

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into this \_\_\_ day of \_\_\_\_\_, 2020, by and between JEA (“JEA”) and Nassau County, Florida (“Nassau County”).

### Recitals

**WHEREAS**, JEA and Nassau County (collectively, the “Agencies” or, individually, an “Agency”), will enter into agreement for the design and construction of the William Burgess Boulevard Extension Project, US 17 to Miner Road Water Main (the “Work”);

**WHEREAS**, the Agencies desire to collectively solicit bids for both the design and construction (the “Work”) for the William Burgess Boulevard Extensions Project, US 17 to Miner Road Water Main;

**WHEREAS**, the Agencies have discussed the terms and conditions on which JEA will draft, issue and manage the Solicitation, and the Agencies desire to put such terms and conditions in writing;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, each of the Agencies agree as follows:

### Agreements

1. Design Services. Following execution of this MOU, Nassau County will amend its design contract with GAI, Inc. to include JEA’s portion of the work. JEA will be responsible for all design costs associated with the incorporation of the water main design.
2. Construction Services. Upon completion of the design services, Nassau County will issue a Solicitation for construction of the William Burgess Boulevard Extension Project, US 17 to Miner Road Water Main in the form of the draft Solicitation circulated to each of the Agencies prior to execution of this MOU (the “Construction Solicitation”).
3. Bidding. Nassau County will invite JEA to review the responses to RFPs and RFBs. For RFBs, the County shall choose the lowest cost responsible bidder for construction work, determining lowest cost on the basis of lowest cost for Roadway work and Utilities work combined. For RFPs for planning and design services, evaluation of proposals shall be the

basis of the Roadway work and Utilities work combined as a single project. If JEA determines not to add Utilities work to a Roadway Project after bid opening, then JEA agrees to enter into a utility agreement with the County to undertake the planning, design and construction of such Utilities work with its own contractors in a manner that will not affect the schedule of the County construction (including appropriate delay damage provisions). If the JEA decides to undertake the utility works separately from County road works, then JEA shall confirm that in writing to the County and agrees to be responsible legally and monetarily for any potential delays that may be caused by JEA utility work impacts on County roadway work operations and schedules.

4. Construction Engineering Inspection (CEI) Services. Upon completion of the design services, Nassau County will issue a Solicitation for Construction Engineering Inspection (CEI) services for the William Burgess Boulevard Extension Project, US 17 to Miner Road Water Main in the form of the draft Solicitation circulated to each of the Agencies prior to execution of this MOU (the “CEI Solicitation”).
5. Award Recommendation. Nassau County, on behalf of the Agencies, will manage the Construction Solicitation and CEI Solicitation (the “Solicitations”) and make all administrative determinations concerning minimum qualifications, timeliness, responsiveness and all other aspects of administration of the Solicitations up to and including determining the successful bidders (the “Successful Bidders”).
6. Contract. Each Agency will enter into a separate final contract with the Successful Bidders for the scope of work described in the Construction Solicitation and CEI Solicitation (collectively, the “Contracts” or, separately, a “Contract”). Subject to the terms set forth in this MOU, the Agencies bind themselves to the good faith negotiation of Contracts with the Successful Bidders. Nassau County shall issue the Construction Solicitation and CEI Solicitation and negotiate standard contract terms and conditions on behalf of all Agencies, which terms and conditions will be substantially in the form of the standard contract provisions contained in the Solicitation (including the Special Provisions for JEA, attached in an Appendix to the Construction Solicitation and CEI Solicitation).

7. Term. Each contract will have a term until completion (the “Initial Term”), commencing on the effective date of each Contract.
8. Fee Payment. The costs of the Solicitations will be shared equally among the Agencies. Each Agency shall be responsible for all of its respective costs for all services and equipment procured by the Agency under the Solicitations and nothing in this MOU or in the Solicitations shall be construed to create an obligation of one Agency to cover any costs or expenses or create any liability of one Agency for the access control system of another Agency. JEA will pay CEI and Construction costs associated with and required by the Water Main construction directly to the CEI service provider and Construction contractor. Nassau County will pay CEI and Construction costs associated with and required by the Roadway resurfacing and widening construction directly to the CEI service provider and Construction contractor.
9. Contract Management: Each Agency will be responsible for administration of its own Contracts, including, but not limited to all purchase orders, invoices, payments, contract management, amendments and renewals. However, each Agency shall continue to collaborate with all Agencies by providing notice to the other Agencies as soon as reasonably possible after an Agency discovers any problems or issues with the Access System or the services provided under the Contracts.
10. Joint Marketing. Each Agency will use commercially reasonable efforts to solicit interest in the Solicitations.
11. Publicity. All press releases issued by any Agency with respect to this MOU, the Solicitations or the relationship created by the Agencies with the Successful Bidders shall be presented to the other Agencies reasonably in advance of issuance and shall be subject to the other Agencies’ prior approval, which shall not be unreasonably withheld or delayed.
12. Procurement Management. Each Agency shall appoint a single individual (a “Procurement Manager”) to be primarily responsible for: (1) arranging all meetings, visits and

consultations between the Agencies relating to the Solicitations; (2) receiving all notices under this MOU and the resulting Solicitations; and (3) coordinating all administrative matters relating to the Solicitations. The Procurement Managers shall also be responsible for coordinating the resolution of any issues and disputes between the parties arising under this MOU. From time to time during the terms of the Contracts, each Agency may replace its Procurement Manager with another person having equivalent authority by providing written notice to the other Agencies.

13. Warranties. Each Agency represents and warrants to the other agencies that neither the execution of this MOU nor the performance described hereunder will, directly or indirectly, violate or interfere with the terms of another agreement to which such Agency is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for performance under this MOU. Each Agency represents and warrants to the other Agency that it will not enter into any agreement, if the execution or performance of such agreement would violate or interfere with this MOU or the resulting Solicitations or Contracts.

14. General: This MOU may be amended only by a written instrument executed by all Agencies. This MOU and all transactions contemplated herein shall be governed by, construed in accordance with, and enforced under the laws of the State of Florida, notwithstanding its choice of law rules to the contrary or any other state's choice of law rules. Any litigation involving this MOU shall take place in the state or federal courts located exclusively in Nassau County, Florida.

**IN WITNESS WHEREOF**, the parties have caused this MOU to be executed and delivered by their duly authorized officers, as of the date first above written.

Nassau County, Florida

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

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

JEA

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

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

Approved as to Form:

\_\_\_\_\_  
General Counsel to JEA

Approved as to Form:

\_\_\_\_\_  
General Counsel to Nassau County