentiality obligations related to Evaluation Materials contained in the Company's virtual data room that constitute unpatented inventions, methods, unpublished patent applications, works of authorship, designs, algorithms, processes, techniques, formulas or compositions shall not expire.

19. You agree that no claim, action, or other proceeding shall be made by you (or by any of your subsidiaries or affiliates or any of your or their respective directors, officers, or employees) against any member of the Company Group, any Company Party or any of their respective affiliates, directors, officers, employees, managers, agents, general partners and advisors (including attorneys, accountants, consultants, and financial advisors) (each such entity or person being referred to as an "**Exculpated Party**"), to recover, and agree that no Exculpated Party shall have any liability (whether direct or indirect, in contract, in tort, or otherwise) for any losses, claims, demands, or liabilities of any kind ("**Liabilities**") or expenses incurred in connection with, relating to, or arising out of this Agreement, the Possible Transaction (including any agreement between the Company and a Company Party relating thereto (each, an "**Other Agreement**")), the ITN, the ITN process, or any such person's role or services in connection therewith, except to the extent that any such Liabilities or expenses are expressly provided for under the terms of a definitive written agreement between you and the Company relating to the Possible Transaction, when, as, and if executed by the parties. You and your affiliates further agree to indemnify and hold harmless each of the Exculpated Parties from and against any Liabilities or expenses incurred in connection with, relating to, or arising out of a breach of this Agreement or an Other Agreement by you or your Representatives, including any claim, action,

or other proceeding asserted by you or your Representatives that is not in accordance with the JEA Procurement Code, as amended from time to time. Notwithstanding Section 18 of this Agreement, this Section 19 shall survive the termination or expiration of this Agreement.

20. This Agreement constitutes notice to you that the Company has engaged Pillsbury Winthrop Shaw Pittman LLP (“**Pillsbury**”) and Foley & Lardner LLP (“**Foley**”) as its legal counsel in connection with the Possible Transaction. One or both of these law firms may be representing you on matters unrelated to the Possible Transaction and Pillsbury has represented you on a matter that might be considered substantially related. To the extent this is the case and you choose to explore the Possible Transaction with the Company, Pillsbury and/or Foley would have a conflict of interest under the applicable rules of professional conduct were they to advise us regarding your interest. The Company does not believe that it would be in your or the Company’s interest to deprive the Company of its counsel. We therefore request and you hereby (i) consent to the continued representation of the Company Group by Pillsbury and Foley in relation to the Possible Transaction, notwithstanding the fact that Pillsbury and/or Foley may have represented, and may currently or in the future represent, you and/or any of your affiliates with respect to unrelated matters and Pillsbury represented you in a matter that might be considered substantially related and (ii) waive any actual or potential conflict of interest under the rules of professional conduct applicable to Pillsbury and/or Foley. In addition, you hereby acknowledge that your consent and waiver under this Section 20 is voluntary and informed by advise of counsel.

21. This Agreement may be executed in two or more counterparts (including by facsimile or by attachment to electronic mail in portable document format (PDF)), each of which shall be an original, with the same effect as if the signatures thereto were manually executed upon one instrument. This Agreement shall not be deemed to be modified or amended by the terms or conditions of use or confidentiality or non-disclosure provision of any electronic data room established or maintained by the Company or the Company Parties.

*[Signature Page Follows]*

If you agree with the foregoing, please so indicate by signing and returning one copy of this Agreement, whereupon it will constitute our agreement with respect to the subject matter hereof as of the date first written above.

Very truly yours,

JEA

By: \_\_\_\_\_

CONFIRMED AND AGREED TO BY:

[INSERT BIDDER NAME]

By: \_\_\_\_\_

Its: \_\_\_\_\_

[Date], 2019

**Private and Confidential**

[Bidder Company Name]  
[Address]  
[City, State Zip]

Re: Confidentiality Agreement

Ladies and Gentlemen:

[Insert Bidder Name] (“you” or “your”) has expressed an interest in exploring a possible negotiated transaction, however structured (the “**Possible Transaction**”), involving, directly or indirectly, you and/or one or more of your affiliates, on the one hand, and JEA (together with its subsidiaries, divisions, and affiliates, the “**Company**”), on the other hand, and, accordingly, the Company is prepared to make available to you and your Representatives (as hereinafter defined) certain information concerning the business, financial condition, operations, assets and liabilities of the Company on the terms, and subject to the conditions, set forth herein. This letter agreement (the “**Agreement**”) sets forth the terms and conditions on which any such information will be provided. The parties hereto acknowledge that, in connection with JEA’s Invitation to Negotiate #127-19 for Strategic Alternatives, as amended from time to time (the “**ITN**”), the Possible Transaction will be subject to the JEA Procurement Code (as defined in the ITN) and Florida law. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the ITN.

1. As a condition to you and your Representatives being furnished information concerning the Company and the Possible Transaction, you agree to treat, and will cause your affiliates and your and their respective directors, officers, employees, managers, agents, general partners and advisors (including attorneys, accountants, consultants, and financial advisors) (collectively “**Representatives**”) to treat, any such information that is furnished to you or your Representatives by or on behalf of the Company prior to, on, or after the date of this Agreement, regardless of the form in which such information is provided or communicated, together with any notes, reports, analyses, compilations, studies, interpretations, or other information or documents prepared by you or your Representatives that contain, are based on or derived from, or otherwise reflect, in whole or in part, such information (collectively, the “**Evaluation Material**”), in accordance with the provisions of this Agreement. The term “**Evaluation Material**” does not include any information that (a) becomes available to you or your Representatives on a non-confidential basis from a source other than the Company or any Company Party (as defined below); provided that such source is not known by you or your Representatives, after reasonable inquiry, to be bound by a confidentiality agreement with, or other contractual, legal, or fiduciary obligation of confidentiality to, the Company with respect to such information; (b) was within your or your Representative’s possession prior to its being furnished to you or your Representatives by or on behalf of the Company; provided that the

source of such information is not known by you or your Representatives, after reasonable inquiry, to be bound by a confidentiality agreement with, or other contractual, legal, or fiduciary obligation of confidentiality to, the Company with respect to such information; or (c) is independently developed by you or your Representatives without use of or reference to the Evaluation Material. As used in this Agreement, the term “**person**” shall be broadly interpreted to include the media and any individual, corporation, company, partnership, trust, limited liability company, or other entity. Notwithstanding any other provision hereof, this Agreement does not constitute or create any obligation of the Company or the Company Parties to provide any information to you and under no circumstances is the Company or the Company Parties obligated to disclose or make available any information that in their sole and absolute discretion they determines not to disclose.

2. You and your Representatives will not use the Evaluation Material for any purpose whatsoever, other than evaluating, negotiating, and/or consummating the Possible Transaction. Except as expressly permitted by the terms of this Agreement or with the prior written consent of the Company, you and your Representatives will not disclose the Evaluation Material to any person and will keep the Evaluation Material confidential; provided that the Evaluation Material may be disclosed to your Representatives who need to know such information for the purposes of assisting or advising you in connection with your evaluation, negotiation, and/or consummation of any Possible Transaction. You agree to inform any Representatives receiving Evaluation Material of the confidential nature of such Evaluation Material and to direct and cause such Representatives to comply with the terms of this Agreement as if such Representatives were direct parties hereto. You agree to provide a list of those persons (by entity) to whom such Evaluation Material has been disclosed promptly following the Company’s written request. For the avoidance of doubt, you agree that neither you nor any of your Representatives will disclose Evaluation Material to any actual or potential sources of financing (equity, debt, or otherwise) without the prior written consent of the Company. You agree to use, and will cause your Representatives to use, reasonable best efforts to protect the secrecy of and avoid disclosure or use of the Evaluation Material in order to prevent it from falling into the public domain or the possession of other persons, other than those of your Representatives authorized by this Agreement to have the Evaluation Material. You agree to promptly notify the Company in writing of any misuse or misappropriation of the Evaluation Material that may come to your attention. You shall be responsible to the Company for any breach by any of your Representatives of any of the terms of this Agreement, except for any Representative that (a) executes and delivers a joinder to this Agreement in a form satisfactory to the Company or (b) executes a separate confidentiality agreement with the Company relating to a Possible Transaction. For the avoidance of doubt, any failure by your Representatives to comply with your instructions or directions with respect to the provisions of this Agreement shall constitute a breach of such provisions by your Representatives.

3. Except with the prior written consent of the Company, you agree that (a) you will not, directly or indirectly, act as a joint-bidder or co-bidder with any person with respect to the Possible Transaction, offer to any person an equity participation in the Possible Transaction, or offer to any person any other form of joint acquisition or participation with respect to the Possible Transaction and (b) neither you nor any of your Representatives have entered into or will enter into any discussions, negotiations, agreements, arrangements, or understandings (whether written or oral) with any person, other than your Representatives, regarding the

Possible Transaction. You further agree that neither you nor any of your Representatives will, without the prior written consent of the Company, enter into any agreement, arrangement, or understanding with any other person that expressly requires such person to provide you with financing or other potential sources of capital or financial advisory services on an exclusive basis in connection with a Possible Transaction.

4. Without the prior written consent of the Company, you agree that you and your Representatives will not disclose to any person either the fact that you have requested or received the Evaluation Material, that you or the Company are considering the Possible Transaction, that any investigations, discussions, or negotiations are taking place concerning the Possible Transaction, or any of the terms, conditions, or other facts with respect to any such Possible Transaction, including the status thereof and the existence and terms of this Agreement (collectively, "**Transaction Information**"), except as expressly permitted by paragraph 6 hereof. The parties hereto acknowledge and agree that the confidential nature of the Possible Transaction and Transaction Information may be limited by the Florida Public Records Laws.

5. You understand that J.P. Morgan Securities LLC ("**JPM**") and Morgan Stanley & Co. LLC ("**Morgan**") will arrange for appropriate contacts for due diligence purposes and, accordingly, you will not, and will cause your Representatives not to, contact any employees, customers, suppliers, or subcontractors of the Company, or other persons having a business relationship with the Company, regarding the Company, the Possible Transaction, or the Evaluation Material. JPM and Morgan, together with their affiliates, including their and their affiliates' respective directors, officers, agents, employees and each other person, if any, controlling JPM and Morgan or its respective affiliates, shall be deemed a Company Party. You will ensure that all (a) communications regarding the Possible Transaction, (b) requests for additional information, (c) requests for facility tours or management meetings, and (d) discussions or questions regarding procedures will be submitted or directed exclusively to the Designated Procurement Representatives and/or the Negotiation Team (as defined in the ITN), as applicable, or as otherwise directed under the ITN or otherwise by the Company. Unless otherwise agreed by the Company in writing, none of you nor any of your Representatives will initiate any communications with any Company Party concerning the Evaluation Material or the Possible Transaction, in each case other than individuals who have been specifically designated and approved in writing by the Company for such communications. For the avoidance of doubt, nothing herein shall prevent communications in the ordinary course of business unrelated to the Evaluation Material or the Possible Transaction or in connection with general market due diligence on a no names basis in connection with the Possible Transaction; provided that you and your Representatives do not identify the Company or disclose any Evaluation Material, the Transaction Information, or any terms or conditions with respect to a Possible Transaction. Nothing contained in this Agreement shall be construed so as to create an association, trust, agency, or other business entity or relationship between the Company or any of the Company Parties, on the one hand, and you or any of your Representatives, on the other hand.

6. In the event that you or your Representatives are requested or required by law, regulation, regulatory authority, judicial or governmental order, or investigative demand, subpoena, or similar process to disclose any Evaluation Material or Transaction Information, you will provide the Company with prompt written notice of such request or requirement, to the extent you may legally do so, and the documents requested thereby, so that the Company may

seek an appropriate protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event the Company determines to seek such protective order or other remedy, you or your Representative(s), as applicable, will reasonably cooperate with the Company, at the Company's cost, in seeking such protective order or other remedy. If, failing the entry of a protective order, you or your Representative(s), as applicable, are, upon the advice of counsel, compelled to disclose Evaluation Material or Transaction Information, you or your Representative(s), as applicable, may disclose only that portion of the Evaluation Material or Transaction Information that is compelled to be disclosed; provided, however, that you give the Company written notice of the information to be disclosed (including copies of the relevant portions of the relevant documents) as far in advance of its disclosure as is practicable, use reasonable best efforts to limit any such disclosure only to the matters required to be disclosed, and use your reasonable best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such information. In any event, you and your Representatives will not oppose action by the Company to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Evaluation Material or Transaction Information. Notwithstanding any other provision of this Agreement, no prior notice or other action shall be required in respect of any disclosure made to any banking, financial, accounting, securities, or similar supervisory authority exercising its routine supervisory or audit functions; provided that such disclosure is made in the ordinary course and is not specific to the Company, the Possible Transaction, or the Evaluation Material; provided, further, that either you or your Representative, as applicable, advises the applicable banking, financial, accounting, securities, or similar supervisory authority of the confidential nature of such Evaluation Material and Transaction Information.

7. If you decide not to proceed with the Possible Transaction, you shall promptly inform the Company in writing of that decision. At any time upon the request of the Company in its sole discretion and for any reason or no reason, you and your Representatives will promptly destroy all Evaluation Material (and any copies thereof) in your and your Representatives' possession, and, upon the Company's request, you shall provide the Company with prompt written confirmation of your compliance with this paragraph; provided, however, that you and your Representatives may retain (i) Evaluation Material to the extent necessary to comply with applicable legal or regulatory requirements, internal audit, or bona fide internal document retention policies or (ii) copies of Evaluation Material subject to automatic electronic archiving and back-up procedures; provided, further, that neither you nor any your Representatives shall take any steps to access such retained Evaluation Material, except as required to comply with applicable legal or regulatory requirements or such policies. Notwithstanding the destruction of the Evaluation Material, you and your Representatives shall continue to be bound by your obligations of confidentiality and other obligations and agreements hereunder.

8. In consideration of the Evaluation Material being furnished to you, you hereby agree that for a period of one (1) year from the date of this Agreement, you will not, without the prior written consent of the Company, directly or indirectly (through your Representatives, professional search firms, or otherwise in each case acting at your direction or on your behalf), in any individual, representative, or other capacity, employ or engage, or solicit for employment or engagement, any director, officer, or senior management level employee of the Company with whom you had contact in connection with the Possible Transaction or otherwise seek to induce or encourage any such employee to leave their employment or engagement with the Company;



provided that nothing herein shall restrict or prohibit the solicitation of any such person resulting from generalized searches for employees through the use of bona fide public advertisements in the media or any recruitment efforts conducted by any recruitment agency, in each case that are not targeted specifically at the Company or its employees; provided that such entities have not been, directly or indirectly, instructed by you to solicit the employees of the Company (provided that you shall continue to be restricted from hiring any such employee who responds to any such general solicitation, other than any such employee who has ceased to be employed by the Company for more than six (6) months).

9. You acknowledge and agree that none of the Company or any of its directors, officers, stockholders, employees, affiliates, representatives, advisors, or agents, including JPM and/or Morgan (collectively "**Company Parties**"), is making any representation or warranty, express or implied, as to the accuracy or completeness of the Evaluation Material or any other information provided to you or your Representatives by or on behalf of the Company in connection with matters contemplated hereby. None of the Company or any other Company Party will have any liability or legal obligation of any kind to you or any other person or entity resulting from use of or reliance on the Evaluation Material by you or any of your Representatives, or any errors therein or omissions therefrom, or otherwise relating to, arising out of, or resulting from the Evaluation Material, except as may be expressly provided in a definitive written agreement between you and the Company relating to the Possible Transaction, when, as, and if executed. Unless and until such a definitive written agreement is entered into, none of the Company, any Company Party or you or your Representatives by virtue of this Agreement, such party's conduct, or any other written or oral expression, will be under any legal obligation of any kind whatsoever with respect to the Possible Transaction, except for the matters specifically agreed to in this Agreement. Without limiting the generality of the foregoing and subject to the JEA Procurement Code and the terms of the ITN, you acknowledge and agree that the Company reserves the right, in its sole discretion, to conduct and change the process with respect to the Possible Transaction, including to reject any and all proposals made by you or any of your Representatives with regard to the Possible Transaction, to negotiate with other interested parties, to terminate discussions and negotiations with you at any time, and to enter into a definitive agreement with any person without prior notice to you or any other persons. You agree that you and your Representatives shall file any protests and appeals in connection with the ITN and/or the ITN Process in writing solely in accordance with the JEA Procurement Code, as amended from time to time, and this Agreement and through no other means, methodologies, or artifices. In particular, you agree that you and your Representatives will not seek, directly or indirectly, to challenge, interfere with, finance, or otherwise assert any claim, action, or other proceeding, including, without limitation, by governmental, regulatory, legislative, or other means, against, any Possible Transaction, JEA or any Company Party in connection with the ITN and/or the ITN process, except as expressly permitted by the JEA Procurement Code.

10. You further acknowledge and agree that money damages would not be a sufficient remedy for any breach of this Agreement by you or your Representatives and that the Company shall be entitled to specific performance and injunctive or other equitable relief (without proof of damages) as a remedy for any such breach or threatened breach, and you further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of

this Agreement, but shall be in addition to all other remedies available at law or equity to the Company. Each party further agrees not to raise as a defense or objection to the request or granting of such relief that any breach of this Agreement is or would be compensable by an award of money damages.

11. To the extent that any Evaluation Material includes materials subject to attorney-client privilege, neither the Company nor any Company Party is waiving, and shall not be deemed to have waived or diminished, its attorney work-product protections, attorney-client privileges or similar protections and privileges as a result of disclosing any Evaluation Material (including Evaluation Material related to pending or threatened litigation) to you or any of your Representatives. In addition, you hereby agree that the Company retains its entire right, title, and interest, including all intellectual property rights, in and to all its Evaluation Material. You hereby agree that any disclosure of such Evaluation Material hereunder shall not be construed as an assignment, grant, option, license, or other transfer of any such right, title, or interest, by implication, estoppel, or otherwise, whatsoever to you or any of your Representatives.

12. Unless approved in advance in writing by the Company, you agree that neither you nor any of your Representatives that has received Evaluation Materials or is acting on behalf of or in concert with you will, for a period of two (2) years after the date of this Agreement, directly or indirectly (including through the Company Parties):

- a. make any statement or proposal to the Board or any other governing body of the Company or to the Jacksonville City Council regarding, or make any public announcement, proposal, or offer with respect to, or otherwise solicit, seek, or offer to effect (including, for the avoidance of doubt, indirectly by means of communication with the press or media): (i) any business combination, acquisition, merger, tender offer, exchange offer, or similar transaction involving the Company or any of its subsidiaries or any entity formed in connection with a Possible Transaction or for purposes of effecting an initial public offering or cooperative ownership entity of all or a portion of the business of the Company (collectively, the “**Company Group**”); (ii) any restructuring, reorganization, recapitalization, liquidation, or similar transaction involving the Company Group; (iii) any acquisition of any of the Company Group’s loans, debt securities, or assets, or rights or options to acquire interests in any of the Company Group’s loans, debt securities, or assets; (iv) any proposal to seek representation on the Board or any other governing body of any member of the Company Group or otherwise seek to control or influence the management, Board, any other governing body, or policies of any member of the Company Group; (v) any request or proposal to waive, terminate, or amend the provisions of this Agreement; or (vi) any proposal, arrangement, or other statement that is inconsistent with the terms of this Agreement, including this Section 12.a;
- b. instigate, encourage, or assist any person (including forming a “group” with any such third party) to do, or enter into any discussions or agreements with any person with respect to, any of the actions set forth in Section 12.a;

- c. take any action that would reasonably be expected to require any member of the Company Group or any of their respective affiliates to make a public announcement regarding any of the actions set forth in Section 12.a; or
- d. acquire (or propose or agree to acquire), of record or beneficially, by purchase or otherwise, any loans, debt securities, or assets of the Company Group, or rights or options to acquire interests in any of the Company Group's loans, debt securities, or assets.

13. You represent and warrant to the Company that (a) this Agreement is a valid and binding obligation of yours, enforceable against you in accordance with its terms, and (b) the execution and delivery of this Agreement by you does not conflict with or constitute a violation of or default under your organizational documents, any statute, law, regulation, order, or decree applicable to you, or any contract, commitment, agreement, arrangement, or restriction of any kind to which you are a party or by which you are bound.

14. In the event of any claim, action, or legal proceeding regarding or arising from this Agreement, the prevailing party shall be entitled to recover its reasonable expenses, attorneys' fees, and costs incurred therein or in the enforcement or collection of any judgment or award rendered therein.

15. This Agreement and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of, or relate to this Agreement, or the negotiation, execution, or performance of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida without regard to the principles of conflicts of laws in any jurisdiction. Each party hereto consents and submits to the exclusive jurisdiction of the courts of the State of Florida located in Duval County and the courts of the United States located in the Middle District of Florida for the adjudication of any claim, action, or legal proceeding relating to or arising out of this Agreement and the transactions contemplated hereby (and each party hereto agrees not to commence any claim, action, or legal proceeding relating thereto, except in any such court). Each party hereto hereby irrevocably and unconditionally waives any objection that it may now or hereafter have to the laying of venue in such courts and agrees not to plead or claim in any such court that any such claim, action, or legal proceeding brought in any such court has been brought in an inconvenient forum. Furthermore, you hereby irremovably and unconditionally waive any objection that you may now or hereafter have to the process and limitations on protesting and appealing the ITN and/or the ITN process contained in the JEA Procurement Code and agree not to plead or make a claim, action, or legal proceeding, whether political, regulatory, or otherwise, and will not sponsor, promote, or introduce legislation in connection with the ITN and/or the ITN process, except as may be permitted by the JEA Procurement Code. Each party hereto hereby agrees that service of any process, summons, notice, or document by U.S. registered mail addressed to such party hereto shall be effective service of process for any such claim, action, or legal proceeding brought against such party hereto in any such court. Each party hereto agrees that a final judgment in any such suit, action, or proceeding brought in any such court shall be conclusive and binding upon such party hereto and may be enforced in any other courts to whose jurisdiction such party hereto is or may be subject by suit upon such judgment.

16. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY CLAIM, ACTION, OR LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.

17. No waiver, modification of, or amendment to this Agreement shall be binding, unless in writing and executed by both parties, which such waiver, modification, or amendment shall specifically refer to the provision to be waived, modified, or amended and shall explicitly make such waiver, modification, or amendment. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. No failure or delay by the Company in exercising any right, power, or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power, or privilege. The covenants and obligations made by you under this Agreement shall survive the termination of any discussions and/or business relationship between you and the Company for the term of this Agreement. The terms, conditions, and covenants of this Agreement shall be binding upon you, your Representatives, and each of your respective successors and permitted assigns, and are for the benefit of the Company, the Company Parties, and their respective successors and permitted assigns. This Agreement may not be assigned by you without the prior written consent of the Company. The Company may assign this Agreement without your consent to any member of the Company Group or to any purchaser of the Company or all or substantially all of the assets of the Company.

18. Unless otherwise expressly provided in this Agreement, your and your Representatives' obligations under this Agreement shall expire upon the date that is the earlier of (a) two (2) years following the date hereof and (b) the consummation of the Possible Transaction; provided, however, that your and your Representative's confidentiality obligations related to Evaluation Materials contained in the Company's virtual data room that constitute unpatented inventions, methods, unpublished patent applications, works of authorship, designs, algorithms, processes, techniques, formulas or compositions shall not expire.

19. You agree that no claim, action, or other proceeding shall be made by you (or by any of your subsidiaries or affiliates or any of your or their respective directors, officers, or employees) against any member of the Company Group, any Company Party or any of their respective affiliates, directors, officers, employees, managers, agents, general partners and advisors (including attorneys, accountants, consultants, and financial advisors) (each such entity or person being referred to as an "**Exculpated Party**"), to recover, and agree that no Exculpated Party shall have any liability (whether direct or indirect, in contract, in tort, or otherwise) for any losses, claims, demands, or liabilities of any kind ("**Liabilities**") or expenses incurred in connection with, relating to, or arising out of this Agreement, the Possible Transaction (including any agreement between the Company and a Company Party relating thereto (each, an "**Other Agreement**")), the ITN, the ITN process, or any such person's role or services in connection therewith, except to the extent that any such Liabilities or expenses are expressly provided for under the terms of a definitive written agreement between you and the Company relating to the Possible Transaction, when, as, and if executed by the parties. You and your affiliates further agree to indemnify and hold harmless each of the Exculpated Parties from and against any Liabilities or expenses incurred in connection with, relating to, or arising out of a breach of this Agreement or an Other Agreement by you or your Representatives, including any claim, action,

or other proceeding asserted by you or your Representatives that is not in accordance with the JEA Procurement Code, as amended from time to time. Notwithstanding Section 18 of this Agreement, this Section 19 shall survive the termination or expiration of this Agreement.

20. This Agreement constitutes notice to you that the Company has engaged Pillsbury Winthrop Shaw Pittman LLP (“**Pillsbury**”) and Foley & Lardner LLP (“**Foley**”) as its legal counsel in connection with the Possible Transaction. One or both of these law firms may be representing you on matters unrelated to the Possible Transaction. To the extent this is the case and you choose to explore the Possible Transaction with the Company, Pillsbury and/or Foley would have a conflict of interest under the applicable rules of professional conduct were they to advise us regarding your interest. The Company does not believe that it would be in your or the Company’s interest to deprive the Company of its counsel. We therefore request and you hereby (i) consent to the continued representation of the Company Group by Pillsbury and Foley in relation to the Possible Transaction, notwithstanding the fact that Pillsbury and/or Foley may have represented, and may currently or in the future represent, you and/or any of your affiliates with respect to unrelated matters and (ii) waive any actual or potential conflict of interest under the rules of professional conduct applicable to Pillsbury and/or Foley. In addition, you hereby acknowledge that your consent and waiver under this Section 20 is voluntary and informed by advise of counsel.

21. This Agreement may be executed in two or more counterparts (including by facsimile or by attachment to electronic mail in portable document format (PDF)), each of which shall be an original, with the same effect as if the signatures thereto were manually executed upon one instrument. This Agreement shall not be deemed to be modified or amended by the terms or conditions of use or confidentiality or non-disclosure provision of any electronic data room established or maintained by the Company or the Company Parties.

*[Signature Page Follows]*

If you agree with the foregoing, please so indicate by signing and returning one copy of this Agreement, whereupon it will constitute our agreement with respect to the subject matter hereof as of the date first written above.

Very truly yours,

JEA

By: \_\_\_\_\_

CONFIRMED AND AGREED TO BY:

[INSERT BIDDER NAME]

By: \_\_\_\_\_

Its: \_\_\_\_\_