

1 The Neighborhoods, Community Services, Public Health and Safety
2 Committee offers the following Substitute to File No. 2023-20:

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4 Introduced by Council Member Cumber and Co-Sponsored by Council
5 Members Salem, Gay and Carlucci:

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8 **ORDINANCE 2023-20**

9 AN ORDINANCE RELATING TO THE CITY OF
10 JACKSONVILLE'S PROCUREMENT CODE; REPEALING AND
11 REPLACING PART 1 (GENERAL REGULATIONS), PART 2
12 (SUPPLIES, CONTRACTUAL SERVICES AND CAPITAL
13 IMPROVEMENTS), PART 3 (PROFESSIONAL SERVICES
14 CONTRACTS), PART 5 (EXTRAORDINARY CRITICAL
15 PURCHASING PROCEDURES), PART 7 (DESIGN-BUILD
16 CONTRACTS), AND PART 9 (ART IN PUBLIC PLACES),
17 CHAPTER 126 (PROCUREMENT CODE), *ORDINANCE CODE*,
18 AND PART 6 (CULTURAL SERVICE GRANT PROGRAM),
19 CHAPTER 118 (CITY GRANTS), *ORDINANCE CODE*, IN
20 THEIR ENTIRETY; CREATING A NEW PART 1 (GENERAL
21 REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC
22 CONTRACTING), PART 2 (JACKSONVILLE PROCUREMENT
23 AWARDS COMMITTEE), PART 3 (PROCUREMENT
24 THRESHOLDS, MODES, METHODS, AND PROCEDURES),
25 PART 5 (EX-OFFENDER PROGRAM), PART 7 (BUY
26 AMERICAN PROGRAM), AND PART 9 (PROTESTS,
27 SUSPENSION, AND DEBARMENTS), CHAPTER 126
28 (PROCUREMENT CODE), *ORDINANCE CODE*, TO MODERNIZE
29 AND PROVIDE FOR GREATER EFFICIENCIES IN THE CITY
30 OF JACKSONVILLE PROCUREMENT CODE; CREATING A NEW
31 PART 6 (CULTURAL SERVICE GRANTS AND ART IN

1 PUBLIC PLACES), SUBPART A (CULTURAL SERVICE
2 GRANT PROGRAM) AND SUBPART B (ART IN PUBLIC
3 PLACES PROGRAM), CHAPTER 118 (CITY GRANTS),
4 ORDINANCE CODE, TO RELOCATE THE ART IN PUBLIC
5 PLACES PROGRAM PREVIOUSLY UNDER PART 9, CHAPTER
6 126, ORDINANCE CODE, TO PART 6, CHAPTER 118,
7 ORDINANCE CODE; CREATING A NEW PART 4 (CONTRACT
8 ADMINISTRATION AND OVERSIGHT; CONTRACT
9 EXECUTION), CHAPTER 21 (EXECUTIVE BRANCH,
10 GENERALLY), ORDINANCE CODE, TO REQUIRE CONTRACT
11 ADMINISTRATION AND OVERSIGHT IN CITY CONTRACTS;
12 AMENDING PART 4 (NONDISCRIMINATION POLICY),
13 CHAPTER 126 (PROCUREMENT CODE), ORDINANCE CODE,
14 TO AMEND THE DEFINITION OF NONDISCRIMINATION
15 CONSISTENT WITH EMPLOYEE SERVICES
16 NONDISCRIMINATION POLICY; AMENDING PART 6
17 (JACKSONVILLE SMALL AND EMERGING BUSINESS
18 PROGRAM), CHAPTER 126 (PROCUREMENT CODE),
19 ORDINANCE CODE, TO MAKE THE PART CONSISTENT WITH
20 THE CHANGES IN THIS ORDINANCE; AMENDING SECTION
21 122.605 (REVIEW, AMENDMENT, ADOPTION AND
22 APPROPRIATION BY CITY COUNCIL), PART 6 (CAPITAL
23 IMPROVEMENT PLAN), CHAPTER 122 (PUBLIC
24 PROPERTY), ORDINANCE CODE, TO PROVIDE FOR
25 EMERGENCY CAPITAL IMPROVEMENT PROJECTS IN
26 ACCORDANCE WITH CHAPTER 126, ORDINANCE CODE;
27 AMENDING SECTION 108.505 (SPECIAL COUNSEL), PART
28 5 (LEGAL SERVICES), CHAPTER 108 (CENTRAL
29 SERVICES), ORDINANCE CODE, TO REFERENCE BOND AND
30 DISCLOSURE COUNSEL; AMENDING SECTION 24.603
31 (DUTIES OF CHIEF OF PROCUREMENT), PART 6

1 (PROCUREMENT DIVISION), CHAPTER 24 (FINANCE AND
2 ADMINISTRATION DEPARTMENT), *ORDINANCE CODE*, TO
3 ADD ADDITIONAL DUTIES OF THE CHIEF OF
4 PROCUREMENT REGARDING CONTRACT ADMINISTRATION
5 AND OVERSIGHT; PROVIDING FOR OFFICE OF GENERAL
6 COUNSEL TO ENGAGE BOND COUNSEL AND DISCLOSURE
7 COUNSEL TO ASSIST THE CITY IN ITS FINANCE
8 MATTERS PURSUANT TO ARTICLE 7 OF THE CITY
9 CHARTER; ESTABLISHING A PROSPECTIVE DATE OF JULY
10 1, 2024, FOR CODE REPEALS, AMENDMENTS, AND NEW
11 PROVISIONS CONTAINED IN THIS ORDINANCE TO BECOME
12 EFFECTIVE; DIRECTING THE CHIEF OF PROCUREMENT TO
13 UPDATE THE PROCUREMENT OPERATING MANUAL
14 CONSISTENT WITH THIS ORDINANCE PRIOR TO JUNE 1,
15 2024; PROVIDING FOR OVERSIGHT BY THE
16 PROCUREMENT DIVISION, FINANCE AND
17 ADMINISTRATION DEPARTMENT; PROVIDING FOR
18 CODIFICATION INSTRUCTIONS; PROVIDING AN
19 EFFECTIVE DATE.
20

21 **WHEREAS**, the City of Jacksonville's Procurement Code has not
22 been comprehensively reviewed and updated by the City Council in over
23 30 years; and

24 **WHEREAS**, the City desires to streamline and make the City's
25 procurement process more efficient for City agencies and third-party
26 entities contracting with the City by adapting the existing Code
27 procedures to the City's Enterprise Resource Planning (ERP) system,
28 streamlining the existing procurement awards committees, and
29 providing greater efficiency and flexibility to the City regarding
30 procurement methods, modes, and procedures; and

31 **WHEREAS**, additionally, the City desires to increase

1 transparency, accountability, and ethics in City procurement for the
2 benefit of City officers, City employees, and the citizens of
3 Jacksonville; now, therefore

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

5 **Section 1. Recitals.** The recitals above are true and
6 correct and incorporated herein by this reference.

7 **Section 2. Repealing and Replacing Part 1 (General**
8 **Regulations), Part 2 (Supplies, Contractual Services and Capital**
9 **Improvements), Part 3 (Professional Services Contracts), Part 5**
10 **(Extraordinary Critical Purchasing Procedures), Part 7 (Design-Build**
11 **Contracts), and Part 9 (Art in Public Places), Chapter 126**
12 **(Procurement Code), Ordinance Code, and Part 6 (Cultural Service**
13 **Grant Program), Chapter 118 (City Grants), Ordinance Code, in their**
14 **entirety.** Part 1 (General Regulations), Part 2 (Supplies, Contractual
15 Services and Capital Improvements), Part 3 (Professional Services
16 Contracts), Part 5 (Extraordinary Critical Purchasing Procedures),
17 Part 7 (Design-Build Contracts), and Part 9 (Art in Public Places),
18 Chapter 126 (Procurement Code), *Ordinance Code*, and Part 6 (Cultural
19 Service Grant Program), Chapter 118 (City Grants), *Ordinance Code*,
20 are hereby repealed and replaced in their entirety. Copies of the
21 repealed Parts 1-3, 5, 7, and 9, Chapter 126, *Ordinance Code*, and
22 Part 6, Chapter 118, *Ordinance Code*, have been placed **On File** with
23 the Legislative Services Division.

24 **Section 3. Creating a new Part 1 (General Regulations;**
25 **Ethics and Transparency in Public Contracting), Part 2 (Jacksonville**
26 **Procurement Awards Committee), Part 3 (Procurement Thresholds, Modes,**
27 **Methods, and Procedures), Part 5 (Ex-Offender Program), Part 7 (Buy**
28 **American Program), and Part 9 (Bid Protests, Suspension, and**
29 **Debarments), Chapter 126 (Procurement Code), Ordinance Code.** Part 1
30 (General Regulations; Ethics and Transparency in Public Contracting),
31 Part 2 (Jacksonville Procurement Awards Committee), Part 3

1 (Procurement Thresholds, Modes, Methods, and Procedures), Part 5 (Ex-
2 Offender Program), Part 7 (Buy American Program), and Part 9 (Bid
3 Protests, Suspension, and Debarments), Chapter 126 (Procurement
4 Code), *Ordinance Code*, are hereby created to read as follows:

5 **CHAPTER 126 - PROCUREMENT CODE**

6 **PART 1. - GENERAL REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC**
7 **CONTRACTING**

8 **SUBPART A. - GENERAL REGULATIONS**

9 **Sec. 126.101. - Short title.**

10 This chapter shall be known as the Jacksonville Procurement Code (the
11 "Jax P-Code" or "Chapter").

12 **Sec. 126.102. - Interpretation; Guiding Principles.**

13 This Jax P-Code shall be construed and applied to promote the
14 following guiding principles. The guiding principles of this Jax P-
15 Code are to:

- 16 a) Simplify, clarify, and modernize the local laws governing
17 the City's procurement process;
- 18 b) Permit the continued improvement and development of the
19 City's procurement process' policies and practices;
- 20 c) Provide for increased public confidence in the City's
21 procurement process' policies and practices;
- 22 d) Ensure the fair treatment of all persons who participate
23 in the City's procurement process;
- 24 e) Provide increased economy and efficiency in the City's
25 procurement process;
- 26 f) Maximize to the fullest extent practicable the City's
27 purchasing value in the City's procurement process;
- 28 g) Foster effective open competition to the fullest extent
29 practicable in the City's procurement process while also
30 meeting the City's procurement needs;
- 31 h) Adapt the City's procurement policies and practices to the

1 City's Enterprise Resource Planning (ERP) system; and
2 i) Provide safeguards for the maintenance of quality and
3 integrity in the City's procurement process.

4 **Sec. 126.103. - Applicability to City agencies.**

5 Except as otherwise provided herein, this Jax P-Code shall apply to
6 all City procurements and independent agency procurements in
7 accordance with Section 126.104. Nothing in this Jax P-Code or the
8 Procurement Operating Manual shall prevent any using agency from
9 complying with the terms and conditions of any grant, gift, or bequest
10 where otherwise authorized by law.

11 **Sec. 126.104. - Applicability to independent agencies.**

12 This Chapter is applicable to independent agencies that are required
13 by ordinance or Charter to procure services through the Division.
14 Independent agencies that are not required to procure services through
15 the Division may voluntarily procure services pursuant to this
16 Chapter.

17 **Sec. 126.105. - Definitions.**

18 The following terms or phrases, wherever used or referred to in this
19 Chapter, shall have the following respective meanings for the
20 purposes of this Chapter, unless different meanings are clearly
21 indicated by the context. Capitalized terms used in this Chapter,
22 but not defined herein, shall have the meanings ascribed to them in
23 the Procurement Operating Manual. When not inconsistent with the
24 context, words used in the present tense shall include the future,
25 and words in the plural shall include the singular and words in the
26 singular shall include the plural.

27 *Bid* means the document(s) received by the City pursuant to a
28 competitive solicitation issued under this Chapter. The term
29 includes (i) price quotes received pursuant to an invitation to
30 bid, (ii) proposals received pursuant to a request for
31 proposals, (iii) statements of qualifications received pursuant

1 to a request for qualifications, (iv) replies received pursuant
2 to an invitation to negotiate.

3 *Bidder* means those persons who submit a bid, proposal, response,
4 or reply to a competitive solicitation issued under this
5 Chapter.

6 *Capital improvement* means (i) any permanent addition,
7 construction, or fixture to publicly owned real property or
8 structures or (ii) a "capital improvement project" as defined
9 in Chapter 122, Part 6 of the Code, as amended.

10 *Chief* means the Chief of Procurement as established in Chapter
11 24 of the Code or any successor chief position.

12 *Competitive solicitation* means the process of requesting and
13 receiving sealed bids for formal purchases in accordance with
14 the terms of an invitation to bid, a request for proposals, a
15 request for qualifications, invitation to negotiate or other
16 competitive procurement process hereunder.

17 *Contractual services* mean the rental, repair and maintenance of
18 equipment and personal property required by using agencies but
19 not furnished by their own employees, and utilities and other
20 services of all types, including types not enumerated herein.
21 This term shall not include professional services, professional
22 design services, or capital improvements as defined herein.

23 *City Ethics Office* means the Office of Ethics, Compliance and
24 Oversight established in Chapter 602 of the Code.

25 *Department* means the Department of Finance and Administration,
26 or any successor department or City unit.

27 *Director* means the Director of the Department of Finance and
28 Administration or any successor director position.

29 *Division* means the Division of Procurement, or any successor
30 division or City unit.

31 *Emergency* means an immediate danger to the public health,

1 safety, or welfare, an immediate danger of loss of public or
2 private property, a reasonably unforeseen breakdown in
3 machinery, a reasonably unforeseen threatened curtailment,
4 diminution, or termination of an essential governmental service,
5 the reasonably unforeseen development of a dangerous condition
6 or the development of a reasonably unforeseen circumstance that
7 threatens the curtailment or diminution of an essential
8 governmental service or of deposits and investments of City
9 capital or other threatened losses to the City that, in the
10 opinion of the Chief, require emergency action.

11 *Formal purchase* means the definition ascribed to this term in
12 this Chapter.

13 *Local bidder* means a bidder who maintains a permanent place of
14 business in the City and is a separate and distinct term from
15 that used in Part 6 herein, which contains differing
16 requirements. If, with respect to a purchase or contract, there
17 shall be no local bidder within the City, the term local bidder
18 shall include a bidder whose principal office is in and whose
19 principal business is conducted in the State of Florida.

20 *Procurement* means buying, purchasing, renting, leasing, or
21 otherwise acquiring any supplies, services, or construction. It
22 also includes all functions that pertain to the obtaining of any
23 supply, service, or construction, including the description of
24 requirements, selection and solicitation of sources, preparation
25 and award of contract and contract administration.

26 *Procurement Operating Manual* means the manual containing the
27 rules, regulations, and procedures promulgated in accordance
28 with this Chapter.

29 *Professional design services* mean those services within the
30 scope of the practice of architecture, professional engineering,
31 landscape architecture, or registered surveying and mapping, as

1 defined by the laws of the State of Florida, or those performed
2 by any architect, professional engineer, landscape architect,
3 or registered surveyor and mapper in connection with his or her
4 professional employment or practice.

5 *Professional services* mean services other than those defined
6 herein as "professional design services," the value of which is
7 substantially measured by the professional competence of the
8 person or entity performing them and which are not susceptible
9 to realistic competition by cost of services alone. Professional
10 services will generally include, without limitation, services
11 customarily rendered by medical practitioners or professionals,
12 certified public accountants, audit services, attorneys,
13 financial, political, personnel, technological, systems,
14 planning and management consultants, and insurance brokers for
15 purposes of consulting, structuring coverage and procuring
16 insurance.

17 *Responsive bidder or proposer or respondent* means a bidder or
18 proposer or respondent who has submitted a bid or proposal or
19 reply that conforms, in all material respects, to an invitation
20 for bids, request for proposals, an invitation to negotiate or
21 any other procurement method authorized pursuant to this
22 chapter.

23 *Supplies* means commodities, goods, materials, equipment and
24 other tangible articles or things which shall be furnished to
25 or used by a using agency, including commercial printing,
26 binding or publication of stationery, forms, journals, and
27 reports.

28 *Supplier or Contractor* means a person or entity contracting with
29 the City or a using agency to provide services pursuant to this
30 Chapter.

31 *Using agency* means a (i) City department, division, office,

1 board, agency, commission, or other governmental unit of the
2 City; or (ii) an independent agency required or voluntarily
3 requesting to use the services of the Division.

4 **Sec. 126.106. - Execution of contracts.**

5 (a) *Execution of form approved contracts.* Contracts form approved
6 by the Office of General Counsel and executed by the contractor and
7 the City pursuant to this Chapter on behalf of the executive branch
8 shall be executed by the Mayor, or his designee, and the Corporation
9 Secretary. The Corporation Secretary shall maintain copies of
10 executed contracts for the executive branch. Contracts form approved
11 by the Office of General Counsel and executed by the contractor and
12 the City pursuant to this Chapter on behalf of the internal operations
13 of the office of the legislative branch shall be executed by the City
14 Council President or, if authorized by the City Council President,
15 the Vice President, and the City Council Secretary. The City Council
16 Secretary shall maintain copies of executed contracts for the
17 legislative branch.

18 (b) *Execution of purchase order contracts.* Purchase orders, except
19 those for capital improvements, shall be approved and executed by the
20 Chief after approval by the Director as to the availability of funds.
21 The terms and conditions contained in purchase orders shall be binding
22 upon contractors doing business with the City or using agency.

23 (c) *Electronic execution.* Unless otherwise prohibited by law or the
24 Code, contracts and purchase orders executed in accordance with this
25 Chapter may be transmitted and executed in electronic form, which may
26 include without limitation the use of electronic and digital programs,
27 applications, or signatures (e.g., DocuSign, Adobe Acrobat, etc.).

28 **Sec. 126.107. - Access to supplier records; supplier compliance with**
29 **applicable laws.**

30 (a) *City access to and examination of supplier records.* Suppliers
31 shall agree by contract and be deemed to have agreed by doing business

1 with the City to allow access and examination at all reasonable times
2 by the City Council Auditor, the Inspector General, the City Ethics
3 Office or any duly authorized representative of the City Council
4 Auditor, Inspector General or City Ethics Office to business records
5 directly pertinent to the transaction until the expiration of three
6 years after final payment pursuant to the transaction or contract.
7 Regarding the City Council Auditor, all examinations shall be in
8 accordance with Article 5 of the Charter and Chapters 13 and 102 of
9 the Code. Regarding the Inspector General and the City Ethics Office,
10 the Inspector General and the City Ethics Office may examine business
11 records of persons or entities doing business with the City pursuant
12 to Chapter 602 of the Code.

13 (b) *Compliance with applicable laws.* Suppliers shall agree by
14 contract and be deemed to have agreed by doing business with the City
15 to comply with all applicable federal, state, and local laws, rules,
16 and regulations as the same exist or as may be amended from time to
17 time, including, but not limited to the Public Records Law, F.S. Ch.
18 119.

19 **Sec. 126.108. - Exemptions from competitive solicitation.**

20 The following purchases, supplies, services, and agreements are
21 exempt from competitive solicitation under this Chapter:

- 22 a) Any exempt contractual services or commodities described under
23 Section 287.057, F.S., as applicable;
- 24 b) Program or agency reviews if the fee for such review services
25 does not exceed the formal threshold amount applicable to such
26 services;
- 27 c) Government Collaborative Agreements;
- 28 d) Government Joint Projects;
- 29 e) Active Government Procured Contracts (Piggyback);
- 30 f) Short-Term No Costs Pilot Projects;
- 31 g) Supplies or services to be provided by those specifically

1 prescribed within authorizing legislation;

2 h) Professional services performed by a nonprofit professional
3 organization or the members thereof, when the membership
4 includes a significant number of City employees engaged in the
5 practice of the profession;

6 i) Art reproduction services from local suppliers;

7 j) Financial Instruments, Investments, and Services;

8 k) Services related to Building Inspection Division work; and

9 l) Any goods, supplies, services, including professional services,
10 relating to cybersecurity matters, including those matters
11 exempt from public records and open meetings pursuant to Section
12 119.0725, F.S.

13 Unless otherwise provided herein, the exempt services listed above
14 shall be subject to all other provisions and requirements of this
15 Chapter. The Chief may promulgate non-competitive procedures
16 pertaining to the procurement of exempt services listed above in the
17 Procurement Operating Manual, subject to JPAC and the Mayor's
18 approval.

19 **Sec. 126.109. - Severability.**

20 If any provision of this Jax P-Code or any application thereof to any
21 person or circumstances is held invalid, such invalidity shall not
22 affect other provisions or applications of this Jax P-Code which can
23 be given effect without the invalid provision or application.
24 Accordingly, the provisions of this Jax P-Code are declared to be
25 severable.

26 **SUBPART B. - ETHICS AND TRANSPARENCY IN PUBLIC CONTRACTING**

27 **Sec. 126.110. - Definitions.**

28 For purposes of this subpart the following terms shall have the
29 meanings given below:

30 *bid* means any written bid, written proposal, written reply,
31 written quote or written offering of any kind or description

1 whatsoever submitted for the purpose of being awarded or entering
2 a contract, purchase agreement, sales transaction, or other
3 contractual agreement with the City under the provisions of this
4 P-Code.

5 *Contract* means any contract, agreement, purchase order or other
6 document used to evidence the existence of a purchase or sales
7 transaction under the provisions of this P-Code, or any subsequent
8 change order or amendment to any such contract document.

9 *public official* means any one or more individuals who have been
10 elected to any state or local office and which office has a
11 geographical jurisdiction or description covering all of, more
12 than but including all or a portion of, or less than but including
13 a portion of, Duval County, Florida, any one or more individuals
14 who have been appointed to the governing body of any independent
15 agency of the City, or an appointed employee of the City.

16 *financial interest* means any ownership interest of a public
17 official in any proposer, bidder, contractor, or first tier
18 subcontractor (that is, a person or business entity under contract
19 to provide or providing capital improvement services, professional
20 design services, professional services, labor, materials,
21 supplies or equipment directly to the proposer, bidder, or
22 contractor) whereby the public official knows that he or she has
23 received or will receive any financial gain resulting from or in
24 connection with the soliciting, procuring, awarding, or making of
25 a bid or contract; provided, however, financial interest shall
26 not include any interest in any increase in value of, or dividends
27 paid on, any stock which is publicly traded on any public stock
28 exchange.

29 **Sec. 126.111. - Integrity in public contracting - contractors.**

30 (a) *Declaration and findings.* In recognition that the preservation
31 of the integrity of the public contracting and procurement process

1 of the City is vital and is a matter of great public interest, the
2 City Council determines and declares that:

3 (1) The procedures of the City for determining with whom the City
4 transacts business exist to secure for the public the benefits
5 of free, fair, and open competition among those persons whose
6 conduct reflects good citizenship for the public.

7 (2) The opportunity to bid on public entity contracts or to supply
8 goods and services to the City or to otherwise transact
9 business with the City is a privilege, not a right.

10 (3) In order to preserve the integrity of the public contracting
11 and purchasing process, the privilege of transacting business
12 with the City should be denied to persons or entities involved
13 in certain crimes or listed on certain state or national
14 prohibited contractor lists.

15 (4) It is the intent of the City Council to provide sufficient
16 authority to the City, its departments, and independent
17 agencies, to ensure the integrity of public contracting and
18 purchasing. To the extent any provision contained herein is in
19 direct conflict with federal or state laws, such applicable
20 federal or state laws shall control and govern.

21 (b) *Prohibited contractors.* The City shall not accept any bid from
22 or award any contract to or transact any business with:

23 (1) Any persons, entities, or affiliates that the City is
24 prohibited from accepting or awarding bids to or transacting
25 business with under federal or state laws;

26 (2) Any person or entity who pleads nolo contendere or guilty
27 or who is convicted in a court of competent jurisdiction for
28 violating Section 101 of the Immigration Reform and Control
29 Act of 1986 (unlawful employment of an alien) for a period of
30 two years beginning from the date of such plea of nolo
31 contendere, guilty plea or conviction by a court of competent

1 jurisdiction; and

2 (3) Any person or entity who is convicted in a court of
3 competent jurisdiction for human trafficking or any human
4 trafficking-related charge, including sex trafficking, or a
5 sex offender crime for the duration of any parole period
6 following the date of such conviction.

7 The Chief shall include in the Procurement Operating Manual, in
8 consultation with the Office of General Counsel, a listing of the
9 current federal or state laws that fall under the purview of
10 subsection (b) (i) above.

11 (c) *Collusion prohibited.*

12 (1) By virtue of submitting a bid each bidder shall be deemed
13 to guarantee that he has not been a party with other bidder(s)
14 to an express or implied agreement to bid a fixed or uniform
15 price. Violation of this implied guarantee shall render void
16 the bid of the offending bidder(s) and, subject to applicable
17 requirements and/or discretion described herein, may result in
18 forfeiture of the offender's bid bond and other disciplinary
19 measures contained herein and/or under Florida law.

20 (2) A disclosure to or acquisition by a competitive bidder, in
21 advance of the opening of the bids, of any of the terms or
22 conditions of the bid submitted by another competitor may
23 render those bidders' bids void and, subject to applicable
24 requirements and/or discretion described herein, may result in
25 forfeiture of the offender's bid bond.

26 (d) *Required disclosures regarding City officers and employees.* Any
27 bid to a competitive solicitation made pursuant to this Chapter shall
28 include a statement under oath executed by the bidder disclosing the
29 names of all officers and employees of the City and of independent
30 agencies to which F.S. Ch. 112, Pt. III, applies who may have a
31 private financial interest, directly or indirectly, in the award

1 and/or subject matter of the bid, proposal, response or reply.

2 (e) *Certain ex parte communications prohibited.* Adherence to
3 procedures that ensure a fair open and impartial procurement process
4 is essential to public confidence in the City's procurement process.
5 The Chief shall promulgate and publish rules that prohibit certain
6 ex parte bidder communications during the City's procurement process.

7 **Sec. 126.112. - Integrity in public contracting - City officers and**
8 **employees.**

9 (a) *Public official bid and contract disclosure and prohibition;*
10 *prohibition of purchases from Public Officers or Employees.*

11 (1) *Required disclosure.* A public official who knows that he or she
12 has a financial interest in a bid or contract shall make disclosure
13 in writing to the Division or using agency, whichever is receiving
14 or has received the bid or contract, (i) at the time that the bid or
15 contract is submitted or subsequently no later than the close of the
16 second full, regular work day after the bid or contract is submitted
17 (not including the day that the bid is submitted or any Saturday,
18 Sunday or City holiday), or (ii) prior to or at the time that the
19 public official acquires a financial interest in the bid or contract
20 and such disclosure shall include but not be limited to the following:
21 the bid number, the name of the public official and his or her public
22 office or position, the name and address of the business entity in
23 which the public official has a financial interest, and the position
24 or relationship of the public official with that business entity.

25 (2) *Class D offense.* It shall be unlawful and a class D offense for
26 a public official to fail or refuse to make the disclosure required
27 in subsection (1) of this Section.

28 (3) *Prohibited purchases from officers or employees.*
29 Notwithstanding any waivers or exemptions permitted under Florida
30 law, purchase of supplies, contractual services or capital
31 improvements shall not be made from a person who is an officer or

1 employee subject to F.S. Ch. 112, Pt. III or in which any officer
2 or employee has a private financial interest, direct or indirect,
3 within the meaning of F.S. Ch. 112, Pt. III.

4 (4) *Remedies for violations.* Notwithstanding other penalties
5 described herein, those who violate this Section shall be subject to
6 withholding of payments under the contract, termination of the
7 contract for breach, contract penalties, decertification and/or being
8 debarred from or deemed nonresponsive in future City solicitations
9 and contracts for up to three years (for less egregious violations,
10 as determined by the Chief, a period of probation may be proposed,
11 any violations during which period will result in debarment of no
12 less than three years). The City or using agency acting by and through
13 its awarding authority may: (i) nullify and terminate the purchase
14 and sales transaction and any contract arising from or in connection
15 with any bid or contract involving failure or refusal to disclose a
16 financial interest of a public official as described in this Section;
17 and (ii) declare the same null and void.

18 (b) *Unauthorized purchases.*

19 (1) *Unauthorized purchases by officers or employees.* It shall be
20 unlawful for an officer or employee of the City or of a using agency
21 willfully or negligently to order any purchase or to make a contract
22 in a manner contrary to the provisions of this P-Code. A purchase
23 ordered or contract or sales transaction made contrary to the
24 provisions hereof shall be null and void unless and until accepted
25 and ratified by the appropriate awarding authority, which awarding
26 authority shall then advise the Chief and the City Council Auditor
27 as to its disposition. Unless authorized or permitted to do so by
28 executive order of the Mayor, no one other than those described in
29 Section 126.106 hereof shall have the authority, whether actual or
30 apparent, to execute any purchase order, contract, including contract
31 modifications, or any sales transaction on behalf of the City. The

1 prohibition contained in this section shall not apply to errors or
2 omissions of the Division in providing advice to using agencies
3 regarding purchases under this Chapter.

4 (2) *Chief referrals.* The Chief shall refer all purchases, contracts,
5 or sales transactions made contrary to the provisions of this P-Code
6 to the appropriate awarding authority and a copy to the Mayor, City
7 Council Auditor, and Inspector General designating the purchase,
8 contract, or sales transaction as unauthorized with a recommendation
9 as to its disposition. Relevant facts or information in the possession
10 of the Chief believed to aid the awarding authority in its
11 determination shall be included.

12 (3) *Unauthorized expenditures for certain artwork or improvements.*
13 It shall be unlawful for an officer or employee of the City, or of a
14 using agency, to expend funds for any artwork or improvement which
15 includes thereon a likeness of any living person. The prohibition
16 contained herein shall not apply to the expenditure of funds for a
17 photograph or portrait of a public employee or official kept in the
18 normal course of business, in the offices where the public employee
19 or official conducts business, nor for random decorative artwork
20 which is not intended as recognition for the living persons depicted.

21 (c) *Bid tampering prohibited.* Procurements made pursuant to this
22 Chapter are subject to the bid tampering prohibition in Section 838.22
23 (Bid tampering), F.S.

24 (d) *Employee disclosure of personal and business relationships.* A
25 City employee performing, or participating in, a single-source
26 procurement or serving as an Evaluation Committee member shall, prior
27 to performing, or participating in, a single-source procurement or
28 serving as an Evaluation Committee member disclose in writing to the
29 Chief all current or former personal and business relationships with
30 the contractor, bidder, respondent, or proposer, its officers,
31 employees, and agents on a disclosure form developed by the City

1 Ethics Office. Such disclosure form shall include a definition of
2 "current or former personal and business relationships". The Chief,
3 in consultation with the City Ethics Office and the applicable
4 department head, chief, or other comparable supervisory personnel,
5 shall review and approve such written disclosures. The Chief may
6 promulgate additional procedures related to this subsection in the
7 Procurement Operating Manual.

8 **Sec. 126.113. - Transparency in public contracting.**

9 (a) *Public access to records.* Except as otherwise exempt or
10 confidential by law, the Division's records shall be public records
11 and made available to the public upon request. Such records shall
12 be open to inspection and copying by the public during normal business
13 hours. In accordance with City public records policies, the Division
14 may charge the public reasonable costs for gathering and copying
15 records.

16 (b) *Electronic access to procurement documents.* The Jax P-Code, the
17 Procurement Operating Manual, and any procurement policies,
18 procedures, rules, directives, and other procurement governing
19 documents, including amendments thereto, shall be posted
20 electronically on the Division's website in a conspicuous manner for
21 the public to view. Subject to available funds, the Chief may make
22 procurement documents under this Chapter, including awards,
23 solicitations documents, purchase orders, etc., electronically
24 accessible to the public.

25 (c) *Triennial supplier survey.* The Chief shall triennially conduct
26 a survey to obtain feedback from bidders and suppliers on the City's
27 procurement process. Such survey shall be on a form approved by City
28 and participation in the survey shall be open to past, current, and
29 prospective bidders and suppliers. Survey topics may include,
30 without limitation, various aspects of the City's procurement
31 process such as information transparency and accessibility, pre-

1 conferences, bid submittal packages, evaluations, and awards. The
2 Chief shall review and consider such survey results and may recommend
3 amendments to the Procurement Operating Manual in accordance with
4 this Chapter.

5 **PART 2. - JACKSONVILLE PROCUREMENT AWARDS COMMITTEE**

6 **Sec. 126.201. - Jacksonville Procurement Awards Committee**
7 **established.** The Jacksonville Procurement Awards Committee or JPAC
8 is hereby established for the purpose of awarding contracts pursuant
9 to this Chapter.

10 **Sec. 126.202. - Composition.** JPAC shall consist of the following
11 three members: the Director, the Director of Public Works, and the
12 City Risk Manager, or their respective designees. However, when an
13 independent agency is using the services of the Division, the chief
14 administrative officer/executive director, or other equivalent
15 position, of the independent agency, or his designee, shall be a
16 member of the JPAC in lieu of the Director; and further provided,
17 that, when the Downtown Investment Authority ("DIA") is the using
18 agency, the DIA executive director shall be a member of JPAC in lieu
19 of the Director.

20 **Sec. 126.203. - Evaluation Committees.** For all evaluated competitive
21 solicitations, the Chief shall designate an evaluation committee
22 consisting of at least two individuals recommended by the respective
23 using agency ("Evaluation Committee"). Prior to the Chief designating
24 individuals to serve on an Evaluation Committee, the Chief shall
25 require all potential evaluators to complete the disclosure form
26 required in Section 126.112(d) of the Code and obtain an ethical
27 clearance from the City Ethics Office and the applicable department
28 head, chief, or other comparable supervisory personnel. The
29 Evaluation Committee shall evaluate and score competitive
30 solicitation proposals, responses, or replies in accordance with the
31 competitive solicitation terms.

1 **Sec. 126.204. - Duties.** JPAC shall have the following duties:

- 2 a) To approve award recommendations for formal purchases in
3 accordance with this Chapter;
- 4 b) To cancel any formal purchase competitive solicitation made
5 in accordance with this Chapter or rejecting any and all
6 bids, proposals, responses or replies, in whole or in part,
7 when the public or City's interest will best be served
8 thereby, at the recommendation of the Chief, in
9 consultation with the using agencies;
- 10 c) To approve any procedures promulgated by the Chief
11 regarding bonds and bidder responsibility determinations;
- 12 d) To recommend to the Mayor for approval amendments to the
13 Procurement Operating Manual based upon the Chief's
14 recommendations;
- 15 e) To formulate and adopt standards for supplies and
16 contractual services required by using agencies, at the
17 recommendation of the Chief in consultation with the using
18 agency; and
- 19 f) To hear and make final decisions upon any protests,
20 suspensions, and debarments made pursuant to this Chapter.

21 However, unless otherwise provided by executive order of the Mayor
22 regarding the designation or delegation of the Mayor's approval
23 authority, actions by the JPAC shall become final only upon approval
24 by: (i) the independent agency; or (ii) the Mayor or his designee,
25 as applicable.

26 **Sec. 126.205. - Meetings; public notice; minutes.** JPAC shall meet
27 at least once a week but may meet more frequently as necessary to
28 accommodate the procurement needs of using agencies. Unless otherwise
29 provided by law, all meetings shall be subject to Section 286.011
30 (Open Meetings Laws), F.S. JPAC shall keep official minutes of its
31 meetings, which shall be maintained on file in the Division as a

1 permanent electronic or physical public record. JPAC, to the extent
2 feasible, shall also keep recordings of the JPAC proceedings, subject
3 to public records retention laws.

4 **Sec. 126.206. - Voting; quorum.** JPAC recommendations shall require
5 a concurring vote of a majority of the members present. Three JPAC
6 members shall constitute a quorum for the purpose of meetings and
7 transacting business.

8 **Sec. 126.207. - Officers.** The Chair of JPAC shall be the Director
9 and the Vice Chair of JPAC shall be the Director of Public Works.
10 JPAC may elect other officers from among its members.

11 **Sec. 126.208. - Rules of procedure.** JPAC may establish rules of
12 procedure necessary to its governing and the conduct of its affairs,
13 consistent with the applicable provisions of the Ordinance Code.

14 **Sec. 126.209. - Administrative support.** The Chief and Division shall
15 provide JPAC with administrative support.

16 **Sec. 126.210. - Compliance.** JPAC shall be subject to the provisions
17 of Chapter 112, Part III, F.S., and Chapters 50, 58 and 602 of the
18 Code, except as may be otherwise set forth in this Chapter.

19 **PART 3. - PROCUREMENT THRESHOLDS, MODES, METHODS**
20 **AND PROCEDURES**

21 **SUBPART A. - PROCUREMENT THRESHOLDS**

22 **Sec. 126.301. - Formal Purchases.** Unless exempt under Section
23 126.108 of this P-Code, the following purchases shall be formal
24 purchases:

- 25 (1) Supplies, professional services, or contractual services,
26 as defined herein, where the estimated costs or fees thereof
27 exceed \$150,000;
- 28 (2) Professional design services, as defined herein, where the
29 estimated cost for the basic construction of a project exceeds
30 the threshold amount provided in F.S. § 287.017, for Category
31 Five, as may be revised from time to time, or where the

1 estimated fees for a planning or study activity exceed the
2 threshold amount provided in F.S. § 287.017, for Category
3 Two, as may be revised from time to time; or

- 4 (3) Capital improvements where the estimated cost thereof
5 exceeds the threshold amount provided in F.S. § 255.0525(2),
6 as may be revised from time to time (on a case-by-case basis,
7 the Chief shall have the discretion to reduce the threshold
8 amount for capital improvements consistent with the
9 competitive encouragement threshold amount of F.S. §
10 255.101(2), as may be revised from time to time).

11 Unless otherwise exempt under this Chapter, Formal Purchases shall
12 be publicly noticed, advertised, and competitively procured as
13 provided in the Procurement Operating Manual. No formal purchase
14 order, contract, or agreement shall be subdivided to avoid this
15 requirement. A successful bidder who is awarded a formal contract for
16 equal to or less than the discretionary payment and performance bond
17 exemption amounts set forth in F.S. § 255.05(1)(d), (the "Statutory
18 Discretionary Bond Threshold"), may, at the discretion of the JPAC,
19 upon the request of the using agency and recommendation of the Chief,
20 be exempted from executing the otherwise required payment and
21 performance bonds. Final determinations on the need for payment bonds
22 for projects equal to or less than the Statutory Discretionary Bond
23 Threshold shall be made by the Chief after determining if there is
24 an alternate form of security or payment method more readily available
25 or appropriate. For JSEBs, as defined in Chapter 126, Part 6, payment
26 and performance bonds shall not be required on City projects with a
27 value equal to or less than the Statutory Discretionary Bond Threshold
28 or equal to or less than the payment and performance bond waiver
29 amount permitted in Section 18.11 of the Charter.

30 **Sec. 126.302. - Informal Purchases.** Purchases and sales other than
31 those defined in Section 126.301 shall be considered Informal

1 Purchases and made in accordance with the process and procedures for
2 Informal Purchases detailed in the Procurement Operating Manual.

3 **SUBPART B. PROCUREMENT MODES**

4 **Sec. 126.303. - Electronic procurement system.**

5 (a) *Authorization for the use of electronic transactions and*
6 *systems.* Subject to available funding and as permitted by law, the
7 Chief may implement an electronic procurement system to conduct
8 procurement transactions, including, but not limited to, competitive
9 solicitations, informal quotations, or any other procurement method
10 by electronic means or in electronic form. Electronic means shall
11 include, without limitation, electronic systems such as e-
12 procurement, e-commerce, e-government procurement and any other
13 comparable or similar digital or electronic systems used to conduct
14 procurement transactions. Any such electronic procurement system
15 shall include standardization and normalization of data to enable
16 such system to be compatible and interoperable with other City
17 departments, divisions, and agencies.

18 (b) *Electronic posting.* The City may electronically post
19 solicitations, decisions and other matters related to procurement
20 on a centralized Internet website designated by the City for this
21 purpose.

22 (c) *Electronic records.* As permitted by law, wherever this Code or
23 the policies and procedures promulgated hereunder require that a
24 document, record, or notice be in writing, an electronic format is
25 authorized.

26 (d) *Electronic public notices.* The Chief may publish electronic
27 public notices for procurement methods used in this Chapter in
28 accordance with Section 50.0311, F.S.

29 **Sec. 126.304. - Electronic media and digital signatures.**

30 The City's use of electronic transmissions, forms, and media,
31 including acceptance of electronic submittals and signatures,

1 including digital signatures, is authorized consistent with Chapter
2 668, F.S., for use of such electronic transmission, form, and media,
3 so long as such guidance provides for:

- 4 (1) Appropriate security to prevent unauthorized access to the
5 competitive solicitation, approval, award, and contracting
6 process; and
- 7 (2) Accurate retrieval or conversion of electronic forms of
8 such information into a medium which permits inspection and
9 copying in accordance with Chapter 119.07 and 119.071, F.S.

10 **SUBPART C. - PROCUREMENT METHODS AND PROCEDURES**

11 **Sec. 126.305. - Pre-selection procurement methods.**

12 (a) *Authorization.* The Chief may authorize any one or more of the
13 following Pre-Selection Procurement Methods below.

- 14 1) *A Request for Information (RFI).* The Chief, in consultation
15 with the using agency, may issue a Request for Information
16 solicitation to collect information about the capabilities
17 of bidders.
- 18 2) *A Request for Qualifications (RFQ).* The Chief, in
19 consultation with the using agency, may issue a Request
20 for Qualifications solicitation to solicit information
21 from bidders to evaluate a bidder's qualifications and
22 qualify two or more bidders for future solicitations.
- 23 3) *An Intent to Bid (ITB).* The Chief, in consultation with
24 the using agency, may issue an intent to bid which is
25 intended to provide notice and information to potential
26 bidders. The publication of an intent to bid does not
27 obligate the City to make the purchases referred to in the
28 intent to bid.

29 **Sec. 126.306. - Procurement methods and selection.**

30 (a) *Procurement methods.* The following procurement methods are
31 authorized under this Chapter and governed by applicable procurement

1 laws, including, but not limited to, the state procurement laws
2 referenced:

- 3 1) Invitation to Bid (ITB) (Chapter 255, F.S.);
- 4 2) Request for Proposals (RFP) (Chapter 255, F.S.);
- 5 3) Competitive Multi-step Bidding (Chapter 255, F.S.);
- 6 4) Consultants' Competitive Negotiation Act (CCNA)
7 (Architectural, Engineering, Landscape Architectural, or
8 Surveying & Mapping Services) (Section 287.055, F.S.);
- 9 5) Design-Build Contracts (Section 287.055, F.S.);
- 10 6) Construction Management and Program Management (Section
11 255.103, F.S.);
- 12 7) Invitation to Negotiate (ITN);
- 13 8) Single-Source Procurements;
- 14 9) Emergency Procurements;
- 15 10) Guaranteed Energy, Water, and Wastewater Performance
16 Savings Contracting (Section 489.145, F.S.);
- 17 11) Public Private Partnerships (Section 255.065, F.S.);
- 18 12) Unsolicited Proposals;
- 19 13) Government Collaborative Agreements;
- 20 14) Government Joint Projects;
- 21 15) Government Auction Purchases;
- 22 16) Government Procured Contracts (Piggyback);
- 23 17) Short-Term No Costs Pilot Projects;
- 24 18) Direct Negotiations; and
- 25 19) Any other procurement method permitted by state law and/or
26 used by state agencies.

27 (b) *Choice of procurement method.* The Chief, after consulting with
28 the using agency shall have the discretion and authority to select
29 the source selection method that is deemed to be in the City's
30 interest and consistent with the purposes and guiding principles set
31 forth in this Code.

1 (c) *Procedures regarding pre-selection and procurement methods.* The
2 Chief shall promulgate definitions and procedures that are customary,
3 standard, and to the extent feasible, commonly considered a best
4 practice in public procurement regarding the listed Pre-Selection and
5 Procurement Methods authorized in this section. Such procedures shall
6 not be inconsistent with any applicable governing law, including the
7 requirements of this Code. Such procedures may include without
8 limitation, conditions for use of such method, public notice
9 requirements, solicitation opening, acceptance, evaluation,
10 corrections, withdrawal, and award.

11 (d) *Procurement Operating Manual.* The Chief shall develop, prepare,
12 and maintain the Procurement Operating Manual, which shall include
13 rules, regulations, and procedures relative to the implementation of
14 this Chapter. Such rules, regulations and procedures shall not be
15 inconsistent with this Code or any applicable governing state or
16 federal law. Based on the Chief's recommendations, JPAC shall
17 recommend to the Mayor for approval amendments to the Procurement
18 Operating Manual. Any such amendment to the Procurement Operating
19 Manual shall not become effective until thirty (30) days after the
20 Mayor's approval of the amendment. The manual shall at a minimum
21 prescribe rules and regulations regarding:

- 22 i. Procurement operations to be followed by using agencies, the
23 Division, and the business community;
- 24 ii. Specifications for standardized items purchased by the City
25 and using agencies;
- 26 iii. Procedures for the pre-selection and procurement methods in
27 accordance with this Part, subject to applicable federal,
28 state, and local laws;
- 29 iv. Procedures as needed for the purchases, supplies, services,
30 and agreements that are exempt from competitive solicitation
31 under this Chapter;

- 1 v. Types of services and any matters related thereto (e.g.,
- 2 capital improvements, professional services, including
- 3 design services, contractual services, and supplies);
- 4 vi. Any electronic procurement system used and implemented by
- 5 the City in accordance with this Chapter;
- 6 vii. Bid protest procedures not inconsistent with Part 9 of this
- 7 Chapter;
- 8 viii. Performance and payment bonds, bid bonds and other security;
- 9 ix. Contracts, including purchase orders, executed pursuant to
- 10 this Chapter;
- 11 x. Required solicitation, contract, and bond forms, subject to
- 12 review by the Office of General Counsel;
- 13 xi. Pre-qualifications for bidders not otherwise prohibited by
- 14 law;
- 15 xii. Value engineering not otherwise prohibited by law;
- 16 xiii. Novation, change of name, change of business status or
- 17 assignment;
- 18 xiv. A system of contractor performance ratings regarding the
- 19 Contractor's performance in City contracts;
- 20 xv. Ethics in public contracting; and
- 21 xvi. A listing of contract provisions required by law to be
- 22 included in contracts executed pursuant to this Chapter.

23 Nothing in this Section shall be construed as limiting or superseding
24 the provisions of this Chapter. The Chief shall issue the Procurement
25 Operating Manual and shall ensure compliance therewith by the using
26 agencies. The regulations and procedures contained in the Procurement
27 Operating Manual shall represent a complete plan of operation for the
28 City's procurement system. Upon the Mayor's approval of amendments
29 to the Procurement Operating Manual, the Chief shall promptly file
30 copies of the amendments with the Council Secretary, Inspector
31 General, and Council Auditor. The Inspector General, and Council

1 Auditor may provide the Chief with comments regarding the amendments
2 prior to the amendments becoming effective.

3 (e) *Emergency procurements; procedures.* The Chief shall promulgate
4 emergency purchasing procedures in the Procurement Operating Manual
5 for all types of procurements, including supplies, contractual
6 services, capital improvements, professional services, and
7 professional design services. The emergency procurement procedures
8 shall be consistent with this Code and applicable state law.
9 Procurements subject to Section 255.20, F.S., shall meet the emergency
10 requirements provided in Section 255.20, F.S.

11 (f) *Required notice regarding certain procurement methods.* The Chief
12 shall provide a quarterly report to the Mayor, Council Secretary,
13 Council Auditor, and Office of Inspector General of any single-source
14 or emergency purchase made pursuant to this Chapter more than the
15 formal threshold amounts described in Part 3.

16 (g) *Minimum responses for professional services; resolicitation*
17 *required.* Solicitations for professional services shall require no
18 less than three supplier responses. If solicitations for professional
19 services receive responses from less than three suppliers, the Chief
20 shall resolicit proposals from suppliers, unless the Chief determines
21 in writing, in consultation with the using agency, that no advantage
22 would be obtained by resoliciting.

23 **Sec. 126.307. - Selection procedures for independent audit firm.** In
24 accordance with Section 5.11 of the Charter and the selection
25 procedures set forth in Section 218.391, F.S., the annual independent
26 audit shall be performed by an accountant, or an accounting firm
27 selected by City Council. The public notice or advertisement as well
28 as receipts of responses shall be handled by the Division. The Council
29 Auditor shall, within one business day, notify the Chief of the
30 introduction of the proposed ordinance or resolution making the award,
31 and the Chief shall place the title to such ordinance or resolution

1 on the next JPAC agenda for informational purposes. Once the ordinance
2 or resolution making the award becomes effective the Council Auditor's
3 Office shall, within three business days, notify the Chief, and the
4 Chief shall include the awarding of the service on the next JPAC
5 agenda for informational purposes. The notifications set forth in
6 this Section shall not create the requirement for any notices or
7 advertisements not otherwise required by this Chapter 126.

8 **Sec. 126.308. - Selection procedures for sports and entertainment**
9 **facilities promoter and/or manager.**

10 (a) *City Council approval required.* Notwithstanding anything to the
11 contrary in this Chapter, no contract with the City of Jacksonville,
12 to manage or promote a sports or entertainment facility, which
13 contract is awarded after May 22, 2012, shall be valid or binding
14 against the City, unless and until approved by the City Council; and
15 no City officer or employee shall execute same without City Council
16 approval. This Section shall apply to all applicable proposed
17 contracts, whether negotiated and preliminarily approved through the
18 professional services processes of this Part, or by any other process.

19 (b) *City Council's right to accept, reject or modify contract.* In
20 considering any proposed contract referred to in subsection (a) above,
21 the City Council may accept, reject, or propose modifications to any
22 such proposed contract, and may, subject to the approval of the other
23 contracting parties, modify the terms thereof, including but not
24 limited to the scope, financial, duration, renewal, and termination
25 terms of the proposed contract; it being the intent of the City
26 Council that no third party shall have any interest, anticipation or
27 expectation in or to any proposed terms of a contract until such is
28 approved by City Council and executed by all signatories thereto.

29 **Sec. 126.309. - Selection procedures for financial instruments,**
30 **investments, and services.**

31 (a) *Exemption.* Pursuant to Chapter 110 Part 2 of the Code, as the

1 same may be revised from time to time, all deposits and investments
2 of City capital, including the General Employee Pension Fund, and
3 other applicable financially related services, including, without
4 limitation, credit enhancement, liquidity support, investment
5 managers, financial and/or investment advisors, issuing, paying
6 and/or tender agents, rating agencies, printing of preliminary and/or
7 final official statements, offering memorandum, bonds, notes and/or
8 commercial paper, and similar services that are offered in a limited
9 market, that involve complex negotiations, or that require a limited
10 time frame as necessary for a financial transaction involving bonds,
11 notes, commercial paper or other similar transactions, may be procured
12 in accordance with the City's Pension and Treasury Procurement
13 Procedures. Notwithstanding the requirements of the City's Pension
14 and Treasury Procurement Procedures, the Director and the City
15 Treasurer, in cooperation with the Chief, shall develop written
16 criteria and procedures necessary to evaluate and procure financially
17 related services under this section, which shall include, without
18 limitation, such factors as historic investment performance, fee
19 structure, professional staff, size of firm, research capabilities,
20 area of specialization, strategic fit with the overall financial
21 service goals and objectives.

22 (b) *Notice.* Any public notice or advertisement required under
23 procurement procedures developed in accordance with this section, as
24 well as responses thereto, shall be forwarded to the Division within
25 one business day. Once an award is made pursuant to such procurement
26 procedures, the Director shall notify the Chief within one business
27 day, and the Chief shall include the awarding of the service on the
28 next JPAC agenda for information purposes. When the procedures
29 developed in accordance with this section are used for awards that
30 are not time-sensitive, the Chief shall be notified prior to public
31 notice or advertisement for solicitations, and the Chief shall place

1 the public notice or advertisement on the JPAC agenda for
2 informational purposes prior to solicitation or advertisement being
3 made. The advanced notification requirement set forth in the preceding
4 sentence shall not apply to time-sensitive bond, investment, cash,
5 and other such related services as set forth in the written procedures
6 developed in accordance with this section. The notifications set
7 forth in this subsection (b) shall not create the requirement for any
8 notices or advertisements not otherwise required by this Chapter 126.

9 **Sec. 126.310. - Payment of city contracts.**

10 (a) *Compliance with contract terms and timing.* All City payments
11 made pursuant to a contract, including a purchase order, or award
12 under this Chapter shall be made in accordance with the terms of the
13 award and/or contract. The City shall endeavor to pay contractors
14 monthly, upon proper payment application to the applicable City
15 Department. City Departments are to perform all necessary inspections
16 and otherwise endeavor to ensure that prompt review and as applicable
17 approval that certified work is completed. The City shall pay all
18 approved invoices promptly and in accordance with Chapter 218, Part
19 7 (Local Government Prompt Payment Act), F.S.

20 (b) *Certification of payment by contractor.* As a condition precedent
21 to the City's obligation to make a progress or final payment on a
22 capital improvement project, a prime contractor shall give to the
23 city a payment affidavit stating, if that be the fact, that any and
24 all subcontractors, suppliers, laborers and others furnishing labor,
25 services, or materials on the capital improvement project under
26 contract with or at the direction of the prime contractor have been
27 paid in full or, if the fact be otherwise, showing the names and
28 contact information for all subcontractors, suppliers, laborers and
29 others who have not been paid in full and the amount due or to become
30 due each of them for labor, services, or materials furnished. The
31 affidavit should be in a form approved by the Director.

1 (c) *Joint payment.*

2 (1) All contracts in amounts up to \$500,000, where payment or
3 performance bonds have been waived in accordance with Section
4 18.11 of the Charter, shall provide for the joint payment of
5 contractors and subcontractors for services rendered.

6 (2) As to all other contracts not included in subsection (1) above,
7 where payment or performance bonds are not required as a matter
8 of law, the City may, at the City's option, pay the contractor
9 and any sub-contractors jointly.

10 **Sec. 126.311. - Required contract provisions.** All contracts made
11 pursuant to this Chapter shall include any contract provisions
12 required by law. The Chief shall detail in the Procurement Operating
13 Manual all such required contract provisions to be included in
14 contracts executed pursuant to this Chapter.

15 * * *

16 **PART 5. - EX-OFFENDER PROGRAM**

17 **Sec. 126.501. - Statement of policy.**

18 It is the policy of the City of Jacksonville that the rehabilitation
19 of ex-offenders is an essential component in a community fight against
20 criminal activity; the hiring of ex-offenders into fair paying jobs
21 helps restore the economic stability of ex-offenders, perpetuates
22 their rehabilitation, reduces recidivism and contributes to a
23 community crime free environment; providing consideration and
24 opportunities to ex-offenders with companies doing business with the
25 City of Jacksonville can be accomplished without compromising the
26 security of the businesses, or the City and its citizens, and without
27 unnecessarily depriving others of opportunities; and that the City
28 of Jacksonville should take a leading role in the rehabilitation of
29 ex-offenders, and has done so through the City's third-party service
30 provider ex-offender re-entry programs that provide job training
31 and/or job placement services to Ex-Offenders.

1 **Sec. 126.502. - Definitions.**

2 As used in this part:

3 *City Ex-Offender Program Providers* shall collectively mean the
4 Jacksonville Sheriff's Office Jacksonville Re-Entry Center and
5 any entity under contract with the City to provide job training
6 and/or job placement services to Ex-Offenders.

7 *Contractor* for purposes of this Section only shall mean a person
8 or entity awarded a City contract in the amount of \$200,000 or
9 greater.

10 *Ex-Offender* means a person who has pled guilty, no contest or
11 nolo contendere to a felony offense; or has been found guilty
12 of a felony offense by a judge or jury; regardless of
13 adjudication of guilt.

14 *Ex-Offender Program Provider* shall mean the Jacksonville
15 Sheriff's Office Jacksonville Re-Entry Center, any entity under
16 contract with the City to provide job training and/or job
17 placement services to Ex-Offenders, or any other entity that
18 specializes in job training and/or job placement services for
19 Ex-Offenders.

20 **Sec. 126.503. - Contracting requirements for businesses contracting**
21 **with the City of Jacksonville.**

22 No contract in an amount of \$200,000 or greater for construction,
23 remediation, or capital improvements shall be awarded unless the
24 contractor agrees in writing on a bid form provided by the City (the
25 "Form 4A") to do the following (collectively, the "Form 4A
26 Requirements"):

27 (a) Identify potential job opportunities under the project that
28 may be available for Ex-Offenders after contract award;

29 (b) Consider for job placement after contract award at least one
30 otherwise qualified Ex-Offender, to the extent a job opportunity is
31 available under the project and an otherwise qualified Ex-Offender

1 has applied for such job;

2 (c) Execute a notarized compliance tally report ("Compliance
3 Report") at the time of submission of progress payment(s) on such
4 contractor's employment practices and experience during the project
5 with respect to the hiring of Ex-Offenders that includes the following
6 information:

7 (1) the number of Ex-Offenders hired and currently working, or an
8 explanation as to why no Ex-Offenders have been hired;

9 (2) the number of Ex-Offenders interviewed for employment under
10 the project;

11 (3) an explanation as to why any Ex-Offender who applied for
12 employment was refused employment;

13 (4) whether the contractor maintains an employment policy that
14 Ex-Offenders will be given full and fair consideration in
15 employment;

16 (5) whether the contractor indicates on recruitment literature
17 that Ex-Offenders will be given full and fair consideration
18 in employment by the contractor;

19 (6) whether a job opening under the project was available during
20 the reporting period; and

21 (7) a statement from the contractor that the contractor has
22 contacted an Ex-Offender Program Provider no later than
23 thirty (30) days after the issuance of a notice to proceed
24 under the project to obtain information regarding available
25 Ex-Offenders for employment; and

26 (d) Assist the City in addressing the goal of securing employment
27 for Ex-Offenders by complying with the City's Procurement Rules
28 Regarding Ex-Offenders, as may be amended.

29 **Sec. 126.504. - Compliance; exemption.**

30 To the extent permitted by applicable state or federal law, if a
31 contractor fails to comply with the Form 4A Requirements, the City

1 may withhold payments due under the contract until such contractor
2 has complied with the same. Notwithstanding the foregoing, if a
3 contractor hires an Ex-Offender during the project and indicates the
4 same on the Compliance Report, upon providing the City with
5 satisfactory evidence of the hire, such contractor shall be exempt
6 from performing the Form 4A Requirements for the remainder of the
7 project term. For purposes of this subsection, "satisfactory
8 evidence" shall include, without limitation, the contractor's payroll
9 information and other information obtained from the Florida
10 Department of Corrections website. The contractor shall include such
11 satisfactory evidence of the Ex-Offender hire with the Compliance
12 Report.

13 **Sec. 126.505. - Webpage information.**

14 The Chief shall list the address and contact information of the City
15 Ex-Offender Program Providers on the City's Procurement Division
16 webpage. To the extent permitted, the City may request the City Ex-
17 Offender Program Providers to compile a listing of available Ex-
18 Offenders for employment by skillset and provide contractors with
19 such listing upon request. The Chief shall also provide the City Ex-
20 Offender Program Providers with the winning bidder's contact
21 information for each approved construction, remediation, or capital
22 improvement project award letter in an amount of \$200,000 or greater.

23 **Sec. 126.506. - Reporting.**

24 The Chief shall provide an annual report to the Mayor and the City
25 Council no later than December 31 of each fiscal year for the previous
26 fiscal year on the information provided by contractors on the
27 Compliance Report pursuant to this Section. The first such report
28 shall be due no later than December 31, 2018, for the fiscal year
29 beginning October 1, 2017, and ending September 30, 2018. Such annual
30 reports shall at a minimum include information and data regarding the
31 number of:

- 1 (a) Ex-offenders hired by contractors pursuant to this Section;
2 (b) Ex-offenders interviewed by contractors;
3 (c) Ex-offenders who applied for employment with a contractor and
4 were denied employment;
5 (d) Contractors that maintained an employment policy providing
6 that Ex-Offenders will be given full and fair consideration in
7 employment;
8 (e) Contractors that have indicated on recruitment literature
9 that Ex-Offenders will be given full and fair consideration in
10 employment by the contractor;
11 (f) Contractors that reported no job opening and no hiring during
12 the project;
13 (g) Contractors that contacted Ex-Offender Program Providers;
14 (h) Contracts awarded to contractors for construction,
15 remediation or capital improvement projects in an amount of \$200,000
16 or greater and the aggregate contract award amount; and
17 (i) Contractors that failed to comply with this Section.

18 * * *

19 **PART 7. - BUY AMERICAN PROGRAM**

20 **Sec. 126.701. - Statement of policy and purpose.**

21 It is the policy of the City of Jacksonville to procure American
22 manufactured, assembled or produced goods whenever feasible and in
23 the best interests of the City under this Chapter. The City Council
24 finds that the economic welfare and security of its residents is of
25 utmost concern to the City. Local and regional preferences can
26 stimulate and sustain the local economy and thereby provide a public
27 benefit. Likewise, a domestic preference policy which encourages the
28 selection and utilization of American-made goods and products can
29 similarly be a stimulus to the local and regional economy by
30 encouraging the production, manufacture and assembly of products
31 which would be suitable for use in American-made products. Therefore,

1 it is hereby declared that the carrying out of the purposes of this
2 Part by the City is deemed to be furthering a proper municipal
3 purpose.

4 **Sec. 126.702. - Definitions.**

5 The following words, terms, and phrases, when used in this Section,
6 shall have the meanings ascribed to them in this subsection, except
7 where the context clearly indicates a different meaning:

8 *Bid* means a competitive bid procedure established through the
9 issuance of an invitation for bid. The term "bid", as used
10 herein, shall not include requests for proposals (unless
11 specified in the RFP document), requests for qualifications,
12 requests for quotes and requests for information.

13 *Buy American preference* means and shall apply to the following
14 products that are:

15 (1) *Manufactured*. The term "manufactured" is interpreted to
16 mean to make or process a raw material into a finished product
17 or to turn-out in a mechanical manner;

18 (2) *Assembled*. The term "assembled" is interpreted to mean to
19 fit or to join parts together into a finished product;

20 (3) *Produced*. The term "produced" is interpreted to mean to
21 create or make from raw materials.

22 To qualify for this preference, 51 percent of the components of
23 the final product manufactured, assembled or produced to be sold
24 to the City must be made in the United States. The Chief shall
25 administratively resolve any issues relating to Buy American
26 preferential status, and that decision on whether a contractor
27 or supplier is eligible for a Buy American preference shall be
28 final.

29 *Good(s)* includes, but is not limited to, supplies, equipment,
30 materials, and printed matter.

31 **Sec. 126.703. - Exemptions.**

1 The provisions of this Section do not apply to:

2 (a) Purchases or contracts with an estimated cost below the formal
3 thresholds described in Part 3 of this Chapter. The Chief and
4 procurement staff will attempt to select products manufactured,
5 assembled, or produced in the United States if the quality and price
6 are comparable with other goods.

7 (b) Professional services, which are defined, for purposes of
8 this Section, as any services where the City is obtaining advice,
9 instruction, or specialized work from an individual, firm, or
10 corporation specifically qualified in a particular area, and those
11 services procured pursuant to F.S. § 287.055, the Consultants'
12 Competitive Negotiation Act.

13 (c) Bids for the purchase of, or contract for, the construction/
14 renovation of public buildings, facilities, public works, or other
15 public construction projects.

16 (d) Goods provided under a cooperative purchasing agreement or
17 utilization of other agency contracts (piggyback contracts).

18 (e) Purchases made or contracts let under emergency or
19 noncompetitive situations permitted under this Chapter.

20 (f) The business is determined to be unqualified to perform the
21 work as determined by the City.

22 (g) The business submits a bid that exceeds the projected budget.

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

27 **Sec. 126.704. - Preference in purchase of goods.**

28 Except where federal, state, or local laws, regulations, or policies
29 mandates to the contrary, in the purchase of goods by means of a
30 competitive bid, a preference will be given to a responsive and
31 responsible contractor or supplier offering American manufactured,

1 assembled or produced goods, who is within five percent of the lowest
2 responsive and responsible bidder, by way of an opportunity of
3 providing said goods for the lowest responsive and responsible bid
4 amount.

5 **Sec. 126.705. - Preference must be asserted.**

6 Said five percent buy American preference must be asserted by the
7 party seeking it at the time of the competitive bid with the submittal
8 of documentation supporting the assertion that a product is American
9 manufactured, assembled or produced, and shall be calculated by the
10 procurement division in rating competitive bids.

11 **Sec. 126.706. - Comparison of qualifications.**

12 The preferences established herein in no way prohibit the right of
13 the Chief to compare the quality of goods proposed for purchase and
14 compare qualifications, character, responsibility and fitness of all
15 persons, firms or corporations submitting bids. Further, the
16 preferences established herein in no way prohibit the right of the
17 Chief to determine based on criteria and standards developed
18 administratively to allow for selection by preference permitted in
19 another Section of this Chapter.

20 **Sec. 126.707. - Waiver.**

21 The application of the buy American preference to a particular
22 purchase, contract, or category of contracts for goods may be waived
23 upon written recommendation of the Chief and approval of the Chief
24 Financial Officer of the City.

25 **Sec. 126.708. - Administrative policy for implementation.**

26 The Chief shall be charged with the responsibility to promulgate an
27 administrative policy or regulations consistent with this Section
28 which establishes criteria and procedures for the implementation of
29 this policy including matters involving the consideration of
30 exemptions, comparison of qualifications, and waiver of the policy
31 as provided herein.

1 **Sec. 126.709. - Reporting.**

2 The Chief shall provide an annual report to the Mayor and the City
3 Council no later than December 31 of each fiscal year for the previous
4 fiscal year regarding the Buy American Program. The first such report
5 shall be due no later than December 31, 2025. The Chief shall include
6 in the annual report information and data regarding the number of Buy
7 American preferences given to contractors and suppliers in contract
8 awards each fiscal year and other pertinent information and data
9 regarding the program.

10 * * *

11 **PART 9. - PROTESTS, SUSPENSION, AND DEBARMENT**

12 **Sec. 126. 901. - Authority to resolve protests.**

13 (a) *Right to protest.* Any actual or prospective bidder, proposer,
14 respondent, or contractor who is aggrieved in connection with the
15 competitive solicitation or award of a contract may protest to the
16 Chief. The protest shall be submitted in writing in accordance with
17 the protest procedures contained in the Procurement Operating Manual.

18 (b) *Authority to resolve protests.* The Chief shall have the
19 authority to settle and resolve a protest of an actual or prospective
20 aggrieved bidder, proposer, respondent, or contractor concerning the
21 competitive solicitation or award of a contract. This authority shall
22 be exercised in accordance with regulations promulgated by JPAC.

23 (c) *Decision.* If the protest is not resolved by mutual agreement,
24 the Chief shall promptly issue a decision in writing. The decision
25 shall:

26 1. State the reason for the action taken; and

27 2. Inform the protestant of its right to administrative review
28 as provided in this chapter.

29 (d) *Notice of decision.* A copy of the decision under subsection (c)
30 of this section shall be mailed or otherwise furnished immediately
31 to the protestant and any other interested party.

1 (e) *Finality.* A decision under subsection C of this section shall
2 be final and conclusive unless any person adversely affected by the
3 decision protests administratively to JPAC.

4 (f) *Stay of procurements during protests.* In the event of a timely
5 protest under this section, the City shall not proceed further with
6 the competitive solicitation of or with the award of the contract
7 until the purchasing agent, after consultation with the head of the
8 using agency, makes a written determination that the award of the
9 contract without delay is necessary to protect substantial interests
10 of the City.

11 **126.902. - Contractor suspension debarment.**

12 (a) *Chief's discretion and recommendation.* The Chief shall have the
13 discretion to recommend the suspension or debarment or removal of a
14 contractor and/or supplier as provided herein, who:

- 15 i. is more than 60 calendar days in default or breach of a
16 contract with the City;
- 17 ii. has failed to perform or has unsatisfactorily performed
18 the terms and conditions of one or more contracts with the
19 City, which failure to perform or unsatisfactory
20 performance was the result of circumstances within the
21 contractor or supplier's control;
- 22 iii. may be precluded from contracting with the City under this
23 Chapter;
- 24 iv. has failed to abide by the federal, state and local prompt
25 payment requirements or contractual terms and conditions
26 regarding the same;
- 27 v. has failed to abide by or honor commitments made pursuant
28 to Part 6 regarding the JSEB Program;
- 29 vi. has violated any federal, state, or local laws, including
30 this Chapter;
- 31 vii. has engaged in conduct prohibited hereunder or that is a

1 serious threat to the integrity of the public procurement
2 and contracting process, as determined by the Chief;

3 viii. has violated the ethics provisions under this Chapter; or

4 ix. has been debarred by another government entity.

5 A debarment under this Section shall not be for a period of more than
6 three years, and a suspension under this Section shall not be for a
7 period of more than six (6) months. The authority to debar or suspend
8 shall be exercised in accordance with regulations promulgated by the
9 Chief.

10 No contractor or supplier shall be entitled to do business with the
11 City unless and until it shall have remedied any underlying default
12 and/or breach to the satisfaction of the Chief and using agency.
13 Repeated or recurring violations under this Section shall be
14 sufficient reason for the Chief to remove the contractor's name
15 permanently from the bidders' list, subject to review by the JPAC and
16 approval by the Mayor.

17 (b) *Notice of suspension or debarment.* Upon reaching a decision to
18 suspend or debar a contractor or supplier, the Chief shall provide
19 said contractor or supplier with a written notice of suspension or
20 debarment via certified mail, return receipt requested, and via U.S.
21 Mail or facsimile, stating the reason for and the proposed period of
22 suspension or debarment (for less egregious violations, as determined
23 by the Chief, a period of probation may be proposed, any violations
24 during which period will subject the contractor or supplier to
25 debarment of no less than three years). As part of the notice of
26 suspension or debarment, the Chief shall advise the contractor or
27 supplier that, if, within ten calendar days after the date of the
28 notice, it fails to provide the Chief with a written Notice of Protest
29 that states, in detail, the grounds on which the protest is based,
30 then the action contained in the notice of suspension or debarment
31 shall become final without further notice, and shall represent final

1 administrative action.

2 (c) *Protest*. If, in response to a Notice of Suspension or Debarment,
3 a contractor or supplier timely provides a written Notice of Protest,
4 the Chief shall schedule a hearing before the JPAC within a reasonable
5 period after receiving the Notice of Protest. Within a reasonable
6 time, after hearing the protest and considering the evidence and/or
7 statements presented, JPAC shall issue its findings and
8 recommendation regarding the action proposed by the Chief. JPAC's
9 recommendation shall become final and shall represent final
10 administrative action.

11 (d) *Determination*. The determination as to whether a contractor or
12 supplier is in violation hereunder and whether the violation is within
13 the contractor or supplier's control shall be made by the Chief. To
14 aid in this duty, an appropriate executive officer of each using
15 agency must inform the Chief whenever a contractor or supplier is in
16 violation hereunder, regardless of the reason therefor, and provide
17 a statement of the circumstances surrounding the violation. Nothing
18 herein removes the protest process set forth in this Chapter.

19 **Sec. 126.903. - Remedies prior to an award of contract.** If prior to
20 award it is determined that a competitive solicitation or proposed
21 award of a contract is in violation of law, the competitive
22 solicitation or proposed award shall be:

- 23 i. Canceled; or
- 24 ii. Revised to comply with the law.

25 **Section 4. Creating a new Part 6 (Cultural Service Grants**
26 **and Art in Public Places), Subpart A (Cultural Service Grant Program)**
27 **and Subpart B (Art in Public Places Program), Chapter 118 (City**
28 **Grants), Ordinance Code.** A new Part 6 (Cultural Service Grants and
29 Art in Public Places), Subpart A (Cultural Service Grant Program) and
30 Subpart B (Art in Public Places Program), Chapter 118 (City Grants),
31 *Ordinance Code*, is hereby created to read as follows:

1 operating, program, or special project support except through an
2 allocation from the Cultural Service Grant and Capital Grant Program,
3 except for:

4 (1) Organizations providing children's programs which may be funded
5 through the Kids Hope Alliance; or

6 (2) Organizations qualifying for City grants administered by City
7 Divisions, which grants do not require specific City Council approval.

8 **Sec. 118.603. - Lump sum appropriation to Cultural Council.**

9 (a) The process for the annual Cultural Service Grant and Capital
10 Grant Program appropriation will begin with the Cultural Council
11 preparation of an annual appropriation request for all cultural
12 organizations based on information provided by eligible organizations
13 in a "letter of intent." This request will reflect a lump sum
14 appropriation to be indicated in the annual City budget as Cultural
15 Service Grant and Capital Grant Program. Up to 13½ percent of the
16 total lump sum appropriation shall be allocated to the Cultural
17 Council for administration of the grant program and other programs
18 which serve the community. The Capital Grant Program cannot exceed
19 25 percent of the total City Cultural Council appropriation (example:
20 if the total Cultural Council appropriation is \$4,000,000 from the
21 City, a maximum of \$1,000,000 can be allocated for capital purposes).
22 The Cultural Service Grant and Capital Grant Program request shall
23 be submitted to the Mayor for review by the Mayor's Budget Review
24 Committee which will recommend a lump sum appropriation to be included
25 in the proposed budget for the upcoming fiscal year. The Cultural
26 Council shall include in the request relevant information regarding
27 cultural services to be provided to the community as a result of the
28 funding; and shall be responsible for documenting the validity of the
29 request to the MBRC, the City Council Finance Committee and City
30 Council throughout the budgeting process.

31 (b) The process for the annual Cultural Council appropriation for

1 administering the Art in Public Places Program as provided in Subpart
2 B of this Part 6 will begin with the Cultural Council preparation of
3 an annual appropriation request to fund all duties required to
4 administer such Program. The appropriation request shall be submitted
5 and processed in the same manner and at the same time as the
6 appropriation request referenced in paragraph (a), above.

7 **Sec. 118.604. - Allocation by Cultural Council; generally.**

8 Recommendations for allocation of the lump sum appropriation to
9 applicant organizations shall be made by the Cultural Service Grant
10 Committee to the Cultural Council Board of Directors. The Board shall
11 make a final determination of funding. Funding will be allocated by
12 contract between the recipient organization and the Cultural Council.
13 Organizations will be notified in writing of the results of their
14 request and will be provided with any support information or
15 justification for the Committee's decision which might be helpful. A
16 complete list of the individual operating amounts and capital amounts
17 allocations will be forwarded to the City Council Auditor's office,
18 the Office of the Mayor, the City Council and the Finance and
19 Administration Department or other department assigned by the Mayor.

20 **Sec. 118.605. - Cultural Service Grant Committee.**

21 (a) The Cultural Council shall be responsible for establishing an
22 annual Cultural Service Grant Program (CSGP) Committee. The
23 Composition of the CSGP Committee shall include one non-voting and
24 ten voting members: a CSGP Committee chairperson (non-voting),
25 appointed by the President of the Cultural Council Board of Directors;
26 three other Cultural Council Board members selected by the Board
27 President and Committee Chairperson; and seven individuals selected
28 by the above group (Cultural Council Board President, CSGP Committee
29 chairperson, and three selected Cultural Council Board members) from
30 a pool of nominations established through a community wide nomination
31 process. The Cultural Service Grant Committee shall have a liaison

1 relation with one member of City Council and one representative of
2 the Mayor's Office.

3 (b) Members of the CSGP Committee shall be chosen to represent
4 racial, gender, geographic and age diversity; an expression of
5 interest in the impact of culture in the community; a willingness to
6 participate fully in the process.

7 (c) Members shall serve a three-year term and may be reappointed for
8 one additional consecutive full term. City Council and Mayoral
9 representatives shall be appointed annually.

10 (d) All members of the CSGP Committee will be confirmed by the City
11 Council upon appointment or reappointment.

12 (e) The responsibilities of the CSGP Committee include:

13 (1) Review and evaluation of all applications based on established
14 criteria;

15 (2) Serve as an on-site evaluator and lead reviewer for a selected
16 number of applicants;

17 (3) Attend an orientation session and all review sessions; and

18 (4) Participate in the allocations process.

19 (f) The Cultural Service Grant Committee shall recommend to the
20 Cultural Council Board of Directors the organizations to be funded
21 and the amount of the funding.

22 **Sec. 118.606. - Application for cultural service grants.**

23 (a) The Cultural Council shall develop and be responsible for the
24 administration of the Cultural Service Grant Program. Administrative
25 and operating procedures shall be established and amended as necessary
26 to meet the mission of the program and current needs of the community.
27 The Cultural Council may classify the cultural organizations in
28 reasonable classifications for the purpose of this program. The
29 procedure prescribed herein, as further developed by the Cultural
30 Council, shall be the only procedure available to cultural
31 organizations for requesting public support.

1 (b) The following components shall be included in any administrative
2 and operating procedures developed and implemented by the Cultural
3 Council:

4 (1) The Cultural Council shall publish each year in a newspaper of
5 general circulation in the City, at least one month before the last
6 day on which appropriation request must be submitted to the Cultural
7 Council, a notice that it is accepting Cultural Service Operating
8 and/or Capital Grant requests for the ensuing fiscal year, stating
9 the place where the appropriation request forms may be obtained, the
10 last day on which the completed appropriation requests must be
11 returned to the Cultural Council and when and where the Cultural
12 Council (or a duly authorized committee thereof) will hold a hearing
13 on the appropriation requests (which may include a statement that the
14 hearing may be adjourned from time to time and from place to place
15 until all the appropriation requests have been heard).

16 (2) The Cultural Council shall promulgate a written procedure for
17 the submission of operations and/or capital appropriation requests
18 by eligible agencies, which procedure shall be made known to each
19 requesting agency, or its agent or representative, at the time the
20 appropriation request form is supplied to the requesting agency.

21 (3) The Cultural Council (which, for the purposes of this
22 subsection, includes the duly authorized Cultural Service Grant
23 committee thereof) shall consider appropriation requests returned by
24 the requesting agencies. The Cultural Council shall afford the
25 requesting agencies an opportunity to make an oral or written
26 presentation to justify or explain their respective appropriation
27 requests, and no requesting agency shall be denied this opportunity
28 solely because it has never submitted an appropriation request before
29 or because a previous appropriation request has been denied.

30 (4) All meetings and sessions of the Cultural Service Grant
31 Committee shall be held in a publicly accessible location and shall

1 be noticed and open to the public.

2 **Sec. 118.607. - Eligibility for cultural service grant.**

3 To be eligible for funding an organization must meet the following
4 criteria.

5 (a) The organization must be tax exempt under Section 501(c)(3) of
6 the Federal Internal Revenue Code. A copy of the organization's letter
7 of exemption from the Internal Revenue Service and all amendments
8 thereto shall be provided when the organization submits its first
9 appropriation request and thereafter when any change is made.

10 (b) The organization must be a not-for-profit corporation chartered
11 by the Secretary of State under F.S. Ch. 617. A copy of the corporate
12 charter and all amendments thereto shall be provided when the
13 corporation submits its first appropriation request and thereafter
14 when any change is made.

15 (c) The organization must operate in Duval County.

16 (d) At the time of application, the organization must have been in
17 existence as a Florida Corporation for at least three years and must
18 have three years of filed tax returns.

19 (e) The organization shall have a broad base of community
20 representation in management and membership. The members of the board
21 of directors shall not receive any compensation for their service as
22 directors, but they may be reimbursed for actual monetary expenditures
23 on behalf of the organization. The corporate charter or by-laws shall
24 provide a method of selection of the board of directors which will
25 periodically subject the directors to the possibility of replacement
26 by other qualified persons. The membership of the organization shall
27 be open to as large a portion of the public as possible, subject to
28 such nondiscriminatory conditions and qualifications for membership
29 as may be imposed by the corporate charter or by-laws; provided that
30 this requirement shall not be construed to prevent or prohibit an
31 organization from having different classes of membership with

1 different conditions and qualifications for admission and different
2 relative rights, privileges, and duties.

3 (f) If the organization is a previous recipient of a City Grant or
4 a Cultural Service Grant, the organization must have submitted all
5 required reports for previous grants.

6 (g) At least 76 percent of the organizations operating revenue or
7 support shall be derived from sources other than this program.

8 (h) The organization shall provide services or activities which
9 benefit or are made available to a broad range of the people of the
10 City and shall be offered on a nondiscriminatory basis to those
11 people.

12 (i) To receive general operating support, the organization must as
13 its primary function present, sponsor, exhibit or otherwise offer for
14 public consumption programs or activities in any one or combination
15 of the following disciplines: historic preservation/restoration, arts
16 in education, music, dance, folk arts, humanities, literature,
17 film/video/media, theater and musical theater, visual arts, or
18 collections or exhibits of historical, archeological, scientific or
19 ethnic artifacts, handiwork or objects.

20 (j) To receive program support an organization must meet all other
21 eligibility requirements and must be requesting support specifically
22 for cultural programming as defined by this ordinance.

23 (k) If a capital allocation is funded at or above \$25,000 the
24 organization must enter into a restrictive covenant agreement with
25 the City of Jacksonville to ensure dedicated use of the relative
26 facilities or properties for public proposes and arts-specific
27 purposes for a period of not less than ten years.

28 (l) The organization shall make all reasonable efforts to adhere to
29 the City of Jacksonville's procurement requirements for Capital
30 expenditures.

31 (m) Each recipient of the Operating and/or Capital grant funds must

1 go through the application process to prove that the recipient can
2 provide at least a one-dollar cash match for each dollar granted. The
3 Cultural council will make requests for disbursements of funds and
4 is responsible for monitoring and ensuring the funds are spent for
5 its intended purpose and reporting on the results and use of these
6 funds to the City of Jacksonville.

7 **Sec. 118.608. - Criteria for judging applicants for cultural service**
8 **grants.**

9 All applicants to the Cultural Service Grant Program will be evaluated
10 based on the following criteria:

- 11 (a) Quality of programs;
- 12 (b) Community outreach and service to culturally diverse
13 populations;
- 14 (c) Management capability of board and staff;
- 15 (d) Community impact;
- 16 (e) Need for the organization in the community; and
- 17 (f) Exploration of innovative ideas and programming.

18 **Sec. 118.609. - Restrictions for use of cultural service grants.**

19 (a) Each recipient of appropriations made pursuant to Chapter 118
20 is responsible for ensuring that City funds are expended pursuant to
21 Section 118.301.

22 (b) Cultural service grant funds must be kept in an individual bank
23 account, notwithstanding the provision to the contrary in Section
24 118.201, separate from other organization funds. It may be an
25 interest-bearing account, but the total amount of the grant and the
26 interest must be spent by the end of the contract period; except that
27 a remaining balance may be maintained in the cultural service grant
28 account, notwithstanding the provision to the contrary in Section
29 118.301(a)(5). This balance must be identified and documented in
30 quarterly and year end reports and shall not exceed \$500. This balance
31 shall be returned to the City within the first 90 days of the first

1 fiscal year in which the recipient no longer receives a Cultural
2 Service Grant appropriation. The portion of unspent funds that exceed
3 \$500 shall follow the provisions of Section 118.301(a) (5).

4 **Sec. 118.610. - City contract, review, and oversight.**

5 (a) Upon approval of the annual budget by the City Council, one
6 contract will be prepared and administered throughout the Finance and
7 Administration Department, which will reflect the total amount of the
8 lump sum appropriation for cultural service grants to all cultural
9 organizations. Funds shall be distributed to the Cultural Council on
10 a quarterly basis in amounts to be determined annually,
11 notwithstanding the provision to the contrary in Section
12 118.201(f) (7), upon receipt by the Finance and Administration
13 Department of a quarterly financial and programmatic report.

14 (b) Upon approval of the annual budget by the City Council, a second
15 contract shall be executed between the City and the Cultural Council
16 for administering and performing such duties as required by the Art
17 in Public Places Program, as fully described in Subpart B of this
18 Part.

19 (c) The Cultural Council shall establish a quarterly reporting
20 system for all funded organizations which provides financial and
21 programmatic information documenting the use and impact of the
22 Cultural Service Grant Program funds.

23 (d) The Cultural Council shall provide the City Auditor's office
24 with an independently prepared or audited financial statement
25 (depending on grant amount) from all recipients at the conclusion of
26 the grant period. All application forms, procedures, reporting
27 requirements, and contract agreements for recipient organizations
28 (other than the Cultural Council) will be developed by the Cultural
29 Council and will be between the Cultural Council and the individual
30 recipient organizations.

31 **SUBPART B. - ART IN PUBLIC PLACES PROGRAM**

1 **Sec. 118.611. - Definitions.**

2 For the purposes of this Part, the following terms shall have the
3 meaning ascribed to them herein:

4 *Capital improvement program* means and includes the capital
5 improvement programs adopted or approved by the City Council.

6 *Construction cost(s)* means the estimated cost of vertical
7 construction or alterations of a project or projected component listed
8 within the capital improvement program including engineering,
9 architectural and other design costs. Land acquisition costs, site
10 preparation including remediation and abatement, furniture, fixtures,
11 and equipment costs as well as demolition and any allowance for tree
12 mitigation shall be excluded from the definition of vertical
13 construction costs. Furthermore, the purchase of a building, cost
14 overruns and change-order costs shall not be considered construction
15 costs for the purposes of the funding calculations set forth in this
16 part.

17 *Construction or alterations* means new construction, where
18 construction costs are \$100,000 or more, and rehabilitation,
19 renovation, remodeling, or improvements (herein collectively
20 "alterations") to existing buildings. Alterations to buildings that
21 are under \$100,000 in cost or are primarily "redecorating" and involve
22 no actual structural alterations, shall be excluded. Alterations of
23 a strictly structural or mechanical nature necessary to keep the
24 facility functional, but without altering the aesthetic character of
25 the facility shall be excluded. Examples of this type of alteration
26 would be replacing an air conditioning system or major repairs to a
27 leaking roof or windows. These types of structural items shall be
28 included when part of a larger renovation project involving aesthetic
29 changes to facilities.

30 *Public facility* means any City-owned or controlled building or
31 facility intended for habitation where public employees work on a

1 regular basis or which the general public uses on a regular basis.
2 Public facility includes, but is not limited to, office buildings,
3 recreation and community centers, libraries, firehouses, police
4 substations, vertical construction within parks and recreation
5 spaces. Public facility specifically excludes water and sewer pump
6 stations, electrical and communications substations and switching
7 houses, and similar unoccupied structures except in designated Urban
8 Art and Streetscaping Areas.

9 *Urban Art and Streetscaping Areas* are defined as art within the
10 boundaries of the Downtown Community Redevelopment Area, Riverside
11 Avondale Historic District Overlay, San Marco Neighborhood Overlay
12 Zone, and Springfield Historic District Overlay, which have been
13 identified and approved by the Art in Public Places Selection Panel.

14 **Sec. 118.612. - Public art standards.**

15 (a) Public art is a work of art to which the general public has open
16 and easy access and which will enrich and give dimension to the public
17 environment, and which reflects generally accepted community
18 standards of aesthetic appeal and artistic expression in the
19 decorative arts.

20 (b) The goal of the Art in Public Places Committee of the Cultural
21 Council of Greater Jacksonville will be to choose art which is
22 compatible with and which will enhance the architecture and general
23 environment of the City. In some cases, the work will be site specific
24 (i.e., art which is commissioned especially for the specific space
25 and becomes integral to the site). Such art may relate to the function
26 and the users of the facility, to the history or population of its
27 neighborhood and/or may become a part of its architecture. Planning
28 of site-specific works will begin early in the project and may be
29 collaboration between artist and architect.

30 (c) Acceptable forms of public art shall include all visual arts
31 mediums, including, but not limited to, painting, drawing, original

1 prints, mixed media, sculpture, bas relief, mobiles, murals, kinetic
2 art, electronic art, photography, clay, glass, fiber and textiles,
3 as well as art which may be functional (e.g., doors, gates, furniture,
4 flooring and walls).

5 (d) Public art shall not include items that are mass-produced or of
6 standard design.

7 (e) Works shall be created by artists of appropriate status who
8 shall be selected by the means outlined in detail in this part. Such
9 artists shall generally be recognized by recognized art
10 professionals, as artists of serious intent and recognized ability,
11 and shall not be a member of the project architectural, engineering,
12 or design team or of the Art in Public Places Committee, Art Selection
13 Panel or the Cultural Council Board or their respective staff.

14 (f) Appropriate sites for placement of public art include any
15 outdoor, easily accessible public facility or the interior of public
16 buildings. Appropriate sites for placement of art within public
17 buildings include, but are not limited to, lobbies, foyers, corridors,
18 waiting rooms, conference rooms, plazas, courtyards, transportation
19 facilities, facades, and any other sites without restricted visual
20 or physical public access. Private meeting rooms and offices are
21 examples of inappropriate sites with restricted access.

22 **Sec. 118.613. - Art in Public Places Committee.**

23 There is hereby created an Art In Public Places Committee. The
24 Committee will be an 11-member board appointed by the Mayor as
25 follows: two from the Cultural Council of Greater Jacksonville Board
26 of Directors; three from the professions of architecture, interior
27 design, landscape architecture, planning, art professional, or art
28 historian; and six from the community at large as community
29 representatives, each residing within a different planning district
30 whose interests, professions and community activities reflect the
31 diversity of the Jacksonville arts community and of the community at

1 large. All members shall be confirmed by the City Council. Initially
2 one member of each group shall be appointed for three years, one of
3 each shall serve two years and one of each shall serve one year.
4 Thereafter, all terms shall be for three years. No member appointed
5 to the Committee for two consecutive full terms shall be eligible for
6 appointment to the next succeeding term. The Committee shall be
7 responsible for receiving, reviewing, and acting on the
8 recommendations of the Art Selection Panels.

9 **Sec. 118.614. - Funding.**

10 (a) A percentage of the total allocation ("allocation percentage")
11 (including multi-year phasing) for construction costs of a public
12 facility, as determined by that percentage existing by ordinance at
13 its initial inclusion within the capital improvement program, and as
14 outlined in this Part, shall be appropriated to the Art In Public
15 Places Trust Fund.

16 (b) Funds appropriated to the Art In Public Places Trust Fund shall
17 be used to implement a city-wide plan for the creation and placement
18 of public art as developed and administered by the Cultural Council.

19 (c) Eighty percent of the allocation percentage shall be dedicated
20 to the public art, ten percent of the allocation percentage shall be
21 dedicated to public art maintenance, and up to ten percent of the
22 allocation percentage shall be dedicated to public art administration
23 and community education; provided however, the maintenance and
24 administration allocation percentages shall not apply to
25 appropriations originating from any funds which prohibit expenditures
26 for maintenance and administration. These amounts shall be used at
27 the discretion of the Cultural Council in collaboration with the
28 Finance and Administration Department and any other City department
29 as appropriate for the public art maintenance and administration and
30 community education.

31 (d) The maintenance costs for any installation shall be included in

1 the initial project budget.

2 **Sec. 118.615. - Duties.**

3 The duties of the Cultural Council are as follows:

4 (a) Create updates to the five-year plan known as the Art in Public
5 Places Program Five Year Plan for Program Development and
6 Implementation. This plan may also be revised from time to time by
7 the Cultural Council. Updates shall be provided to the Mayor and City
8 Council at least six months prior to the expiration of the five-year
9 plan and shall be placed on file with the Legislative Services
10 Division. The updates and revisions to the plan shall be reviewed by
11 City Council and shall not take effect until City Council approval.

12 (b) Review annual City Capital Improvement Projects with appropriate
13 boards, agencies, authorities, and departments and establish a list
14 of eligible projects to include in the program.

15 (c) Develop budgets for public art administration, maintenance,
16 conservation, and community education.

17 (d) Develop an annual plan and budget for public art projects.

18 (e) Develop and oversee policy implementation and administration of
19 the public art program, which may include such things as acceptance
20 of gifts. All gifts, grants and award of monies shall be deposited
21 in the Art in Public Places Trust Fund.

22 (f) Be responsible, in its discretion, for applying for and
23 receiving state, federal and private funds related to public art on
24 behalf of the City through appropriate grant applications, and for
25 the administration thereof.

26 **Sec. 118.616. - Art selection panels.**

27 The Art in Public Places Committee shall, when deemed appropriate by,
28 and as outlined in, the Art in Public Places Program Five-Year Plan
29 for Program Development and Implementation, form Art Selection Panels
30 to make recommendations to the Committee on the selection of public
31 art. Each Selection Panel will be composed of up to nine members: a

1 Chair, who will be a member of and represent the Art In Public Places
2 Committee; a representative of the site selected for the art (staff
3 or board member); architect or other design professional for the
4 project, if available; two artists, art educators or art
5 professionals; and one to three community representatives, at least
6 one of whom shall reside in the planning district within which the
7 art shall be sited. The artists or arts professional representatives
8 will be selected from a list, maintained by the Committee, of
9 interested and qualified individuals. The Chief Administrative
10 Officer shall select a department representative to provide subject
11 matter expertise and city process guidance, including but not limited
12 to risk management, ADA compliance, and ordinance code compliance.

13 **Sec. 118.617. - Art selection; methods.**

14 (a) The Art Selection Panel shall select artists and artwork in one
15 of the following ways:

16 (i) Open competition: Requesting artists' submissions with
17 specifications regarding local, state, regional or national scope.

18 (ii) Limited competition: Inviting a small number of artists to
19 respond with examples of past work or to prepare formal proposals,
20 and selecting a specific artist based on these submissions.

21 (iii) Direct purchase: Purchase of existing work and all rights
22 thereto.

23 (iv) Invitational commission: Selecting a specific artist for direct
24 commission.

25 (b) The Cultural Council and the Art in Public Places Committee
26 shall seek to ensure that at least 15 percent of the artists selected
27 for purchase or commission will be resident(s) in the Greater
28 Jacksonville area, (the counties of Duval, St Johns, Nassau, Clay,
29 and Baker). The Cultural Council and the Art in Public Places
30 Committee will also encourage the selection of regional artists e.g.,
31 Florida and the Southeastern United States.

1 (c) All purchases made pursuant to this Section shall be made
2 pursuant to an evaluated bid process created by the Purchasing
3 Division and modified as necessary to accomplish the objectives of
4 this Chapter. A proposal fee and/or travel reimbursement may be
5 offered for the invited artists to cover the cost of the formal
6 proposals at the discretion of the Art in Public Places Committee.
7 The proposal fee and/or travel reimbursement shall be part of the
8 amount funded pursuant to this subpart.

9 Any provisions of this Chapter conflicting with the expressed intent
10 and procurement methodology of the Art In Public Places program are
11 hereby waived.

12 **Sec. 118.618. - Ownership; maintenance.**

13 (a) The City will own all the rights to the art produced by the Art
14 In Public Places program, subject to the provisions of the Visual
15 Artists Act of 1990. All contracts with artists and all art purchases
16 will require the Artist to waive the following restrictions:

17 (1) Photographic reproduction rights (to be shared by artist and
18 owner);

19 (2) Right to remove/relocate art;

20 (3) Right to repair art in case of emergency;

21 (b) Artist will retain the copyright and the right to be notified
22 if the work is to be destroyed or deaccessioned or radically repaired
23 on a nonemergency basis.

24 (c) City will retain ownership of proposal models or drawings of
25 commissioned art.

26 (d) Maintenance will be the responsibility of the City and will be
27 funded by that portion of the trust fund which is allocated for
28 maintenance and conservation and will be administered in cooperation
29 with the Cultural Council based on a conservation evaluation plan.

30 **Sec. 118.619. - Cultural Council responsibility.**

31 The Cultural Council shall administer the Art In Public Places program

1 on behalf of the City. The Cultural Council will provide professional
2 and support staff for the operation of the program and administration
3 of the Art in Public Places Program and the art selection process.

4 **Sec. 118.620. - School Board; independent authorities authorized to**
5 **use program.**

6 (a) The City Council hereby urges and requests the Duval County
7 School Board and the independent authorities of the City to adopt Art
8 in Public Places programs.

9 (b) The Duval County School Board and the independent authorities
10 of the City are hereby authorized to utilize any portion of this
11 subpart to implement an Art in Public Places program.

12 **Sec. 118.621. - Schedule.**

13 The allocation percentage appropriation created in Section 118.614(a)
14 shall apply as follows:

15 (a) 0.75 percent to any project subject to the provisions of this
16 Subpart and adopted by the City Council.

17 **Section 5. Creating a new Part 4 (Contract Administration**
18 **and Oversight), Chapter 21 (Executive Branch, generally), Ordinance**
19 **Code.** A new Part 4 (Contract Administration and Oversight), Chapter
20 21 (Executive Branch, generally), *Ordinance Code*, is hereby created
21 to read as follows:

22 **CHAPTER 21 - EXECUTIVE BRANCH, GENERALLY**

23 * * *

24 **PART 4. - CONTRACT ADMINISTRATION AND OVERSIGHT; CONTRACT EXECUTION**

25 **Sec. 21.401. - Contract administrator; contract risk assessment**
26 **program.** Department directors and/or chief executive

27 officers/executive directors of using agencies shall assign a
28 departmental or agency employee (for purposes of this section the
29 "contract administrator"), to certain contracts identified by the
30 Office of Inspector General as high-risk contracts. The Chief
31 Administrative Officer or designee, in consultation with the Office

1 of Inspector General, shall develop a contract risk assessment
2 program, which among other things identifies key high-risk contract
3 factors, for using agencies in the administration and oversight of
4 high-risk contracts. The contract administrator shall be responsible
5 and accountable for the administration and oversight of high-risk
6 contracts, ensuring that the contract deliverables are met, and the
7 City's payment of invoices are justified. For purposes of this
8 section the term "contract deliverables" shall mean matters regarding
9 the project scope and consistency with appropriation purposes and
10 limitations, project time limits and scheduling compliance, project
11 milestones, product and performance delivery, review dates, plan
12 updates, and contract renewal evaluation.

13 **Sec. 21.402. - Contract administrator training.** The Chief of
14 Procurement, City Ethics Director, and Inspector General, or
15 designees, shall provide training annually to using agencies
16 regarding procurement methods and procedures, ethics in public
17 contracting, contract risk assessment program, contract
18 administration and oversight, and the contract administration
19 certification program administered by the Chief of Procurement.

20 **Sec. 21.403. - Employee disclosure of personal and business**
21 **relationships.** A City employee performing, or participating in, the
22 administration, oversight, and approval of payment of a City contract
23 made pursuant to this Code shall, prior to performing, or
24 participating in, City contract administration, oversight, and
25 approval of payment duties regarding a City contract, disclose in
26 writing to their department head, division chief, or other comparable
27 supervisory personnel, all current or former personal and business
28 relationships with the contractor, its officers, employees, and
29 agents on a disclosure form developed by the City Ethics Office. Such
30 disclosure form shall include a definition of "current or former
31 personal and business relationships". The applicable department head,

1 chief, or other comparable supervisory personnel shall review and
2 approve such written disclosures in consultation with the City Ethics
3 Office.

4 **Sec. 21.404. - Contract execution.** Unless otherwise prohibited by
5 law or the Code, City contracts may be transmitted and executed in
6 electronic form, which may include without limitation the use of
7 electronic and digital programs, applications, or signatures (e.g.,
8 DocuSign and Adobe Acrobat, etc.).

9 **Section 6. Amending Part 4 (Nondiscrimination Policy),**
10 **Chapter 126 (Procurement Code), Ordinance Code.** Part 4
11 (Nondiscrimination Policy), Chapter 126 (Procurement Code), *Ordinance*
12 *Code*, is hereby amended to read as follows:

13 **CHAPTER 126 - PROCUREMENT CODE**

14 * * *

15 **PART 4. - NONDISCRIMINATION POLICY; FEDERAL AND STATE GRANT**
16 **REQUIREMENTS**

17 **Sec. 126.401. - Policy.**

18 It is hereby declared to be the City policy to assure equal
19 opportunities to every person, regardless of race, color, religion,
20 sex, ~~color~~, sexual orientation, gender identity, familial status,
21 national origin, age handicap or national origin disability in
22 securing or holding employment in a field of work or labor for which
23 the person is qualified, as provided and enforced by Chapter 402.
24 It is also the City policy that persons doing business with the City
25 shall recognize and comply with this policy and will not expend
26 public funds in a manner as will encourage, perpetuate, or foster
27 discrimination. Nevertheless, it is not the intent or policy of the
28 City to impose or require quotas or other formulas based on race,
29 color, religion, sex, ~~color~~, sexual orientation, gender identity,
30 familial status, national origin, age handicap or national origin
31 disability for securing or holding employment or awarding City

1 contracts or to create a presumption of discrimination or
2 nondiscrimination. This provision shall be automatically updated to
3 conform to applicable state and federal law on protected categories.

4 **Sec. 126.402. - Definitions.**

5 As used in this part:

6 (a) *City contracts* means all contracts of the City for the purchase
7 of supplies, contractual services, including professional design
8 services, professional services, and capital improvements.

9 * * *

10 (e) *Policy of nondiscrimination* means a policy of nondiscrimination
11 ~~against an employee or applicant for employment on account of race,~~
12 ~~religion, sex, color, national origin, age or handicap, which policy~~
13 ~~applies in all areas of employee relations~~ substantially conforming
14 to the City's policy of nondiscrimination.

15 * * *

16 **Sec. 126.406. - Effect of final order finding noncompliance.**

17 (a) With respect to a person seeking the award of a City contract,
18 a copy of a final order finding noncompliance with the policy of
19 nondiscrimination required by this Part shall be furnished to the
20 committee or the Mayor, whichever requested the investigation. No
21 City contract shall be awarded to a person failing to comply with
22 the policy of nondiscrimination required by this Part.

23 (b) With respect to the nondiscrimination provisions of a City
24 contract, a copy of a final order finding noncompliance with the
25 provisions shall be furnished to the Mayor and the Chief. Every
26 order shall afford the bidder or contractor affected an opportunity
27 to demonstrate to the satisfaction of the authority issuing the
28 order which becomes final, within the reasonable time as the issuing
29 authority determines, that the breach of the nondiscrimination
30 provisions has been corrected. At the expiration of the reasonable
31 time, the issuing authority shall enter a further order determining

1 whether the breach has been corrected, furnishing copies thereof to
2 the affected person, the Mayor, and the Chief. A person failing to
3 correct the breach of the nondiscrimination provisions within the
4 period permitted shall be deemed an irresponsible bidder, and no
5 City contract shall be awarded to this person. An irresponsible
6 bidder under this subsection shall have the opportunity to submit
7 to the Commission at any time a program adopting and maintaining a
8 policy of nondiscrimination and, upon approval thereof by the
9 Commission, the prohibitions of this subsection shall terminate.

10 **Sec. 126.407. - Federal Uniform requirements.**

11 The City shall comply with federal and/or state procurement
12 requirements, including 2 CFR Part 200-Uniform Administrative
13 Requirements, Costs Principles, and Audit Requirements for Federal
14 Awards (2 CFR 200.318-200.326), which is incorporated herein by
15 reference, as applicable.

16 **Sec. 126.408. - Conflict with grant requirements.**

17 To the extent that a conflict exists between the provisions of this
18 Chapter and the provisions of federal and/or state procurement
19 requirements necessary to receive and expend grant funding pursuant
20 to Chapter 117, Ordinance Code, the Chief, in his or her discretion
21 in consultation with the Office of General Counsel, is authorized to
22 waive any such conflicting Code provision in this Chapter and comply
23 with the federal and/or state procurement requirement(s). If a Code
24 provision is waived pursuant to this Section, upon final approval of
25 the contract award, the Chief shall notify the City Council Auditor
26 and the City Council Secretary of the same.

27 **Section 7. Amending Part 6 (Jacksonville Small and Emerging**
28 **Business Program), Chapter 126 (Procurement Code), Ordinance Code.**

29 Part 6 (Jacksonville Small and Emerging Business Program), Chapter
30 126 (Procurement Code), *Ordinance Code*, is hereby amended to read as
31 follows:

1 **CHAPTER 126 - PROCUREMENT CODE**

2 * * *

3 **PART 6. - JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM**

4 **SUBPART A. - GENERAL PROVISIONS**

5 * * *

6 **Sec. 126.604. - Definitions.**

7 The following words and phrases as used in this Part shall have the
8 following meaning:

9 ~~Chief shall mean the Chief of Procurement pursuant to Chapter 24,~~
10 ~~Part 6 of the Code.~~

11 ~~Director shall mean the Director of Finance pursuant to Chapter 24,~~
12 ~~Part 1 of the Code.~~

13 * * *

14 **SUBPART C. - PROGRAM SUPPORT SERVICES; MARKETING AND OUTREACH;**

15 **DISPARITY STUDY UPDATE**

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

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

28 (b) Section 126.2301-~~(b)~~ of the Code provides that JSEBs are not
29 required to submit bid bonds for projects under \$500,000. Section
30 126.2301-~~(g)~~ provides that JSEBs shall be exempt from obtaining a
31 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 ~~23~~ 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 * * *

6 **SUBPART D. - PROGRAM ELIGIBILITY, PROCEDURES, AND OTHER**
7 **REQUIREMENTS**

8 * * *

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

10 Except as provided in this ~~part~~ Part to implement the Program, the
11 provisions of ~~Parts 1, 2, 3 and 4, of this~~ Chapter 126, shall apply.
12 ~~The Director shall establish rules that specify the manner in which~~
13 ~~conflicts between the provisions of Parts 1, 2, 3, or 4 of this~~
14 ~~Chapter are to be resolved.~~

15 **Section 8. Amending Section 122.605 (Review, amendment,**
16 **adoption and appropriation by City Council), Part 6 (Capital**
17 **Improvement Plan), Chapter 122 (Public Property), Ordinance Code.**
18 Section 122.605 (Review, amendment, adoption and appropriation by
19 City Council), Part 6 (Capital Improvement Plan), Chapter 122 (Public
20 Property), *Ordinance Code*, is hereby amended to read as follows:

21 **CHAPTER 122 - PUBLIC PROPERTY**

22 * * *

23 **PART 6. - CAPITAL IMPROVEMENT PLAN**

24 * * *

25 **Sec. 122.605. - Review, amendment, adoption and appropriation by**
26 **City Council.**

27 (a) In conjunction with its review of the annual budgets for the
28 City and independent agencies, the City Council shall:

29 * * *

30 (c) The City Council may amend the Capital Improvement Plan and any
31 appropriations made pursuant to Section 122.605(a)(4) during the

1 then current fiscal year, but only upon an enactment by City Council
2 specifically identifying the reasons that deferral of such amendment
3 until the immediately following annual budget review will be
4 detrimental to the best interest of the community. Enactment of an
5 ordinance approving a proposed CIP amendment during the fiscal year
6 shall require approval by a two-thirds majority of the Council
7 Members present. Any amendment to the CIP must include all
8 information required with respect to a project that is required for
9 inclusion in the annual CIP.

10 (d) The requirements in subsection (c) of this section shall not
11 apply to emergency procurements of capital improvements made
12 pursuant to Chapter 126 of the Code until after the Chief of
13 Procurement has approved an emergency procurement of a capital
14 improvement. In instances where an emergency procurement of a capital
15 improvement is approved by the Chief of Procurement pursuant to
16 Chapter 126 of the Code prior to the City Council's adoption of a
17 CIP amendment, the Mayor shall promptly file emergency legislation
18 to be considered by the City Council at the City Council meeting
19 immediately following the date that the Chief of Procurement approved
20 the emergency procurement. The emergency legislation shall propose
21 an amendment to the CIP in accordance with subsection (c) above and
22 include justification for the emergency.

23 **Section 9. Amending Section 108.505 (Special Counsel), Part**
24 **5 (Legal Services), Chapter 108 (Central Services), Ordinance Code.**
25 Section 108.505 (Special Counsel), Part 5 (Legal Services), Chapter
26 108 (Central Services), *Ordinance Code*, is hereby amended to read as
27 follows:

28 **CHAPTER 108 - CENTRAL SERVICES**

29 * * *

30 **PART 5. - LEGAL SERVICES**

31 * * *

1 **Sec. 108.505. - Special Counsel.**

2 The City shall secure the use of legal services from outside "special
3 counsel" in any of the following ways:

4 (a) The General Counsel is authorized to expend appropriated
5 funds, without additional Council action for, and to retain the
6 assistance of special counsel to represent the City with
7 targeted issues in ~~the following specialty~~ specialized legal
8 subject areas, all of which ~~do~~ may not require lengthy periods
9 of representation, and, because of their highly specialized
10 nature, infrequency, potential conflicts, or extraterritorial
11 jurisdiction, do not lend themselves to representation by
12 assistant general counsels or because assistant general
13 counsels may be unable to perform the work due to other work
14 assignments, and generally require immediate legal responses.
15 These specialized legal subject areas shall include:
16 bankruptcy, copyright, patent and trademark, developments of
17 regional impact, employee benefits and health care,
18 entertainment, foreign jurisdiction litigation, immigration,
19 intellectual property, maritime, Office of General Counsel
20 employee issues, specialty contracts, stadium leases, bond and
21 disclosure counsel, taxation, and telecommunications.

22 * * *

23 **Section 10. Amending Section 24.603 (Duties of Chief of**
24 **Procurement), Part 6 (Procurement Division), Chapter 24 (Finance and**
25 **Administration Department), Ordinance Code.** Section 24.603 (Duties
26 of Chief of Procurement), Part 6 (Procurement Division), Chapter 24
27 (Finance and Administration Department), *Ordinance Code*, is hereby
28 amended to read as follows:

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

30 * * *

1 2024. The Mayor shall approve the amended Procurement Operating Manual
2 required under this Section. The Chief shall promptly file a copy of
3 the amended Procurement Operating Manual with the Council Secretary,
4 the Council Auditor, and the Inspector General to allow the Council
5 Auditor and Inspector General to provide comments to the Chief
6 regarding the amended Procurement Operating Manual. The Chief shall
7 review and consider any comments from the Council Auditor and
8 Inspector General regarding the amended Procurement Operating Manual
9 and may further amend the Procurement Operating Manual, as
10 appropriate, based on such comments and consistent with this
11 ordinance. The Chief shall promptly provide the Council Secretary,
12 the Council Auditor, and the Inspector General with the final amended
13 Procurement Operating Manual. The Procurement Operating Manual, as
14 amended in accordance with this section, shall not become effective
15 until July 1, 2024. The Chief shall develop and implement workshops
16 and training materials to inform City agencies of the Code changes
17 and the amended Procurement Operating Manual required in this Section.

18 **Section 14. Oversight.** The Procurement Division shall have
19 oversight over this ordinance except for the code amendments
20 pertaining to Chapter 118, Part 6 and Chapter 21, Part 4, *Ordinance*
21 *Code*.

22 **Section 15. Codification Instructions.** The Codifier and the
23 Office of General Counsel are authorized to make all chapter and
24 division "tables of contents" consistent with the changes set forth
25 herein. Such editorial changes and any others necessary to make the
26 Ordinance Code consistent with the intent of this legislation are
27 approved and directed herein, and changes to the Ordinance Code shall
28 be made forthwith and when inconsistencies are discovered.

29 **Section 16. Effective Date.** This Ordinance shall become
30 effective upon signature by the Mayor or upon becoming effective
31 without the Mayor's signature.

1 Form Approved:

2

3 /s/ Mary E. Staffopoulos

4 Office of General Counsel

5 Legislation Prepared By: Lawsikia J. Hodges

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