

1 The Finance Committee offers the following Substitute to file no.  
2 2021-117:

3  
4 Co-Introduced by Council Members Pittman, Freeman and Dennis:

5  
6 **ORDINANCE 2021-117**

7 AN ORDINANCE AMENDING CHAPTER 24 (FINANCE AND  
8 ADMINISTRATION DEPARTMENT), PART 6 (PROCUREMENT  
9 DIVISION), SECTION 24.605 (EQUAL BUSINESS  
10 OPPORTUNITY OFFICE FUNCTIONS), *ORDINANCE CODE*;  
11 AMENDING CHAPTER 126 (PROCUREMENT CODE), PART 1  
12 (GENERAL REGULATIONS), SECTIONS 126.102  
13 (DEFINITIONS) AND 126.114 (BUY AMERICAN  
14 PREFERENCE IN CONTRACTS FOR GOODS), *ORDINANCE*  
15 *CODE*; AMENDING CHAPTER 126 (PROCUREMENT CODE),  
16 PART 2 (SUPPLIES, CONTRACTUAL SERVICES, AND  
17 CAPITAL IMPROVEMENTS), SECTION 126.201  
18 (GENERAL), *ORDINANCE CODE*; REPEALING CHAPTER 126  
19 (PROCUREMENT CODE), PART 6A (SMALL BUSINESS  
20 CAPITAL, BONDING, AND OUTREACH PROGRAM) AND PART  
21 6B (JACKSONVILLE SMALL EMERGING BUSINESS  
22 PROGRAM), *ORDINANCE CODE*; CREATING A NEW CHAPTER  
23 126, PART 6 (JACKSONVILLE SMALL AND EMERGING  
24 BUSINESS PROGRAM), SUBPART A (GENERAL  
25 PROVISIONS), SUBPART B (PROGRAM  
26 ADMINISTRATION), SUBPART C (PROGRAM SUPPORT  
27 SERVICES; MARKETING AND OUTREACH; DISPARITY  
28 STUDY UPDATE), SUBPART D (PROGRAM ELIGIBILITY,  
29 PROCEDURES, AND OTHER REQUIREMENTS); REPEALING  
30 ORDINANCE 2019-759-E (AN ORDINANCE APPROVING AND  
31 ADOPTING REVISED UNDERWRITING GUIDELINES FOR THE

1 JSEB ACCESS TO CAPITAL PROGRAM TO CLARIFY PRE-  
2 QUALIFICATION CRITERIA AND REQUIRED  
3 DOCUMENTATION); PROVIDING FOR CODIFICATION  
4 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.  
5

6 **WHEREAS**, the City of Jacksonville ("City") determined in 2004  
7 that growing Jacksonville small and emerging businesses ("JSEBs") was  
8 beneficial to the City and its individual residents; and

9 **WHEREAS**, to that end, the City devised the Jacksonville Small  
10 Emerging Business Program (the "Program") to address several concerns  
11 that were found to impede the growth of small businesses, including  
12 bonding issues, access to capital, training, city procurement  
13 barriers, and lack of resources for growth; and

14 **WHEREAS**, a Special Committee on the Jacksonville Small &  
15 Emerging Business ("Special Committee") was established in August  
16 2020 to review the Program and make improvements and recommendations  
17 to the Program supported by evidence, disparity studies, and  
18 applicable federal and state law; and

19 **WHEREAS**, the Special Committee held multiple meetings and heard  
20 from various guest speakers and presenters, including JSEB vendors,  
21 prime contractors, the City's Procurement Division, other interested  
22 parties, and the public; and

23 **WHEREAS**, a copy of the Special Committee's Final Report is  
24 attached hereto as **Exhibit 1**; and

25 **WHEREAS**, based on the Special Committee's review of the Program,  
26 the City desires to further improve certain aspects of the Program  
27 to better assist JSEBs in growing and graduating from the Program;  
28 now therefore

29 **BE IT ORDAINED** by the Council of the City of Jacksonville:

30 **Section 1. Amending Chapter 24 (Finance and Administration**  
31 **Department), Section 24.605 (Equal Business Opportunity Office**

1 **Functions), Ordinance Code.** Chapter 24 (Finance and Administration  
2 Department), Part 6 (Procurement Division), Section 24.605 (Equal  
3 Business Opportunity Office Functions), *Ordinance Code*, is hereby  
4 amended to read as follows:

5 **CHAPTER 24 - FINANCE AND ADMINISTRATION DEPARTMENT**

6 \* \* \*

7 **PART 6. PROCUREMENT DIVISION**

8 \* \* \*

9 **Sec. 24.605. - Equal Business Opportunity Office functions.**

10 The Equal Business Opportunity Office ("EBO Office") is hereby  
11 an office under the Procurement Division, and the responsibilities  
12 set forth below shall be managed by the JSEB Administrator. All  
13 employees within the EBO ~~office~~ Office shall be responsible for  
14 deployment and administration of Chapter 126, Part 6, and shall:

15 \* \* \*

16 (f) Provide support services to assist ~~certified vendors~~ JSEBs  
17 in their efforts to secure training, bonding and access to  
18 capital pursuant to Chapter 126, Parts ~~6A and 6B,~~ Ordinance of  
19 the Code;

20 (g) Provide annual training, ~~together~~ in consultation with the  
21 Chief of Procurement, to department heads and divisions chiefs,  
22 or their designees, and applicable staff of City boards and  
23 commissions pursuant to Chapter 126, Part ~~6B,~~ Ordinance of the  
24 Code; and

25 \* \* \*

26 **Section 2. Amending Chapter 126 (Procurement Code), Part 1**  
27 **(General Regulations), Sections 126.102 (Definitions) and 126.114**  
28 **(Buy American Preference in Contracts for Goods), Ordinance Code.**

29 Chapter 126 (Procurement Code), Part 1 (General Regulations),  
30 Sections 126.102 (Definitions) and 126.114 (Buy American Preference  
31 in Contracts for Goods), *Ordinance Code*, are hereby amended to read

1 as follows:

2 **CHAPTER 126 - PROCUREMENT CODE**

3 \* \* \*

4 **PART 2. PROCUREMENT DIVISION**

5 \* \* \*

6 **Sec. 126.102. - Definitions.**

7 As used in this Chapter:

8 \* \* \*

9 (h) Local bidder means a bidder who maintains a permanent place of  
10 business in the City and is a separate and distinct term from that  
11 used in Part 6A and ~~6B~~, herein, which contains differing  
12 requirements. If, with respect to a purchase or contract, there  
13 shall be no local bidder within the City, the term local bidder  
14 shall include a bidder whose principal office is located in and  
15 whose principal business is conducted in the State of Florida.

16 \* \* \*

17 **Sec. 126.114. - Buy American Preference in Contracts for Goods.**

18 \* \* \*

19 (b) *Exemptions.* The provisions of this section do not apply to:

20 \* \* \*

21 8. Contracts awarded pursuant to the Jacksonville Small and and  
22 Emerging Business Program, as provided in Chapter 126, Part ~~6B~~,  
23 ~~Chapter 126~~, Ordinance of the Code, including those contracts  
24 where a low bidder is a prime JSEB contractor on a non-set aside  
25 bid.

26 \* \* \*

27 **Section 3. Amending Chapter 126 (Procurement Code), Part 2**  
28 **(Supplies, Contractual Services, and Capital Improvements), Section**  
29 **126.201 (General), Ordinance Code.** Chapter 126 (Procurement Code),  
30 Part 2 (Supplies, Contractual Services, and Capital Improvements),  
31 Sections 126.201 (General), *Ordinance Code*, is hereby amended to read

1 as follows:

2 \* \* \*

3 (b) *Bid bond and/or security.* Except as otherwise provided  
4 herein, all bids under this Part 2 shall be submitted in sealed  
5 form to the Chief, who may require that each bid be accompanied  
6 by a bid security in the form of a certified or cashier's check  
7 or bid bond in the amount as shall be prescribed in the  
8 invitation for bid. The purpose of bid security is to discourage  
9 the withdrawal of bids, to encourage that bidders comply with  
10 the instructions and/or requirements of the invitation for bids,  
11 and that the apparent low bidder will enter into a binding  
12 contract to perform the work in accordance with the bid documents  
13 and the apparent low bidder's bid proposal. Bid securities  
14 ensure that a certain amount of money will be paid in the event  
15 that an apparent low bidder fails to abide by the instructions  
16 and/or requirements of the invitation for bids or fails to enter  
17 into a formal contract pursuant to the same. As such, unless  
18 otherwise permitted by the Chief, bid securities shall not be  
19 discharged until a contract has been executed and a performance  
20 bond accepted in lieu of the bid securities. In lieu of the  
21 furnishing of surety with each individual transaction, bidders  
22 who regularly do business with the City shall be permitted to  
23 file with the Chief an annual or continuing bid bond in an amount  
24 established by the Chief. For projects with a value under  
25 \$500,000: (i) bid bonds shall not be required for ~~certified~~  
26 ~~JSEBs and MBEs (which, by definition in 6B, includes minority~~  
27 ~~and women-owned businesses)~~, as defined in Chapter 126 Part 6;  
28 and (ii) the Chief shall have the discretion to waive the  
29 requirement for bid bonds where there is a written determination  
30 that the imposition of a bid bond may detract from competition  
31 without adding a material benefit to the City.

1 \* \* \*

2 (g) *Formal contract.* The Mayor may require the successful bidder to  
3 promptly execute a formal contract approved as to its form, terms and  
4 conditions, and legal sufficiency by the Office of General Counsel  
5 and to execute and deliver to the Chief a good and sufficient payment  
6 and/or performance bonds in a form approved by the Office of General  
7 Counsel, in an amount equal to 100 percent of the contract price of  
8 a capital improvement project and in an amount established by the  
9 Chief for all other projects, subject to the discretion of the GGAC  
10 or as otherwise provided herein, and executed by a surety company  
11 authorized to do business in Florida; however, a successful bidder  
12 who is awarded a formal contract for equal to or less than the  
13 discretionary ~~threshold~~ payment and performance bond exemption  
14 amounts indicated set forth in F.S. § 255.05(1) (a), Florida Statutes,  
15 for a county, city, political subdivision, or public authority, or  
16 such higher amount as may be permitted by law (the "Statutory  
17 Discretionary Bond Threshold"), may, at the discretion of the GGAC,  
18 upon the request of the using agency and recommendation of the Chief,  
19 be exempted from executing the otherwise required payment and  
20 performance bonds. Final determinations on the need for payment bonds  
21 for projects equal to or less than the Statutory Discretionary Bond  
22 Threshold shall be made by the Chief after determining if there is  
23 an alternate form of security or payment method more readily available  
24 or appropriate. Formal contracts shall not be executed and notices  
25 to proceed shall not be issued for projects, on which successful  
26 bidders are required to provide and/or have not been exempted from  
27 providing payment and performance bonds, until such time as the  
28 requisite payment and performance bonds have been furnished by the  
29 successful bidder. The successful bidder's failure to execute the  
30 formal contract and to secure the payment and performance bonds and  
31 return the same to the City within the time period set forth in the

1 invitation for bids may result in the successful bidder's forfeiture  
2 of the award and forfeiture of the bid security to the City. The  
3 award may then be made to the next lowest responsive, responsible  
4 bidder or re-advertised as the Chief may elect. For ~~certified~~ JSEBs,  
5 as defined in Chapter 126, Part 6, payment and performance bonds  
6 shall not be required on City projects with a value equal to or less  
7 than the Statutory Discretionary Bond Threshold or equal to or less  
8 than the payment and performance bond waiver amount permitted in  
9 Section 18.11 of the Charter. ~~Final determinations on the need for~~  
10 ~~payment bonds for projects under the Discretionary Bond Threshold~~  
11 ~~shall be made by the Chief after determining if there is an alternate~~  
12 ~~form of security or payment method more readily available or~~  
13 ~~appropriate.~~

14 \* \* \*

15 **Section 4. Repealing Chapter 126 (Procurement Code), Part**  
16 **6A (Small Business Capital, Bonding, and Outreach Program) and Part**  
17 **6B (Jacksonville Small Emerging Business Program), Ordinance Code.**  
18 Chapter 126 (Procurement Code), Part 6A (Small Business Capital,  
19 Bonding, and Outreach Program) and Part 6B (Jacksonville Small  
20 Emerging Business Program), *Ordinance Code*, are hereby repealed in  
21 their entirety. Copies of the repealed Chapter 126, Parts 6A and 6B,  
22 are attached hereto as **Exhibit 2**.

23 **Section 5. Creating a new Chapter 126 (Procurement Code),**  
24 **Part 6 (Jacksonville Small and Emerging Business Program), Subpart A**  
25 **(General Provisions), Subpart B (Program Administration), Subpart C**  
26 **(Program Support Services; Marketing and Outreach; Disparity Study**  
27 **Update), and Subpart D (Program Eligibility, Procedures, and Other**  
28 **Requirements), Ordinance Code.** Chapter 126 (Procurement Code), Part  
29 6 (Jacksonville Small and Emerging Business Program), Subpart A  
30 (General Provisions), Subpart B (Program Administration), Subpart C  
31 (Program Support Services; Marketing and Outreach; Disparity Study

1 Update), and Subpart D (Program Eligibility, Procedures, and Other  
2 Requirements), *Ordinance Code*, are hereby created to read as follows:

3 **CHAPTER 126 - PROCURMENT CODE**

4 \* \* \*

5 **PART 6. JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM**

6 **SUBPART A. GENERAL PROVISIONS**

7 **Sec. 126.601 - Legislative Intent.** It is the intent of the City in  
8 enacting this law to provide a comprehensive and robust program to  
9 benefit local small and emerging businesses in the City known as the  
10 "Jacksonville Small and Emerging Business Program".

11 **Sec. 126.602 - Legislative Findings.**

12 The Council finds and declares that:

13 (1) Several issues impede the progress of small and emerging  
14 businesses including, but not limited to, bonding issues, access  
15 to capital, education and training, insurance and lack of  
16 resources for growth; and

17 (2) Growing Jacksonville small and emerging businesses ("JSEBs")  
18 is beneficial to the City and its residents.

19 **Sec. 126.603 - Purpose.** The purpose of the JSEB Program is to support  
20 and assist local small and emerging businesses in obtaining direct  
21 contracting or subcontracting business opportunities with the City.

22 **Sec. 126.604 - Definitions.** The following words and phrases as used  
23 in this Part shall have the following meaning:

24 "Chief" shall mean the Chief of Procurement pursuant to Chapter 24,  
25 Part 6 of the Code.

26 "Director" shall mean the Director of Finance pursuant to Chapter 24,  
27 Part 1 of the Code.



1 "Direct contracting" shall mean any contract between the City and a  
2 JSEB that has been awarded to a JSEB as a prime contractor pursuant  
3 to Chapter 126 of the Code.

4 "EBO Office" shall mean the Equal Business Opportunity Office  
5 established pursuant to Chapter 24, Part 6 of the Code.

6 "front, broker, or pass-through" shall mean a JSEB that is not  
7 registered as a supplier or distributor through the Florida Department  
8 of Revenue, or a JSEB subcontractor who does not self-perform 100  
9 percent of the subcontractor work pursuant to the Schedule of  
10 Participation, or a JSEB prime contractor who does not self-perform  
11 at least 40 percent of the work for the project;

12 "JSEB" shall mean a person or entity certified as a "Jacksonville  
13 Small and Emerging Business" pursuant to the requirements set forth  
14 in Subpart D of this Part 6.

15 "JSEB Administrator" shall mean the individual responsible for  
16 administering and managing the JSEB Program pursuant to Chapter 24,  
17 Part 6 of the Code.

18 "micro-business JSEB" shall mean a JSEB who has a personal net worth  
19 of \$300,000 or less and be at least a 51 percent majority owner of  
20 the business.

21 "Program" shall mean the Jacksonville Small and Emerging Business  
22 Program set forth in this Part 6.

23 "Project Specific Goals" shall mean specific JSEB subcontractor  
24 participation goals, as set by the JSEB Administrator and Chief of  
25 Procurement, that a prime contractor must adhere to in a City awarded  
26 contract.

27 "Program Goals" shall mean the goals for the Program set forth in  
28 Subpart D herein.

29 "Schedule of Participation" shall mean the bidder/proposer's detailed  
30 list of all JSEB and non-JSEB subcontractors from which the

1 bidder/proposer solicited bids or quotations in accordance with  
2 Section 126.616 herein.

3 **Sec. 126.605. - Minimum Program Funding Requirement.** Subject to  
4 availability of funding, the Program, as provided for in this Part,  
5 shall be funded at a minimum of \$500,000, excluding staff, in the  
6 annual budget appropriation. A minimum of \$200,000 of such \$500,000  
7 minimum funding requirement shall be used to fund the training  
8 programs, community outreach and program marketing set forth in  
9 Section 126.610 herein.

10 **SUBPART B. PROGRAM ADMINISTRATION**

11 **Sec. 126.606. - JSEB Administrator.**

12 (a) *Responsibilities.* The JSEB Administrator shall administer and  
13 manage the Program, including:

14 (1) Implementing, monitoring, and enforcing the rules and  
15 regulations of the Program;

16 (2) Unbundling or breaking larger contracts into smaller  
17 components where such actions will facilitate competition and  
18 provide opportunities under the Program;

19 (3) Providing information and assistance to JSEBs relating to  
20 City procurement opportunities, practices and procedures, and  
21 bid and proposal specifications, requirements and prerequisites;

22 (4) Certifying businesses as JSEBs, and maintaining  
23 certification records, ~~and ensuring that such information is~~  
24 ~~available on the City's Procurement Division website identifying~~  
25 ~~all such certified entities;~~

26 (5) Establishing Project Specific Goals after ensuring that  
27 adequate JSEBs are available to do the work;

1 (6) Evaluating prime contractors' achievement of Project  
2 Specific Goals or Good Faith Efforts (as defined in Section  
3 126.618 herein) to meet Project Specific Goals;

4 (7) Working with City departments to ensure prompt payments to  
5 JSEBs for work performed in accordance with Section 126.615  
6 herein;

7 (8) Receiving, reviewing, and acting upon complaints and  
8 suggestions concerning the Program and creating a complaint form  
9 as part of this process that identifies both parties;

10 (9) Providing quarterly open houses to answer questions from  
11 Program participants or prospective participants regarding  
12 Program operations;

13 (10) Posting all contracting opportunities on the Equal Business  
14 Opportunity Office website under "JSEB Program";

15 (11) Identifying all ~~certified companies~~ JSEBs on the Equal  
16 Business Opportunity Office website within three business days  
17 of certification;

18 (12) Advertising all pre-bid conferences in applicable JSEB  
19 newspapers, direct-mail or e-mail notices to JSEBs, as  
20 appropriate, and otherwise seek to increase the interest of all  
21 JSEBs certified in the scopes of work of the contract;

22 (13) Providing interested JSEBs with timely, adequate  
23 information about the plans, specifications and requirements of  
24 the contract to allow them to respond to the solicitation either  
25 directly or by referral to the City department seeking the  
26 procurement;

27 (14) Maintaining a list of JSEBs and posting such list on the  
28 Equal Business Opportunity Office website;

1 (15) Adjusting the annual averaged gross receipts for good cause  
2 shown, subject to the appeals procedure set forth in 126.621  
3 herein;

4 (16) Performing onsite inspections of the JSEB local offices and  
5 business locations; and

6 (17) Facilitating and coordinating all aspects of the Program  
7 so as to provide Program participants and prospective  
8 participants with a primary Program contact.

9 (b) *Department Training.* Each City department, office or board shall  
10 identify to the JSEB Administrator the person with the responsibility  
11 of ensuring JSEB participation in such department, office or board.  
12 Such person shall receive diversity training and shall prepare  
13 quarterly reports to the JSEB Administrator identifying for the three  
14 month quarter period the extent of non-JSEB and JSEB participation  
15 in any procurement within its department, office or board.

16 (c) *Courtesy Application Reviews and Meeting Conferences.* The JSEB  
17 Administrator, or his designee, shall provide courtesy reviews of a  
18 small business's JSEB application to confirm whether the application  
19 has complied with the requirements of this Part. The JSEB  
20 Administrator may conduct such courtesy reviews in person or  
21 electronically with the small business upon request and appointments  
22 shall be scheduled on a first come, first serve basis as time allows.  
23 Additionally, the JSEB Administrator, or his designee, may meet with  
24 prospective JSEBs interested in the Program to provide information  
25 regarding the Program's support and outreach services available to  
26 JSEBs as set forth in this Part.

27 **Sec. 126.607. - JSEB Monitoring Committee; Annual Program Review.**

28 (a) *Establishment; purpose.* There is established a seven-member JSEB  
29 Monitoring Committee ("Committee"), to annually review, in  
30 consultation with the JSEB Administrator: (i) the status of the

1 Program Goals, including, but not limited to, the percentage, number,  
2 and dollar value of contracts awarded to JSEBs through direct  
3 contracting and subcontracts; (ii) the training programs, the "AC  
4 Program," and the bond enhancement program required herein; (iii)  
5 difficulties or accomplishments of the Program; (iv) a comparison of  
6 the achievements under the Program compared with the Program Goals;  
7 (v) the maximum threshold amounts for personal net worth and annual  
8 averaged gross receipts referenced in Section 126.613(c); and (vi)  
9 the limitation on the number of program participation years in Section  
10 126.613(c) to determine if such amounts and limitation on the number  
11 of years are appropriate for the Program. Based on the Committee's  
12 required Program review, the Committee may recommend to the Mayor or  
13 City Council amendments to the Program in the form of a report.

14 (b) *Composition; appointments.* The Mayor shall appoint three members  
15 of the Committee, and the City Council shall appoint four members.  
16 The Committee shall be comprised as follows:

17 (1) one non-JSEB contractor who is a professional engineer or  
18 architect appointed by the Mayor;

19 (2) one non-JSEB contractor who is a licensed general contractor  
20 appointed by the City Council;

21 (3) two JSEB contractors, one appointed by the Mayor and one  
22 appointed by the City Council;

23 (4) two private citizens, one appointed by the Mayor and one  
24 appointed by the City Council; and

25 (5) one representative from the Northeast Florida Builders  
26 Association, Inc., or similar trade association, appointed by  
27 the City Council.

28 Members shall serve for three-year staggered terms. The two non-JSEB  
29 contractor members must have a current contract with the City or have  
30 had a contract with the City in the past. The Mayor shall appoint a

1 Chair and the Chair shall serve until such a time as another Chair  
2 shall be appointed by the Mayor. The Mayor and City Council shall  
3 strive to reflect the diversity of Duval County in its appointments;  
4 each of the seven members shall be confirmed by City Council.

5 (c) *Meetings; applicable laws.* The Committee shall meet quarterly  
6 with the JSEB Administrator, who shall then generate a quarterly  
7 report for the Mayor and City Council no later than 14 days after  
8 each quarterly meeting. The JSEB Administrator, or his designee,  
9 shall provide staff support to the Committee. The JSEB Monitoring  
10 Committee shall be governed by Chapters 286 and 112, Part 3, *Florida*  
11 *Statutes*, and Chapters 50 (Boards and Commissions) and 602  
12 (Jacksonville Ethics Code), of the Code.

13 **SUBPART C. PROGRAM SUPPORT SERVICES; MARKETING AND OUTREACH;**  
14 **DISPARITY STUDY UPDATE**

15 **Sec. 126.608. - Creation of bond enhancement program.**

16 (a) Subject to the availability of funds, the JSEB Administrator  
17 shall competitively procure and maintain annually a contract with a  
18 third-party contractor or contractors to provide a bond enhancement  
19 program for the benefit of JSEBs. The bond enhancement program shall  
20 provide support services to assist JSEBs in their efforts to secure  
21 performance and payment bonds for public and private contracts. The  
22 program shall not provide the underlying bond but shall provide a  
23 refined basis for underwriting bonds, small business support  
24 services, and contractor monitoring necessary for such bond  
25 underwriting, as well as improvement plans for JSEBs who do not  
26 qualify.

27 (b) Section 126.201(b) of the Code provides that JSEBs are not  
28 required to submit bid bonds for projects under \$500,000. Section  
29 126.201(g) provides that JSEBs shall be exempt from obtaining a  
30 payment and performance bond for projects that are (i) equal to or

1 less than the "Discretionary Bond Threshold" amount, as defined in  
2 Chapter 126, Part 2 of the Code; and (ii) equal to or less than the  
3 payment and performance bond waiver amount permitted in Section 18.11  
4 of the Charter.

5 **Sec. 126.609. - Access to capital.**

6 (a) Subject to availability of funds, the City shall create a funding  
7 source to assist JSEBs with obtaining access to capital (the "AC  
8 Program"). The JSEB Administrator, or a third-party contractor  
9 engaged through the JSEB Administrator ("Program Manager"), shall  
10 manage the distribution of said funds, in accordance with guidelines  
11 developed and approved by the JSEB Administrator in order to ensure  
12 proper administration and monitoring and to ensure continuity for the  
13 program. Such guidelines may be developed and approved by the JSEB  
14 administrator without further Council approval. All funds deposited  
15 into the Access to Capital Special Revenue Fund shall be the subject  
16 of a permanent and continuing appropriation when used for the purpose  
17 of loans to assist JSEBs with obtaining access to capital. In the  
18 event that the JSEB Administrator, or his designee, serves as the  
19 Program Manager of the AC Program, the Mayor, or his designee, is  
20 authorized to execute on behalf of the City all loan agreements and  
21 related documents authorized pursuant to the AC Program. In the  
22 event a third-party contract serves as the Program Manager, such  
23 third-party shall act as an agent of the City and is authorized to  
24 execute on behalf of the City all loan agreements and related  
25 documents authorized pursuant to the AC Program.

26 (b) The JSEB Administrator shall monitor and enforce the contract for  
27 disbursing funds and ensure that JSEBs are receiving funding  
28 assistance consistent with this Part.

29 (c) The JSEB Administrator, on a quarterly basis, shall provide a  
30 report on the activity in the AC Program for the preceding three-

1 month period. Such reports will be posted on the Equal Business  
2 Opportunity Office website.

3 (d) The JSEB Administrator or the Program Manager shall host workshops  
4 no less than twice a year to inform potential JSEB participants about  
5 available the AC Program.

6 (e) The JSEB Administrator shall provide a quarterly activity report  
7 for the preceding three months to the JSEB Monitoring Committee for  
8 its use in complying with the reporting requirements pursuant to  
9 Section 126.607 herein.

10 **Sec. 126.610. - Training programs; program marketing; community**  
11 **outreach.**

12 (a) *Continuing education, training and mentoring programs.* The EBO  
13 Office shall be responsible for developing and implementing  
14 continuing education, training, and mentoring programs. Such  
15 continuing education, training, and mentoring programs may include,  
16 but not be limited to, the following topic areas:

17 (1) Requirements related to doing business with the City;

18 (2) Subcontracting documentation requirements;

19 (3) Accounting for the small business;

20 (4) Construction related contractors and subcontractors,  
21 including technology, bidding, bonding, and project management;

22 (5) Key management issues such as cash-flow management, business  
23 planning, marketing, accounting, record keeping, and human  
24 resources management;

25 (6) Business plans, financial plans and continued education  
26 plans;

27 (7) Business profile reviews, to include a SWOT (strength,  
28 weakness, opportunities, threats) analysis;



1 (8) Mentoring with veteran JSEBs and/or industry business  
2 leaders; and

3 (9) Business development education.

4 Subject to availability of funds, the EBO Office may procure a third-  
5 party contractor or contractors, including, but not limited to,  
6 educational institutions, to assist with developing and implementing  
7 the education, training, and mentoring programs required under this  
8 Section.

9 (b) *Program marketing and community outreach.* The Equal Business  
10 Opportunity Office shall be responsible for developing and  
11 implementing marketing campaigns, recruitment activities, and  
12 scholarship programs to increase the number of JSEBs in the Program.  
13 Any funds appropriated for such activities shall be inclusive of  
14 scholarships. The Equal Business Opportunity Office shall also engage  
15 in community outreach by hosting small business program workshops  
16 regarding the Program and the support services available to  
17 prospective JSEBs. Additionally, the Equal Business Opportunity  
18 Office shall survey JSEBs every two years on a survey form approved  
19 by the JSEB Monitoring Committee to ascertain what education, training  
20 and mentoring programs JSEBs need most. The Equal Business Opportunity  
21 Office shall consider such survey results in determining which  
22 education, training, and mentoring programs to pursue under this  
23 Section.

24 **Sec. 126.611. - Insurance program review.** The City's Risk Manager  
25 shall prepare a report on available insurance programs for Florida  
26 small businesses and make recommendations regarding methods or  
27 programs to assist JSEBs in obtaining requisite insurance. Said report  
28 shall be prepared and submitted every six months to the JSEB  
29 Administrator. The JSEB Administrator and the City's Risk Manager  
30 shall meet quarterly regarding available insurance programs. The

1 JSEB Administrator shall publish a copy of the report on the Equal  
2 Business Opportunity Office website.

3 **Sec. 126.612. - Disparity Study Update.** Subject to availability of  
4 funds, the Equal Business Opportunity Office shall have completed an  
5 update to the 2013 disparity study regarding the City of Jacksonville  
6 contracts on or before August 31, 2023. Upon receipt and review of  
7 the completed disparity study update, the JSEB Administrator shall  
8 provide a report to the Mayor and City Council regarding the analysis  
9 and results of the disparity study update.

10 **SUBPART D. - PROGRAM ELIGIBILITY, PROCEDURES, AND OTHER**  
11 **REQUIREMENTS**

12 **Sec. 126.613. - Jacksonville Small and Emerging Businesses defined.**

13 (a) All businesses must be certified under the provisions set forth  
14 below. Certifications will be granted only in those areas for which  
15 the business owner(s) has the ability and expertise to manage and  
16 control the firm's operations and work.

17 (b) A JSEB must provide financial statements prepared by a certified  
18 public accountant and participate in one or more training, education,  
19 or mentoring programs during each 24-month period commencing from the  
20 certification date and provide evidence of such to the JSEB  
21 Administrator.

22 (c) To be certified as a JSEB, an individual owner must meet the  
23 following criteria:

24 (1) Either reside currently in Duval County for a minimum twelve  
25 consecutive month period immediately preceding the JSEB  
26 application date or have an established business with a  
27 principal place of business in Duval County for a minimum  
28 eighteen (18) month consecutive period and reside in Duval, St.  
29 Johns, Nassau, Baker, or Clay County for one year total within  
30 the five County area;

1 (2) Have a personal net worth, excluding personal residence,  
2 that is equal to or less than \$1,320,000, such personal net  
3 worth to include business value and assets (measured as book  
4 value), ownership in other businesses, and all other assets  
5 personally owned or held in trust for the individual owner's  
6 benefit; provided, however, that, notwithstanding personal net  
7 worth, certification hereunder shall require that annual gross  
8 receipts, averaged over the immediately preceding three-year  
9 period, not exceed \$12,000,000. The averaged annual gross  
10 receipts and personal net worth maximum threshold amounts shall  
11 be subject to annual analysis by the JSEB Administrator and  
12 reviewed by the JSEB Monitoring Committee pursuant to Section  
13 126.607 herein;

14 (3) Have not been in the program for a total of more than nine  
15 (9) years from the date of the JSEB's first contract as a prime  
16 contractor of the City or as a subcontractor retained by a prime  
17 contractor of the City, whichever is earlier, provided, however,  
18 that participation may be increased by two (2) one-year periods  
19 for good cause as determined by the JSEB Administrator;

20 (4) Own and control at least 51 percent of the business entity  
21 being certified;

22 (5) Own any license required by local, state, or federal law;

23 (6) Have expertise normally required by the industry for the  
24 field for which certification is sought;

25 (7) Be a for-profit small business concern;

26 (8) Not be a front, broker, or pass-through as defined in Subpart  
27 A of this Chapter;

28 (9) Perform a commercially useful function typical of the field  
29 for which certification is granted;

1 (10) Not be controlled or operate as front by non-JSEB family,  
2 former or present employers. Familial relationships where  
3 capital is provided for the business will be subject to scrutiny  
4 and possible rejection;

5 (11) The JSEB owner(s) contributions of capital or expertise to  
6 acquire the ownership interest must be real and substantial; and

7 (12) Be a business, including a sole proprietorship,  
8 partnership, corporation, limited liability company, or any  
9 other business or professional entity:

10 (i) Which is at least 51 percent owned by an individual  
11 who meets the criterion in paragraph (c)(1) above and has a  
12 business that has been in existence and has had a principal  
13 place of business in Duval County for a year or more. Such  
14 individual must have maintained at least 51 percent ownership  
15 in the business for at least one year; and

16 (ii) In the case of a publicly owned business, at least 51  
17 percent of all classes of the stock of which is owned by one or  
18 more of such persons each of whom meets the personal net worth  
19 criteria set forth above; and

20 (iii) Be a citizen or lawfully admitted permanent resident  
21 of the United States and be compliant with the residency  
22 requirements of this Program.

23 (d) Only a firm that is managed and controlled by a JSEB person(s)  
24 may be certified under this Program. The JSEB owner(s) must actually  
25 exercise control over the firm's operations, work, management and  
26 policy. Indicia of such control are set forth below.

27 (1) A firm must not be subject to any formal or informal  
28 restrictions that limit the customary discretion of such  
29 owner(s). There can be no restrictions through corporate charter  
30 provisions, by-law provisions, contracts or any other formal or

1 informal devices that prevent the JSEB owner(s), without the  
2 cooperation or vote of a non-qualifying person or entity from  
3 making any business decision of the firm.

4 (2) The JSEB owner(s) may delegate various areas of the  
5 management or daily operations of the firm to persons who would  
6 not qualify to be JSEBs only if such delegation is typical in  
7 the industry for such businesses. Such delegations of authority  
8 must be revocable, and the JSEB must retain the power to hire  
9 and fire any such person. The JSEB owner must have an overall  
10 understanding of, and managerial and technical competence,  
11 experience and expertise, directly related to the firm's  
12 operations and work.

13 (3) The JSEB owner cannot engage in outside employment or other  
14 business interests that conflicts with the management of the  
15 firm or prevents the owner from devoting sufficient time and  
16 attention to the affairs of the firm to manage and control its  
17 activities unless such activities would be appropriate with  
18 commensurate businesses, in order to avoid sham or fraudulent  
19 certifications.

20 (e) Only an independent firm may be certified as a JSEB. An  
21 independent firm is one whose viability does not depend on its  
22 relationship with another firm. Recognition of an applicant as a  
23 separate entity for tax or corporate purposes is not necessarily  
24 sufficient to demonstrate that a firm is independent. In determining  
25 whether an applicant is an independent business, the JSEB  
26 Administrator will:

27 (1) Scrutinize relationships with non-JSEBs in such areas as  
28 personnel, facilities, equipment, financial and/or bonding  
29 support, and other resources.

1 (2) Consider whether present or recent family, or  
2 employer/employee relationships between the JSEB owner of the  
3 applicant compromise the applicant's independence.

4 (3) Examine the applicant's relationships with non-JSEB prime  
5 contractors to determine whether a pattern of exclusive or  
6 primary dealings with a prime contractor compromises the  
7 applicant's independence.

8 (4) Consider the consistency of relationships between the  
9 applicant and non-JSEBs with normal industry practices.

10 (5) An owner shall be certified only for specific types of work  
11 for which the owner(s) has the ability and expertise to manage  
12 and control the firm's operations and work.

13 **Sec. 126.614. - JSEB and Program eligibility.**

14 (a) Only businesses that meet the criteria of the Program may be  
15 certified for participation in the Program. The applicant has the  
16 burden of persuasion.

17 (b) The certification status of all JSEBs shall be reviewed every  
18 twenty-four (24) months from the date of initial certification through  
19 a re-certification application. Failure of the firm to seek re-  
20 certification by filing the necessary documentation with the Equal  
21 Business Opportunity Office within 60 days from the date of receipt  
22 of written notification from the Equal Business Opportunity Office  
23 may result in de-certification.

24 (c) It is the responsibility of the JSEB to notify the JSEB  
25 Administrator of any change in its circumstances affecting its  
26 continued eligibility for the Program. Failure to do so may result  
27 in the firm's de-certification.

28 (d) The JSEB Administrator shall decertify a firm that does not meet  
29 the eligibility criteria.

1 (e) A JSEB may receive no more than five prime contracts set aside,  
2 including prime contracts from participation goals, per year or an  
3 aggregate total prime contracts set aside per year in the amount of  
4 \$4,000,000, which ever is greater.

5 (f) Joint ventures between JSEBs and non-JSEBs are not eligible for  
6 the Program, unless they provide structured, detailed, mentoring  
7 opportunities, proof of which shall be provided to the JSEB  
8 Administrator.

9 **Sec. 126.615. - Jacksonville Small and Emerging Business Program**  
10 **Goals; Other Program Directives.**

11 (a) *Program Goals.* The JSEB Program shall be subject to the following  
12 Program Goals:

13 (1) *JSEB Contract goals.* The overall small business goal is at  
14 least 20 percent, such that the City shall award at least 20  
15 percent of total City contracts to JSEBs; provided that such  
16 awards do not violate state or federal law and provided further  
17 that there are JSEBs to perform the work. The Chief, in  
18 consultation with the JSEB Administrator, shall award at least  
19 50 percent of the JSEB contracts through direct contracting.

20 (2) *JSEB CIP goals.* The City shall identify a goal of at least  
21 20% of its work in its CIP program during the annual budget  
22 submission which shall be accomplished with JSEBs, using direct  
23 contracting opportunities and subcontracting goals.

24 (3) *JSEB Project Specific Goals.* The Chief upon the  
25 recommendation of the JSEB Administrator shall establish Project  
26 Specific Goal(s) based on the availability of at least normal  
27 industry practice, as determined in consultation with the user  
28 department, the availability of at least two JSEBs to perform  
29 the functions of those individual contracts and the City's  
30 utilization of such to date. Project Specific Goal(s) shall not

1 be set on emergency contracts as defined by City Code or for  
2 purchases made in conjunction with the State although JSEBs  
3 shall be considered for such single source or emergency  
4 procurements if qualified.

5 (b) *Department Program commitments; training.* The City, through each  
6 department head, shall commit in its budget to award at least 20  
7 percent of its contracts for services, including contractual  
8 services, professional services, professional design services,  
9 construction services or other services, to JSEBs, provided, however,  
10 that such awards shall comply with local, state, and federal law and  
11 that there exist JSEBs to perform the work. To assist the City in  
12 implementing the Program requirements of this Part, the Equal Business  
13 Opportunity Office, through the JSEB Administrator and in  
14 consultation with the Chief of Procurement shall provide annual  
15 training to department heads and division chiefs, or their designees,  
16 and applicable staff of City boards and commissions regarding the  
17 JSEB program and the requirements set forth in this Part.

18 (c) *Direct Contracting.* In implementing the Program, the JSEB  
19 Administrator shall first provide opportunities for direct  
20 contracting. Such opportunities should be created by breaking  
21 procurement packages into smaller components, and separating work  
22 that requires licenses from that which does not in separate bid or  
23 proposal requests where feasible.

24 (d) *Subcontracting.* Opportunities for subcontracting through City  
25 awarded non-JSEB prime contractors should be provided within vertical  
26 construction projects, with horizontal construction project  
27 opportunities being provided to the maximum extent possible by direct  
28 contracting. Nevertheless, the subcontracting opportunities shall be  
29 provided to those trades typically established as subcontractors.

30 (e) *Joint checks; Semi-monthly payments to JSEBs.* The City may  
31 issue joint checks upon the request of the JSEB in order to facilitate



1 bonding, financing, or other requirements of contracting with the  
2 City. The City shall pay JSEBs semi-monthly, upon proper payment  
3 application to the applicable City department. City departments are  
4 to perform all necessary inspections and otherwise endeavor to ensure  
5 that prompt review and as applicable approval of JSEB work is  
6 completed within four days of receipt of invoice. The City shall pay  
7 all approved invoices from JSEBs within three business days of receipt  
8 by the Finance and Administration Department. City departments shall  
9 provide monthly statements to the Director identifying the timing of  
10 JSEB payments for contracts within their departments. These  
11 statements are to be organized and provided to the Mayor, with a copy  
12 to the City's Chief Administrative Officer ("CAO"), quarterly by the  
13 Director. Prime contractors shall be obligated to pay subcontractors  
14 within three days of receipt from the City of funds, and must confirm  
15 payment to the City. Subcontractors will be notified by the City when  
16 a payment application from a prime contractor has been submitted  
17 reflecting work performed by a subcontractor.

18 (f) *Micro-business program.* The JSEB Administrator in consultation  
19 with the Chief shall be responsible for developing and implementing  
20 a micro-business program. The purpose of the micro-business program  
21 shall be to ensure that a micro-business JSEB (as defined in Subpart  
22 A of this Chapter) has an adequate share of direct contracting and  
23 subcontracting opportunities in the Program. Such program may include  
24 participation requirements based on tiered levels of personal net  
25 worth and annual averaged gross receipts, not to exceed the maximum  
26 personal net worth and annual averaged gross receipt amounts set  
27 forth in Section 126.613 herein. The JSEB Administrator shall  
28 promulgate rules and guidelines regarding such program with further  
29 Council approval.

30 **Sec. 126.616. - Contract pre-award compliance procedures.**

1 (a) For all solicitations, the bidder/proposer shall submit a Schedule  
2 of Participation detailing all JSEB, and non-JSEB subcontractors from  
3 which the bidder/proposer solicited bids or quotations. The entities  
4 comprising the JSEB goal of at least 20 percent, or the goals as set  
5 forth supra, shall be identified, or the basis for a waiver for good  
6 faith efforts shall be provided with the bid or proposal. The lists  
7 of JSEBs posted on the City's website establishes the group from  
8 which a bidder/proposer must solicit subcontractors under this  
9 program. The Schedule of Participation shall be due at the time set  
10 out in the solicitation documents.

11 (b) Any agreement between a bidder/proposer that prevents a JSEB from  
12 providing quotations to other bidders/proposers is prohibited.

13 (c) Joint ventures shall only be allowed under this Program in cases  
14 that demonstrate legitimate, detailed JSEB partnerships with non-  
15 JSEBs, proof of which shall be provided to the JSEB Administrator.

16 (d) Where the bidder/proposer cannot achieve the Project Specific  
17 Goal(s), the JSEB Administrator, will determine whether Good Faith  
18 Efforts have been made. In making this determination, the JSEB  
19 Administrator will consider, at a minimum, a matrix to determine the  
20 bidder/proposer's efforts to:

21 (1) Solicit certified subcontractors in the scopes of work of the  
22 contract. The bidder/proposer shall provide interested JSEBs  
23 with timely, adequate information about the plans,  
24 specifications, and other such requirements of the contract to  
25 facilitate their quotation. The bidder/proposer must follow up  
26 initial solicitations with interested JSEBs.

27 (2) Identify a portion of the work available to JSEBs consistent  
28 with their availability.

29 (3) Negotiate in good faith with interested JSEBs. Price sharing  
30 is prohibited in negotiations. Evidence of such negotiation

1 includes the names, addresses, and telephone numbers of JSEBs  
2 that were contacted; a description of the information provided  
3 regarding the plans and specifications for the work selected for  
4 subcontracting; and why agreements could not be reached with  
5 them. The ability or desire of a bidder/proposer to perform the  
6 work of a contract with its own organization does not relieve  
7 it of the responsibility to make Good Faith Efforts on all scopes  
8 of work subject to subcontracting.

9 (4)Facilitate the leasing of equipment supplies or equipment  
10 when they are of such a specialized nature that the JSEB could  
11 not readily and economically obtain them in the marketplace,  
12 where feasible.

13 (5)Provide JSEBs with the scope of work for the project, which  
14 entails the specific work to be performed by the JSEB contractor,  
15 and a pricing proposal from the JSEB based on the specific scope  
16 of work provided. The bidder/proposer shall provide evidence  
17 in the bid documents of meeting this requirements.

18 **Sec. 126.617. - Pre-award review of compliance with numerical goals,**  
19 **including good faith efforts.**

20 (a)The JSEB Administrator shall timely review the Schedule of  
21 Participation prior to award, including the scope of work and the  
22 letters of intent from JSEBs. The JSEB Administrator may request  
23 clarification in writing of items listed in the Schedule of  
24 Participation, provided such clarification shall not include the  
25 opportunity to augment listed JSEBs participation or Good Faith  
26 Efforts. The JSEB Administrator shall review all submittals and  
27 document the participation of each submittal.

28 (b)If the JSEB Administrator determines that the Schedule of  
29 Participation demonstrates that the Project Specific Goal(s) have  
30 been achieved or Good Faith Efforts made, and the user department

1 concurs, the Chief shall recommend award to the General Awards  
2 Committee. The JSEB Administrator shall verify with each JSEB that a  
3 contract in the specified amount has been awarded.

4 (c) The JSEB Administrator may, in consultation with the Chief,  
5 promulgate Program rules to ensure equitable distribution of work by  
6 prime contractors among JSEBs that are certified to do the subcontract  
7 scope of work.

8 **Sec. 126.618. - Good faith efforts in lieu of meeting Program goals.**

9 For a contract with JSEB subcontracting goals, a contractor must  
10 comply by either meeting the goal or demonstrating Good Faith Efforts  
11 to achieve it that are consistent with the requirements set forth in  
12 this Part. In determining whether a bidder/proposer has made Good  
13 Faith Efforts, in lieu of achieving the stated goals, the JSEB  
14 Administrator shall consider all relevant factors, which include:

15 (a) The ability of other bidders/proposers in meeting the Project  
16 Specific Goal(s) may be considered as follows:

17 (1) A contact log showing the name, address, and contact number  
18 (phone or fax) used to contact the proposed JSEB certified in  
19 the scope of work, nature of work requested for quote, date of  
20 contact, person making the effort;

21 (2) The description of work for which a quote was requested;

22 (3) The amount of the quote given, if one was obtained;

23 (4) The list of divisions of work not subcontracted and an  
24 explanation why not; and

25 (5) Subcontractor information as requested by forms developed by  
26 the Equal Business Opportunity Office.

27 (b) For contracts other than for construction related professional  
28 services, a signed letter of intent from all listed JSEBs describing  
29 the work, materials, equipment or services to be performed or provided  
30 by JSEBs and the agreed upon dollar value shall be due with the bid

1 documents but in no event before the expiration of 48 hours after the  
2 submission of the bid.

3 (c) For construction related professional services contracts, the  
4 highest ranked proposer must deliver at the time of fee and contract  
5 negotiations signed letters of intent between the proposer and any  
6 JSEBs the proposer intends to use on the project.

7 If the JSEB Administrator finds that a bidder/proposer did not make  
8 sufficient Good Faith Efforts, the JSEB Administrator shall  
9 communicate this finding to the user department and recommend that  
10 the bid/proposal be rejected. A bidder/proposer may protest this  
11 determination pursuant to the City's bid protest procedures.

12 **Sec. 126.619. - Contract performance compliance procedures.**

13 (a) Upon award of a contract by the City that includes Project Specific  
14 Goal(s), the prompt pay obligations in the City's contract with the  
15 prime contractor, and the contract between the prime contractor and  
16 the subcontractors and subconsultants named in response to this Act  
17 become covenants of performance by the contractor in favor of the  
18 City.

19 (b) The contractor shall provide a listing of all JSEBs and any other  
20 subcontractors to be used in the performance of the contract, and  
21 subcontractor payment information to the City with each request for  
22 payment submitted to the City. The JSEB Administrator and the user  
23 department shall monitor subcontractor participation during the  
24 course of the contract and shall have reasonable access to all  
25 contract-related documentation held by the contractor.

26 (c) The contractor cannot make changes to the Schedule of Participation  
27 or substitute subcontractors named in the Schedule of Participation  
28 without the Chief's prior written approval based on the Ombudsman's  
29 recommendation and JSEB Administrator's compliance review.  
30 Unauthorized changes or substitutions shall be a violation of this

1 chapter, and may constitute grounds for rejection of the bid or  
2 proposal or cause termination of the executed contract for breach,  
3 the withholding of payment and/or subject the contractor to contract  
4 penalties or other sanctions.

5 (1)All requests for changes or substitutions of the  
6 subcontractors named in the Schedule of Participation shall be  
7 made to the Ombudsman with a copy to the JSEB Administrator in  
8 writing, and shall clearly and fully set forth the basis for the  
9 request. A contractor shall not substitute a subcontractor or  
10 perform the work designated for a subcontractor with its own  
11 forces unless and until the Chief approves such substitution in  
12 writing. A contractor shall not allow a substituted  
13 subcontractor to begin work until the Chief has approved the  
14 substitution based on the recommendation of the JSEB  
15 Administrator.

16 (2)The facts supporting the request must not have been known nor  
17 reasonably should have been known by either party prior to the  
18 submission of the Schedule of Participation. Bid shopping is  
19 prohibited. The contractor must bring this dispute to the  
20 Ombudsman for resolution.

21 (3)The Chief's final decision whether to permit or deny the  
22 proposed substitution, and the basis therefore, will be  
23 communicated to the parties in writing by the Chief, with a copy  
24 to the CAO.

25 (4)If the City requires the substitution of a subcontractor  
26 listed in the Schedule of Participation, the contractor shall  
27 undertake Good Faith Efforts to fulfill the Schedule of  
28 Participation if the Project Specific Goals would not otherwise  
29 be met. If the Goal(s) cannot be reached and Good Faith Efforts  
30 have been made, the contractor may substitute with a non-JSEBs.

1 (d) If a Contractor plans to hire a subcontractor on any scope of work  
2 that was not previously disclosed in the Schedule of Participation,  
3 the contractor shall obtain the approval of the JSEB Administrator  
4 to modify the Schedule of Participation and must make Good Faith  
5 Efforts to ensure that JSEBs have a fair opportunity to bid on the  
6 new scope of work.

7 (e) Changes to the scopes of work shall be documented by the user  
8 department at the time they arise, to establish the reasons for the  
9 change and the effect on achievement of the Project Specific Goal(s).

10 **Sec. 126.620. - Continuing obligations of JSEBs and graduation.**

11 A JSEB shall apply for re-certification every twenty-four (24) months  
12 from the date of initial certification through a re-certification  
13 application developed by the JSEB Administrator. Failure of the firm  
14 to seek re-certification by filing the necessary documentation with  
15 the Equal Business Opportunity Office within 60 days from the date  
16 of receipt of written notification from the Equal Business Opportunity  
17 Office may result in de-certification.

18 (a) It is the responsibility of the JSEB to notify the Equal Business  
19 Opportunity Office of any change in its circumstances affecting its  
20 continued eligibility for the Program. Failure to do so may result  
21 in the firm's de-certification and preclusion from future  
22 participation.

23 (b) The JSEB that no longer meets certification may be decertified at  
24 any time.

25 (c) A firm, or qualifying individuals, who have participated in the  
26 JSEB program for a total of nine (9) years from the date of the JSEB's  
27 first contract as a prime contractor of the City or as a subcontractor  
28 retained by a prime contractor of the City, whichever is earlier, and  
29 subject to the extensions for good cause provided in Section 126.613,  
30 shall graduate from the Program.

1 **Sec. 126.621. - De-certification, Denial and appeal procedure.**

2 (a)The JSEB Administrator may move to decertify a JSEB that repeatedly  
3 fails to honor quotations in good faith, or otherwise comply with  
4 Program requirements.

5 (b)A firm that has been denied certification or re-certification or  
6 been decertified may protest the denial or de-certification as  
7 follows:

8 (1)Within 15 days of receipt of denial of certification or re-  
9 certification, or notice of intent to decertify, the firm may  
10 protest such action in writing to the JSEB Administrator.

11 (2)An informal hearing shall be held by the JSEB Administrator,  
12 at which the firm may present additional facts and evidence in  
13 support of its eligibility. The JSEB Administrator may request  
14 the attendance of any witness and production of any documents  
15 concerning the applicant's affairs. The applicant's failure to  
16 comply promptly with these requests may be grounds for denial  
17 of the appeal.

18 (3)The JSEB Administrator shall determine the firm's eligibility  
19 on the basis of the information provided at the hearing. The  
20 JSEB Administrator's written decision shall be communicated to  
21 the firm within ten days of the hearing.

22 (4)The applicant may appeal the JSEB Administrator's decision  
23 in writing to the City's Government Awards Committee or the  
24 Professional Services Evaluation Committee within five days of  
25 receipt of the determination. The Committee shall hold a hearing  
26 within ten days of receipt of the written notice of appeal, and  
27 render a final decision within 30 days of the hearing. The  
28 presumption that the decertified firm is eligible shall remain  
29 in effect until the City renders a final decision.



1 (5)A firm denied or found to be ineligible may not apply for  
2 certification for one year after the effective date of the final  
3 decision.

4 (c)A third party may challenge the eligibility of an applicant for  
5 certification or a certified firm. The presumption that the challenged  
6 firm is eligible shall remain in effect until the City renders a  
7 final decision. A third party challenge shall be made as follows:

8 (1)The challenge shall be made in writing to the Director and  
9 shall include all information relied upon by the challenging  
10 party.

11 (2)The JSEB Administrator shall notify the challenged firm in  
12 writing of the challenge, identify the challenging party and  
13 provide the challenged firm with a copy of the challenge. The  
14 notice may also require the challenged firm to provide the JSEB  
15 Administrator, within a reasonable time, any information  
16 requested to permit the JSEB Administrator to evaluate the  
17 eligibility of the firm.

18 **Sec. 126.622. - Other provisions of purchasing code to apply.**

19 Except as provided in this part to implement the Program, the  
20 provisions of Parts 1, 2, 3 and 4, of Chapter 126, apply. The Director  
21 shall establish rules that specify the manner in which conflicts  
22 between the provisions of Parts 1, 2, 3, or 4 of this chapter are to  
23 be resolved.

24 **Sec. 126.623. - Counting subcontracting participation of JSEBs.**

25 (a) The entire amount of that portion of a construction subcontract  
26 that is performed by the JSEB's own forces shall be counted, including  
27 the cost of supplies and materials obtained by the JSEB for the work  
28 of the subcontract, and supplies purchased or equipment leased by the  
29 JSEB. Supplies and equipment purchased or leased by a JSEB from the

1 prime contractor or its affiliate shall not count as JSEB  
2 participation.

3 (b) The entire amount of fees or commissions charged by a JSEB for  
4 providing a bona fide service, such as professional, technical,  
5 consultant or managerial services, or for providing bonds or insurance  
6 specifically required for the performance of a contract shall be  
7 counted, provided the fee is reasonable and not excessive as compared  
8 with fees customarily charged for similar services.

9 (c) If a firm ceases to be a certified JSEB during a contract, the  
10 dollar value of work performed under a contract with that firm after  
11 it has ceased to be certified shall be counted in the City's internal  
12 accounting. No contractor shall be penalized in any way as a result  
13 of the failure of a project to achieve its Project Specific Goals  
14 because of the operation of this Section.

15 (d) In determining achievement of a Subcontracting Participation Goal,  
16 the participation of a JSEB shall not be counted until the amount  
17 being counted has been paid to that entity.

18 (e) Achievement of Project Specific Goal(s) shall be evaluated  
19 following the completion of the project.

20 **Sec. 126.624. - Acts which may result in expulsion from the JSEB**  
21 **program; fines, and criminal offenses.**

22 (a) The following violations of this chapter are unlawful and may be  
23 prosecuted in Municipal Court as Class D offenses:

24 (1) Providing information to the City in connection with an  
25 application for or challenge to certification, re-certification  
26 or de-certification as JSEBs that the providing party knew or  
27 should have known to be false or misleading.

28 (2) Providing information to the City in connection with  
29 submission of a bid, responses to requests for qualifications  
30 or proposals, Good Faith Efforts documentation, post-award

1 compliance, or other Program operations that the providing party  
2 knew or should have known to be false or misleading.

3 (3) Falsely attesting to re-certification under this program.

4 (4) Substituting JSEB subcontractors without first receiving  
5 approval for such substitutions.

6 (5) Committing any other violations of the provisions of this  
7 chapter.

8 (6) Submitting false documentation for payments.

9 (b)A bidder, proposer, contractor, or subcontractor is subject to  
10 withholding of payments under the contract, termination of the  
11 contract for breach, contract penalties, de-certification as a JSEB,  
12 or being barred or deemed non-responsive in future City solicitations  
13 and contracts for up to two years, if it is found to have:

14 (1) Provided information in connection with an application for  
15 certification or re-certification that it knew or should have  
16 known to be false or misleading.

17 (2) Provided information in connection with the submission of a  
18 bid or proposal or documentation of Good Faith Efforts, post-  
19 award compliance, or other Program operations that it knew or  
20 should have known to be false or misleading.

21 (3) Failed in bad faith to fulfill the Subcontracting  
22 Participation Goal, thereby materially breaching the contract.

23 (4) Repeatedly failed to comply in good faith with substantive  
24 provisions of this chapter.

25 **Section 6. Repealing Ordinance 2019-759-E.** Ordinance 2019-  
26 759-E (An Ordinance Approving and Adopting Revised Underwriting  
27 Guidelines for the JSEB Access to Capital Program to Clarify Pre-  
28 Qualification Criteria and Required Documentation) is hereby repealed  
29 as of the effective date of this ordinance. A copy of Ordinance

1 2019-759-E is attached here to as **Exhibit 3**. The JSEB Access to  
2 Capital Program shall be governed by the program guidelines developed  
3 and approved by the JSEB Administrator pursuant to Chapter 126, Part  
4 6 of the Code, without further approval by the City Council.

5 **Section 7. Codification Instructions.** The Codifier and the  
6 Office of General Counsel are authorized to make all chapter and  
7 division "tables of contents" consistent with the changes set forth  
8 herein. Such editorial changes and any others necessary to make the  
9 Ordinance Code consistent with the intent of this legislation are  
10 approved and directed herein, and changes to the Ordinance Code shall  
11 be made forthwith and when inconsistencies are discovered.

12 **Section 8. Effective Date.** This ordinance shall become  
13 effective upon signature by the Mayor or upon becoming effective  
14 without the Mayor's signature.

15  
16 Form Approved:

17  
18           /s/ Lawsikia J. Hodges          

19 Office of General Counsel

20 Legislation Prepared By: Lawsikia J. Hodges

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