

August 2, 2019

April Green
Board Chair
JEA
21 West Church Street
Jacksonville, FL 32202

Aaron Zahn
Managing Director & Chief Executive Officer
JEA
21 West Church Street
Jacksonville, FL 32202

Re: Limitations on Communications Relating to ITN #127-19

Dear April and Aaron,

As you know, JEA released Invitation to Negotiate ("ITN") #127-19, entitled "Strategic Alternatives," on Friday, August 2, 2019. This ITN is a significant solicitation by JEA, and will play an important role in determining the future of JEA. By conducting this solicitation in an appropriate and fair manner JEA can ensure that it will continue to maximize customer value, financial value, community impact value, and environmental value.

Because of the importance of this ITN, and to ensure that JEA can be successful in achieving a solution that maximizes the four corporate measures of value, it is critical that JEA follows the process set forth in the ITN and required by applicable law. By doing so, JEA will be able to ensure that an even-handed and fair competitive process is conducted and all potential bidders are provided with a fair and equal opportunity to present potential strategic alternatives. When this occurs, JEA can realize the benefits of a competitive process that provides an opportunity for all potential strategic alternatives to be explored.

Accordingly, we write today to bring to your attention important limitations on communications with potential bidders that took effect upon the release of the ITN. The release of the ITN caused a prohibition on *ex parte* communications between potential bidders and JEA and its representatives (commonly referred to as a "cone of silence") to take effect. This prohibition is described in more detail in section 1-110 of the JEA Procurement Code. As the Procurement Code states, "adherence to procedures that ensure fairness is essential to the maintenance of public confidence in the value and soundness of the important process," and *ex parte* communications have the potential to deny fair, open, and impartial consideration to companies that may submit a response to the ITN. To ensure that this procurement is conducted in a fair, open, and impartial manner, communications between potential bidders (including their employees, agents, or representatives) and JEA (or its members, employees, agents, or representatives) are strictly prohibited between the time of the ITN's release and the award of a contract resulting from the ITN.



FOLEY & LARDNER LLP

August 2, 2019

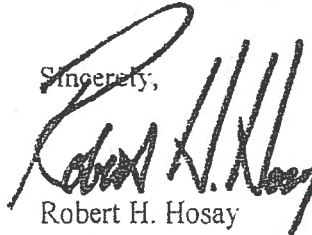
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As a practical matter, this prohibition on *ex parte* communications means that no conversations or communications relating to the ITN should occur between potential bidders and JEA employees, agents, or representatives (including JEA Board members) other than communications between potential bidders and the Designated Procurement Representatives identified in the ITN (John McCarthy and Jenny McCollum) or communications at meetings formally scheduled by JEA as part of the procurement process. If a potential bidder approaches or attempts to have any discussion relating to the ITN with any JEA employee other than one of the Designated Procurement Representatives, or with an agent or representative of JEA (including a JEA contractor), that individual should decline to discuss the ITN or related subjects and should refer the potential bidder to one of the Designated Procurement Representatives identified in the ITN. Should any employee, agent, or representative of JEA have any questions about these requirements of the Procurement Code, or any concern regarding attempted contacts by potential bidders, we would encourage them to contact JEA's Chief Legal Officer, Lynne Rhode, who can assist with their questions and obtain any additional guidance or support that may be necessary.

By ensuring that all communications between potential bidders and JEA relating to the ITN are conducted within the confines of the formal procurement process, and that any improper communications between potential bidders and employees or representatives of JEA are prevented, you can ensure that JEA runs a fair and proper procurement process, and that all potential bidders and potential strategic alternatives have the equal opportunity to be considered.

We appreciate the opportunity to assist you with this important process and provide guidance to ensure that the ITN is conducted in the appropriate and fair manner that JEA intends. If you have any questions, or would like to discuss the limitations on bidder contact discussed in this letter, please do not hesitate to contact us.

Sincerely,



Robert H. Hosay

RHH:bjg