

1 Co-Introduced by Council Members Pittman, Freeman and Dennis:  
2

3 **ORDINANCE 2021-117**

4 AN ORDINANCE REPEALING CHAPTER 24 (FINANCE AND  
5 ADMINISTRATION DEPARTMENT), PART 6, SECTION  
6 24.604 (OFFICE OF THE OMBUDSMAN FUNCTIONS) AND  
7 SECTION 24.605 (EQUAL BUSINESS OPPORTUNITY  
8 OFFICE FUNCTIONS), *ORDINANCE CODE*; CREATING A  
9 NEW CHAPTER 24 (FINANCE AND ADMINISTRATION  
10 DEPARTMENT), PART 10 (OFFICE OF THE OMBUDSMAN)  
11 AND PART 11 (EQUAL BUSINESS OPPORTUNITY  
12 DIVISION); AMENDING CHAPTER 24, SECTION 24.603  
13 (DUTIES OF CHIEF OF PROCUREMENT), *ORDINANCE*  
14 *CODE*; REPEALING CHAPTER 126 (PROCUREMENT  
15 CODE), PART 6A (SMALL BUSINESS CAPITAL,  
16 BONDING, AND OUTREACH PROGRAM) AND PART 6B  
17 (JACKSONVILLE SMALL EMERGING BUSINESS  
18 PROGRAM), *ORDINANCE CODE*; CREATING A NEW  
19 CHAPTER 126, PART 6 (JACKSONVILLE SMALL  
20 EMERGING BUSINESS PROGRAM), SUBPART A (GENERAL  
21 PROVISIONS), SUBPART B (PROGRAM  
22 ADMINISTRATION), SUBPART C (PROGRAM SUPPORT  
23 SERVICES; MARKETING AND OUTREACH; DISPARITY  
24 STUDY UPDATE), SUBPART D (PROGRAM ELIGIBILITY,  
25 PROCEDURES, AND OTHER REQUIREMENTS); PROVIDING  
26 FOR CODIFICATION INSTRUCTIONS; PROVIDING AN  
27 EFFECTIVE DATE.

28  
29 **WHEREAS**, the City of Jacksonville ("City") determined in 2004  
30 that growing Jacksonville small and emerging businesses ("JSEBs")  
31 was beneficial to the City and its individual residents; and

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

6           **WHEREAS**, a Special Committee on the Jacksonville Small &  
7 Emerging Business ("Special Committee") was established in August  
8 2020 to review the Program and make improvements and  
9 recommendations to the Program supported by evidence, disparity  
10 studies, and applicable federal and state law; and

11           **WHEREAS**, the Special Committee held multiple meetings and  
12 heard from various guest speakers and presenters, including JSEB  
13 vendors, prime contractors, the City's Procurement Division, other  
14 interested parties, and the public; and

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

17           **WHEREAS**, based on the Special Committee's review of the  
18 Program, the City desires to further improve certain aspects of the  
19 Program to better assist JSEBs in growing and graduating from the  
20 Program; now therefore

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

22           **Section 1. Repealing Chapter 24 (Finance and**  
23 **Administration Department), Part 6, Section 24.604 (Office of the**  
24 **Ombudsman Functions) and Section 24.605 (Equal Business Opportunity**  
25 **Office Functions), Ordinance Code.** Chapter 24 (Finance and  
26 Administration Department), Part 6, Section 24.604 (Office of the  
27 Ombudsman Functions) and Section 24.605 (Equal Business Opportunity  
28 Office Functions), *Ordinance Code*, are hereby repealed in their  
29 entirety. Copies of the repealed Chapter 24, Part 6, Sections  
30 24.604 and 24.605, are attached hereto as **Exhibit 2**.

31           **Section 2. Creating a new Chapter 24 (Finance and**

1 **Administration Department), Part 10 (Office of the Ombudsman) and**  
2 **Part 11 (Equal Business Opportunity Division), Ordinance Code.**  
3 Chapter 24 (Finance and Administration Department), Part 10 (Office  
4 of the Ombudsman) and Part 11 (Equal Business Opportunity  
5 Division), *Ordinance Code*, are hereby created to read as follows:

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

7 \* \* \*

8 **PART 10. OFFICE OF THE OMBUDSMAN**

9 **Sec. 24.1101. Establishments; functions.**

10 The Office of Ombudsman is established as an office within the  
11 Finance and Administration Department. The Office of the Ombudsman  
12 shall act as a trusted intermediary to promote contractual  
13 fairness, neutrality, and administrative accountability and  
14 transparency through impartial investigations and mediation of  
15 complaints. The office shall offer assistance in the resolution of  
16 problems associated with post award contractual compliance issues,  
17 including but not limited to issues of payment and performance. The  
18 office shall have the following additional duties:

19 (a) Manage multifaceted complex contract disputes involving  
20 contractors, subcontractors, and vendors;

21 (b) Analyze complaints, manages cases and determines  
22 recommendations;

23 (c) Confer with disputants to clarify issues, identify  
24 underlying concerns and develop an understanding of their  
25 respective need and interests;

26 (d) Utilize mediation techniques to facilitate communication  
27 between disputants, to further parties' understanding of  
28 different perspectives and to guide parties toward mutual  
29 agreement;

30 (e) Work with the Office of General Counsel to prepare  
31 settlement agreements or prepare for court proceedings;

1 (f) Work with the Procurement Division to ensure that  
2 procurement processes and systems are followed;

3 (g) Research, investigate complaints, write recommendations  
4 and reports for monitored contracts;

5 (h) Compose, review and revise policies and procedures with  
6 regard to the office activities;

7 (i) Partner with using agencies to assist in resolving  
8 contractual disputes; and

9 (j) Assist the Equal Business Opportunity Office in the  
10 resolution of disputes between City vendors regarding issues  
11 of payment, performance and overall contract compliance.

12 **PART 11. EQUAL BUSINESS OPPORTUNITY DIVISION**

13 **Sec. 24.1101. Establishment; functions.**

14 There is created an Equal Business Opportunity Division within the  
15 Finance and Administration Department. The purpose of the Equal  
16 Business Opportunity Division is to promote the growth and success  
17 of Jacksonville Small & Emerging Business vendors to become engines  
18 of economic growth in their communities while establishing key  
19 proprieties designed to overcome unique challenges faced by  
20 Jacksonville Small & Emerging Businesses. The Division shall be  
21 responsible for deployment and administration of Chapter 126, Part  
22 6 (Jacksonville Small Emerging Business Program), and shall:

23 (a) Process certification applications;

24 (b) Assist the Chief of Procurement in implementing  
25 participation JSEB goals on a project by project basis;

26 (c) Monitor City projects for compliance with the requirements  
27 of Chapter 126, *Ordinance Code*;

28 (d) Report on the expenditure of City funds paid to certified  
29 JSEB companies;

30 (e) Assist in the resolution of disputes between City vendors  
31 regarding issues of payment, performance and overall contract  
32 compliance;

1 (f) Provide support services to assist certified JSEBs in  
2 their efforts to secure training, bonding and access to  
3 capital pursuant to Chapter 126, Part 6, *Ordinance Code*;

4 (g) Provide annual training, in consultation with the Chief of  
5 Procurement and the Ombudsman, to department heads and  
6 divisions chiefs, or their designees, and applicable staff of  
7 City boards and commissions pursuant to Chapter 126, Part 6,  
8 *Ordinance Code*; and

9 (h) Perform the various duties defined in and/or required by  
10 Chapter 126, *Ordinance Code*.

11 **Sec. 24.1102. Chief, Equal Business Opportunity.** The Chief of  
12 Equal Business Opportunity is the division chief of the Equal  
13 Business Opportunity Division. The Chief shall be appointed by the  
14 Mayor, subject to confirmation by the Council, and shall serve at  
15 the pleasure of the Mayor. The Chief shall have a bachelor's degree  
16 or higher from an accredited college or university.

17 **Sec. 24.1103. Duties of Chief.** The Chief of Equal Business  
18 Opportunity shall oversee the operation and management of the Equal  
19 Business Opportunity Division in accordance with applicable laws,  
20 and shall perform such other duties and responsibilities as may be  
21 assigned by the Mayor and the Director.

22 **Section 3. Amending Chapter 24 (Finance and**  
23 **Administration Department), Section 24.603 (Duties of Chief of**  
24 **Procurement), *Ordinance Code*.** Chapter 24 (Finance and  
25 Administration Department), Section 24.603 (Duties of Chief of  
26 Procurement), *Ordinance Code*, is hereby amended to read as follows:

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

28 \* \* \*

29 **PART 6. PROCUREMENT DIVISION**

30 \* \* \*

1 **Sec. 24.603. - Duties of Chief of Procurement.** It shall be the duty  
2 of the Chief to:

3 \* \* \*

4 (q) Operate and manage the Purchasing Services Unit and the  
5 Reproduction, Mail Center, and Surplus Unit in accordance with  
6 applicable laws; and

7 (r) Operate and manage the Division, and perform such other  
8 duties and responsibilities as may be assigned by the Mayor,  
9 the Director of the Finance and Administration Department, or  
10 their respective designees in connection with the procurement  
11 of goods and services for the City, except where specifically  
12 exempted by the Council;

13 ~~(s) Oversee the Office of Ombudsman; and~~

14 ~~(t) Oversee the Office of Equal Business Opportunity.~~

15 \* \* \*

16 **Section 4. Repealing Chapter 126 (Procurement Code), Part**  
17 **6A (Small Business Capital, Bonding, and Outreach Program) and Part**  
18 **6B (Jacksonville Small Emerging Business Program), Ordinance Code.**  
19 Chapter 126 (Procurement Code), Part 6A (Small Business Capital,  
20 Bonding, and Outreach Program) and Part 6B (Jacksonville Small  
21 Emerging Business Program), *Ordinance Code*, are hereby repealed in  
22 their entirety. Copies of the repealed Chapter 126, Parts 6A and  
23 6B, are attached hereto as **Exhibit 3.**

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

1 Support Services; Marketing and Outreach; Disparity Study Update),  
2 and Subpart D (Program Eligibility, Procedures, and Other  
3 Requirements), *Ordinance Code*, are hereby created to read as  
4 follows:

5 **CHAPTER 126 - PROCURMENT CODE**

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

7 **SUBPART A. GENERAL PROVISIONS**

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

12 **Sec. 126.602 - Legislative Findings.**

13 The Council finds and declares that:

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

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

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

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

26 "*Chief*" shall mean the Chief of Procurement.

27 "*Director*" shall mean the Director of the Finance and  
28 Administration Department.

1 "Direct contracting" shall mean any contract between the City and a  
2 JSEB that has been awarded to a JSEB pursuant to Chapter 126,  
3 *Ordinance Code*.

4 "JSEB" shall mean Jacksonville Small and Emerging Business.

5 "JSEB Administrator" shall mean the individual responsible for  
6 administering and managing the JSEB Program pursuant to Chapter 24,  
7 Part 11 and this Part.

8 "Prime contractor" shall mean a non-JSEB contractor who has been  
9 awarded a contract with the City pursuant to Chapter 126, *Ordinance*  
10 *Code*, and who is required to subcontract with a JSEB(s) pursuant to  
11 a Schedule of Participation.

12 "Program" shall mean the Jacksonville Small and Emerging Business  
13 Program.

14 "Project Specific Goals" shall mean specific JSEB subcontractor  
15 participation goals set by the JSEB Administrator and Chief of  
16 Procurement that a prime contractor must adhere to in a City  
17 awarded contract.

18 "Program Goals" shall mean the goals for the Program set forth in

19 "*Schedule of Participation*" shall mean the bidder/proposer's  
20 detailed list of all JSEB and non-JSEB subcontractors from which  
21 the bidder/proposer solicited bids or quotations in accordance with  
22 Section 126.616 herein.

23 **Sec. 126.605. - Annual Budget Appropriation.** The JSEB program, as  
24 provided for in this Part, shall be funded at a minimum of \$500,000  
25 or greater excluding staff.

26 **SUBPART B. PROGRAM ADMINISTRATION**

27 **Sec. 126.606. - JSEB Administrator.**

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



1 (1) Implementing and enforcing rules and regulations hereunder  
2 and, implementation and monitoring of the Program;

3 (2) Breaking larger contracts into smaller components where  
4 such actions will facilitate competition and provide  
5 opportunities under the Program;

6 (3) Providing information and assistance to JSEBs relating to  
7 City procurement opportunities, practices and procedures, and  
8 bid and proposal specifications, requirements and  
9 prerequisites;

10 (4) Certifying businesses as JSEBs, maintaining certification  
11 records, and ensuring that such information is available on  
12 the City's Procurement website identifying all such certified  
13 entities;

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

16 (6) Evaluating prime contractors' achievement of Project  
17 Specific Goals or Good Faith Efforts to meet Project Specific  
18 Goals;

19 (7) Working with City departments to ensure prompt, timely,  
20 payments to JSEBs for work performed in accordance with  
21 Section 126.615 herein;

22 (8) Receiving, reviewing, and acting upon complaints and  
23 suggestions concerning the Program. The JSEB Administrator  
24 shall create a complaint form as part of this process that  
25 identifies both parties;

26 (9) Providing quarterly open houses to answer questions from  
27 Program participants or prospective participants regarding the  
28 operation of the Program;

29 (10) Posting all contracting opportunities on the Department  
30 website under "JSEB Program";

1 (11) Identifying all certified companies on its website within  
2 three business days of certification;

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

7 (13) Providing interested JSEBs with timely, adequate  
8 information about the plans, specifications and requirements  
9 of the contract to allow them to respond to the solicitation  
10 either directly or by referral to the City department seeking  
11 the procurement;

12 (14) Maintaining a list of certified JSEBs, shall have copies  
13 available for distribution and shall post such information on  
14 the City's Procurement website;

15 (15) Adjusting the annual gross receipts for good cause shown.  
16 An appeal of the decision of the JSEB Administrator may be  
17 appealed pursuant to 126.621 herein;

18 (16) Perform onsite inspections of the JSEB business location;  
19 and

20 (17) Facilitating and coordinating all aspects of the Program  
21 so as to provide Program participants and prospective  
22 participants with a primary contact for the Program.

23 (b) *Department Training.* Each City department, office or board  
24 shall identify to the JSEB Administrator the person with the  
25 responsibility of ensuring JSEB participation in such department,  
26 office or board; said person shall receive diversity training and  
27 shall prepare quarterly reports to the JSEB Administrator  
28 identifying the extent of non-JSEB, JSEB participation in any  
29 procurement within it's department, office or board that month.

1 (c) *Courtesy Application Reviews and Meeting Conferences.* The JSEB  
2 Administrator, or his or her designee, shall provide courtesy  
3 reviews of a small business's JSEB application to confirm whether  
4 the application has complied with the requirements of this Part.  
5 The JSEB Administrator may conduct such courtesy reviews in person  
6 or electronically with the small business upon request and  
7 appointments shall be scheduled on a first come, first serve basis  
8 as time allows. Additionally, the JSEB Administrator, or his or  
9 designee, may meet with prospective JSEBs or small businesses  
10 interested in the Program to provide information regarding the  
11 Program's support and outreach services available to JSEBs as set  
12 forth in this Part.

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

14 (a) *Establishment; purpose.* There is established a seven-member  
15 JSEB Monitoring Committee ("Committee"), to annually review, in  
16 consultation with the JSEB Administrator, the status of the Program  
17 Goals, including, but not limited to, the percentage, number, and  
18 dollar value of contracts awarded through direct contracting and  
19 subcontracts; the training, access to capital, and bonding programs  
20 required herein; difficulties or accomplishments of the Program;  
21 and a comparison of the achievements under the Program compared  
22 with the Program Goals. The Committee shall also annually review  
23 the (i) maximum threshold amounts for personal net worth and  
24 averaged annual gross receipts referenced in Section 126.613(c),  
25 and (ii) limitation on the number of program participation years in  
26 Section 126.613(c) to determine if such amounts and limitation on  
27 the number of years are appropriate for the Program. Based on the  
28 Committee's required Program review, the Committee may recommend to  
29 the Mayor or City Council amendments to the Program in the form of  
30 a report.

1 (b) *Composition; appointments.* The Mayor shall appoint three  
2 members of the Committee, and the City Council shall appoint four  
3 members. The Committee shall be comprised of two non-JSEB  
4 contractors, one appointed by the Mayor and one appointed by the  
5 City Council, two certified JSEB contractors, one appointed by the  
6 Mayor and one appointed by the City Council, and two private  
7 citizens, one appointed by the Mayor, and one appointed by the City  
8 Council, and one representative from the Northeast Florida Builders  
9 Association, Inc., or similar trade association, appointed by the  
10 City Council, for three-year staggered terms. The two non-JSEB  
11 contractor members must have a current contract with the City or  
12 have had a contract with the City in the past. The Mayor shall  
13 appoint a Chair and the Chair shall serve until such a time as  
14 another Chair shall be appointed by the Mayor. The Mayor and City  
15 Council shall strive to reflect the diversity of Duval County in  
16 its appointments; each of the seven members shall be confirmed by  
17 City Council.

18 (c) *Meetings; applicable laws.* The Committee shall meet quarterly  
19 with the JSEB Administrator, who shall then generate a quarterly  
20 report for the Mayor and City Council no later than 14 days after  
21 each quarterly meeting. The JSEB Administrator, or his or her  
22 designee, shall provide staff support to the Committee. The JSEB  
23 Monitoring Committee shall be governed by Chapters 286, Florida  
24 Statutes, and 112, Part 3, *Florida Statutes*, Chapters 50 (Boards  
25 and Commissions) and 602 (Jacksonville Ethics Code), *Ordinance*  
26 *Code*.

27 **SUBPART C. PROGRAM SUPPORT SERVICES; MARKETING AND OUTREACH;**

28 **DISPARITY STUDY UPDATE**

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

30 (a) The JSEB Administrator shall competitively procure and maintain  
31 annually a contract with a third-party contractor or contractors to

1 provide a bond enhancement program for the benefit of JSEBs,  
2 subject to availability of funds. The bond enhancement program  
3 shall provide support services to assist JSEBs in their efforts to  
4 secure performance and payment bonds for public and private  
5 contracts. The program shall not provide the underlying bond but  
6 shall provide a refined basis for underwriting bonds, small  
7 business support services, and contractor monitoring necessary for  
8 such bond underwriting, as well as improvement plans for JSEBs who  
9 do not qualify.

10 (b) Section 126.201(a)(2) herein provides that JSEBs are not  
11 required to submit bid bonds for projects under \$500,000. Section  
12 126.201(g) provides that JSEBs are not required to provide  
13 performance bonds for projects under \$200,000 pursuant to the  
14 exemption amount set forth in Section 255.05, *Florida Statutes*, as  
15 may be amended.

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

17 (a) The City shall create a funding source to assist JSEBs with  
18 obtaining access to capital (the "AC Program"), subject to  
19 availability of funds. The JSEB Administrator, or a third-party  
20 contractor engaged through the JSEB Administrator ("Program  
21 Manager"), shall manage the distribution of said funds, in  
22 accordance with guidelines developed by the JSEB Administrator in  
23 order to ensure proper administration and monitoring and to ensure  
24 continuity for the program. All funds deposited into the Access to  
25 Capital Special Revenue Fund shall be the subject of a permanent  
26 and continuing appropriation when used for the purpose of loans to  
27 assist JSEBs with obtaining access to capital. In the event that  
28 the JSEB Administrator serves as the manager of the AC Program, the  
29 Director is authorized to execute on behalf of the City all loan  
30 agreements and related documents authorized pursuant to the AC  
31 Program.

1 (b) The JSEB Administrator shall monitor and enforce the contract  
2 for disbursing funds and ensure that certified JSEBs are receiving  
3 funding assistance consistent with this Part.

4 (c) The JSEB Administrator, on a quarterly basis, shall provide a  
5 report on the activity in the AC Program for the preceding three-  
6 month period. Such reports will be posted on the Equal Business  
7 Opportunity and Procurement Division websites.

8 (d) The JSEB Administrator or the Program Manager shall host bi-  
9 annual (i.e., twice a year) workshops to inform potential JSEB  
10 participants about available Access to Capital programs.

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

15 **Sec. 126.610. - Training programs; Community Outreach and Program**  
16 **Marketing.**

17 (a) *Continuing education, training and mentoring programs.* The City  
18 through the Equal Business Opportunity Office ("EBO Office") shall  
19 be responsible for developing and implementing continuing  
20 education, training, and mentoring programs. Such continuing  
21 education, training, and mentoring programs may include, but not be  
22 limited to, the following topic areas:

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

24 (2) Subcontracting documentation requirements;

25 (3) Accounting for the small business;

26 (4) Construction related contractors and subcontractors,  
27 including technology, bidding, and bonding, and project  
28 management;

1 (5) Key management issues such as cash-flow management,  
2 business planning, marketing, accounting, and record keeping,  
3 human resources management;

4 (6) Business plans, financial plans and continued education  
5 plans;

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

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

9 (9) Business development education.

10 Subject to availability of funds, the EBO Office may procure a  
11 third-party contractor or contractors, including, but not limited  
12 to, educational institutions, to assist with developing and  
13 implementing the education, training, and mentoring programs  
14 required under this Section.

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

1 (c) *Minimum Funding Requirement.* Subject to availability of funds,  
2 the Program requirements set forth in this Section shall be funded  
3 at a minimum of \$200,000 or greater.

4 **Sec. 126.611. - Insurance program review.** The City's Risk Manager  
5 shall prepare a report on available insurance programs for Florida  
6 small businesses and make recommendations regarding methods or  
7 programs to assist certified JSEBs in obtaining requisite  
8 insurance. Said report shall be prepared and submitted biennially  
9 (i.e., every two years) to the Director on or before January 15<sup>th</sup> of  
10 the year the report is due. The JSEB Administrator and the City's  
11 Risk Manager shall meet quarterly regarding available insurance  
12 programs. The JSEB Administrator shall publish a copy of the  
13 report on the Equal Business Opportunity Office website.

14 **Sec. 126.612. - Disparity Study Update.** Subject to availability of  
15 funds, the Equal Business Opportunity Office shall initiate an  
16 update to the 2013 disparity study regarding the City of  
17 Jacksonville contracts on or before August 31, 2023. Upon receipt  
18 and review of the disparity study update, the Equal Business  
19 Opportunity shall provide a report to the Mayor and City Council  
20 regarding the analysis and results of the disparity study update.

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

22 **Sec. 126.613. - Jacksonville Small Emerging Businesses defined.**

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

27 (b) A certified JSEB must provide financial statements prepared by  
28 a certified public accountant and participate in one or more  
29 training, education, or mentoring programs during each 24-month  
30 period and provide evidence of such to the JSEB Administrator.



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

3 (1)Reside currently in Duval County for a minimum twelve  
4 consecutive month period immediately preceding the JSEB  
5 application date and have an established business  
6 headquartered for a minimum of three years in Duval County and  
7 reside in Duval, St. Johns, Nassau, Baker, or Clay County for  
8 one year total within the five County area;

9 (2)Have a personal net worth less than \$1,320,000, excluding  
10 personal residence, including but not limited to business  
11 value and assets (measured as book value), ownership in other  
12 businesses and all other assets personally owned, held in  
13 trust for the individual owner's benefit; provided, however,  
14 that, notwithstanding personal net worth, certification  
15 hereunder shall require that annual gross receipts, averaged  
16 over the immediately preceding three-year period, not exceed  
17 \$12,000,000. The averaged annual gross receipts and personal  
18 net worth maximum threshold amounts shall be subject to annual  
19 analysis by the JSEB Administrator and reviewed by the JSEB  
20 Monitoring Committee pursuant to Section 126.607 herein;

21 (3) Have not been in the program for a total of more than nine  
22 (9) years from the date of the JSEB's first contract as a  
23 prime contractor of the City or as a subcontractor retained by  
24 a prime contractor of the City, whichever is earlier,  
25 provided, however, that participation may be increased by two  
26 one-year periods for good cause as determined by the Director;

27 (4) Own and control more than 51 percent of the business  
28 entity being certified;

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

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

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

4 (8) Not be a front, a broker, or a pass-through, which for  
5 purposes of this subsection (c);

6 (8) means a JSEB that is not registered as a supplier or  
7 distributor through the Florida Department of Revenue;

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

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

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

17 (12) Be a business, including a sole proprietorship,  
18 partnership, corporation, limited liability company, or any  
19 other business or professional entity:

20 (i) Which is at least 51 percent owned by one or more of  
21 the individuals identified herein in paragraph (c)(1) the  
22 ownership of any such business that has been in existence for  
23 a year or over must have maintained such 51 percent ownership  
24 for at least one year; and

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

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

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

8 (1) A firm must not be subject to any formal or informal  
9 restrictions that limit the customary discretion of such  
10 owner(s). There can be no restrictions through corporate  
11 charter provisions, by-law provisions, contracts or any other  
12 formal or informal devices that prevent the JSEB owner(s),  
13 without the cooperation or vote of a non-qualifying person or  
14 entity from making any business decision of the firm.

15 (2) The JSEB owner(s) may delegate various areas of the  
16 management or daily operations of the firm to persons who  
17 would not qualify to be JSEBs only if such delegation is  
18 typical in the industry for such businesses. Such delegations  
19 of authority must be revocable, and the JSEB must retain the  
20 power to hire and fire any such person. The JSEB owner must  
21 have an overall understanding of, and managerial and technical  
22 competence, experience and expertise, directly related to the  
23 firm's operations and work.

24 (3) The JSEB owner cannot engage in outside employment or  
25 other business interests that conflicts with the management of  
26 the firm or prevents the owner from devoting sufficient time  
27 and attention to the affairs of the firm to manage and control  
28 its activities unless such activities would be appropriate  
29 with commensurate businesses, in order to avoid sham or  
30 fraudulent certifications.

1 (e) Only an independent firm may be certified as a JSEB. An  
2 independent firm is one whose viability does not depend on its  
3 relationship with another firm. Recognition of an applicant as a  
4 separate entity for tax or corporate purposes is not necessarily  
5 sufficient to demonstrate that a firm is independent. In  
6 determining whether an applicant is an independent business, the  
7 JSEB Administrator will:

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

11 (2)Consider whether present or recent family, or  
12 employer/employee relationships between the JSEBs owner(s) of  
13 the applicant compromise the applicant's independence.

14 (3)Examine the applicant's relationships with non-JSEB prime  
15 contractors to determine whether a pattern of exclusive or  
16 primary dealings with a prime contractor compromises the  
17 applicant's independence.

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

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

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

24 (a)Only businesses that meet the criteria of JSEBs may be certified  
25 for participation in the Program. The applicant has the burden of  
26 persuasion.

27 (b)Only an independent firm may be certified as a JSEB. An  
28 independent business is one whose viability does not depend on its  
29 relationship with another firm or partners. Recognition of an  
30 applicant as a separate entity for tax or corporate purposes is not

1 necessarily sufficient to demonstrate that a firm is independent.  
2 The JSEB Administrator must determine that an owner has an  
3 independent business in order to certify the business as a JSEB. In  
4 doing so, the Director will take into account all reasonable  
5 criteria for reviewing control of a business.

6 (c)The certification status of all JSEBs shall be reviewed  
7 biennially (i.e., every two years) by the Department. Failure of  
8 the firm to seek re-certification by filing the necessary  
9 documentation with the Department within 60 days from the date of  
10 receipt of written notification from the Department may result in  
11 de-certification.

12 (d)It is the responsibility of the JSEBs to notify the Department  
13 of any change in its circumstances affecting its continued  
14 eligibility for the Program. Failure to do so may result in the  
15 firm's de-certification.

16 (e)The JSEB Administrator shall decertify a firm that does not meet  
17 the eligibility criteria.

18 (f)A JSEB may receive no more than five prime contracts set aside,  
19 including prime contracts from participation goals, per year or an  
20 aggregate total prime contracts set aside per year in the amount of  
21 \$4,000,000, which ever is greater.

22 (g)Joint ventures between JSEBs and non-JSEBs are not eligible for  
23 the Program, unless they provide structured, detailed, mentoring  
24 opportunities, proof of which shall be provided to the JSEB  
25 Administrator.

26 **Sec. 126.615. - Jacksonville Small Emerging Business Program Goals;**  
27 **Other Program Directives.**

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

1 (1) *JSEB Contract goals.* The overall small business goal is  
2 at least 20 percent, such that the City shall award at least  
3 20 percent of total City contracts to JSEBs; provided that  
4 such awards do not violate state or federal law and provided  
5 further that there are certified JSEBs to perform the work.  
6 The Chief, in consultation with the JSEB Administrator, shall  
7 award at least 50 percent of the JSEBs contracts through  
8 direct contracting.

9 (2) *JSEB CIP goals.* The City shall identify a goal of at least  
10 20% of its work in its CIP program during the annual budget  
11 submission which shall be accomplished with JSEBs, using  
12 direct contracting opportunities and subcontracting goals.

13 (3) *JSEB Project Specific Goals.* The Chief upon the  
14 recommendation of the JSEB Administrator shall establish  
15 Project Specific Goal(s) based on the availability of at least  
16 normal industry practice, as determined in consultation with  
17 the User Department, the availability of at least two JSEBs to  
18 perform the functions of those individual contracts and the  
19 City's utilization of such to date. Project Specific Goal(s)  
20 shall not be set on emergency contracts as defined by City  
21 Code or for purchases made in conjunction with the State  
22 although JSEBs shall be considered for such single source or  
23 emergency procurements if qualified.

24 (b) *Department Program commitments; training.* The City, through  
25 each Department head, shall commit in its budget to award at least  
26 20 percent of its contracts for services, including contractual  
27 services, professional services, professional design services,  
28 construction services or other services, to JSEBs, provided,  
29 however, that such awards shall comply with local, state, and  
30 federal law and that there exist certified JSEBs to perform the  
31 work. To assist the City in implementing the Program requirements

1 of this Part, the Equal Business Opportunity Office, through the  
2 JSEB Administrator and in consultation with the Chief of  
3 Procurement shall provide annual training to department heads and  
4 divisions chiefs, or their designees, and applicable staff of City  
5 boards and commissions regarding the JSEB program and the  
6 requirements set forth in this Part.

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

13 (d) *Subcontracting.* Opportunities for subcontracting through City  
14 awarded non-JSEB prime contractors should be provided within  
15 vertical construction projects, with horizontal construction  
16 project opportunities being provided to the maximum extent possible  
17 by direct contracting. Nevertheless, the subcontracting  
18 opportunities shall be provided to those trades typically  
19 established as subcontractors.

20 (e) *Joint checks; Semi-monthly payments to certified JSEBs.* The  
21 City may issue joint checks upon the request of the JSEB in order  
22 to facilitate bonding, financing, or other requirements of  
23 contracting with the City. The City shall pay certified JSEBs  
24 semi-monthly, upon proper payment application to the applicable  
25 City Department. City Departments are to perform all necessary  
26 inspections and otherwise endeavor to ensure that prompt review and  
27 as applicable approval of certified JSEB work is completed within  
28 four days of receipt of invoice. The City shall pay all approved  
29 invoices from certified JSEBs within three business days of receipt  
30 by the Finance and Administration Department. City Departments  
31 shall provide monthly statements to the Director identifying the

1 timing of JSEB payments for contracts within their departments.  
2 These statements are to be organized and provided to the Mayor,  
3 with a copy to the City's Chief Administrative Officer ("CAO"),  
4 quarterly by the Director. Prime contractors shall be obligated to  
5 pay subcontractors within three days of receipt from the City of  
6 funds, and must confirm payment to the City. Subcontractors will be  
7 notified by the City when a payment application from a prime  
8 contractor has been submitted reflecting work performed by a  
9 subcontractor.

10 (f) *Micro-business program.* The JSEB Administrator in  
11 consultation with the Chief shall be responsible for developing and  
12 implementing a micro-business program. The purpose of the micro-  
13 business program shall be to ensure that micro-businesses have an  
14 adequate share of direct and subcontracting opportunities in the  
15 Program. Such program may include tier levels of personal net  
16 worth, not to exceed the maximum personal net worth set forth in  
17 Section 126.613 herein. The Chief shall assist with implementing  
18 such program and is authorized to promulgate rules and guidelines  
19 regarding such program.

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

21 (a) For all solicitations, the bidder/proposer shall submit a  
22 Schedule of Participation detailing all JSEB, and non-JSEB  
23 subcontractors from which the bidder/proposer solicited bids or  
24 quotations. The entities comprising the JSEB goal of at least 20  
25 percent, or the goals as set forth supra, shall be identified, or  
26 the basis for a waiver for good faith efforts shall be provided  
27 with the bid or proposal. The lists of JSEBs posted on the City's  
28 website establishes the group from which a bidder/proposer must  
29 solicit subcontractors under this program. The Schedule of  
30 Participation shall be due at the time set out in the solicitation  
31 documents.



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

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

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

11 (1)Solicit certified subcontractors in the scopes of work of  
12 the contract. The bidder/proposer shall provide interested  
13 JSEBs with timely, adequate information about the plans,  
14 specifications, and other such requirements of the contract to  
15 facilitate their quotation. The bidder/proposer must follow up  
16 initial solicitations with interested JSEBs.

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

19 (3)Negotiate in good faith with interested JSEBs. Price  
20 sharing is prohibited in negotiations. Evidence of such  
21 negotiation includes the names, addresses, and telephone  
22 numbers of JSEBs that were contacted; a description of the  
23 information provided regarding the plans and specifications  
24 for the work selected for subcontracting; and why agreements  
25 could not be reached with them. The ability or desire of a  
26 bidder/proposer to perform the work of a contract with its own  
27 organization does not relieve it of the responsibility to make  
28 Good Faith Efforts on all scopes of work subject to  
29 subcontracting.

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

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

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

13 (a)The JSEB Administrator shall timely review the Schedule of  
14 Participation prior to award, including the scope of work and the  
15 letters of intent from JSEBs. The JSEB Administrator may request  
16 clarification in writing of items listed in the Schedule of  
17 Participation, provided such clarification shall not include the  
18 opportunity to augment listed JSEBs participation or Good Faith  
19 Efforts. The JSEB Administrator shall review all submittals and  
20 document the participation of each submittal.

21 (b)If the JSEB Administrator determines that the Schedule of  
22 Participation demonstrates that the Project Specific Goal(s) have  
23 been achieved or Good Faith Efforts made, and the User Department  
24 concurs, the Chief shall recommend award to the General Awards  
25 Committee. The JSEB Administrator shall verify with each JSEB that  
26 a contract in the specified amount has been awarded.

27 **Sec. 126.618. - Good faith efforts in lieu of meeting Program**  
28 **goals.** For a contract with JSEB subcontracting goals, a contractor  
29 must comply by either meeting the goal or demonstrating Good Faith  
30 Efforts to achieve it that are consistent with the requirements set

1 forth in this Part. In determining whether a bidder/proposer has  
2 made Good Faith Efforts, in lieu of achieving the stated goals, the  
3 JSEB Administrator shall consider all relevant factors, which  
4 include:

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

7 (1)A contact log showing the name, address, and contact number  
8 (phone or fax) used to contact the proposed certified  
9 subcontractors, nature of work requested for quote, date of  
10 contact, person making the effort;

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

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

13 (4)The list of divisions of work not subcontracted and an  
14 explanation why not; and

15 (5)Subcontractor information as requested by forms developed  
16 by the Department.

17 (b)For contracts other than for construction related professional  
18 services, a signed letter of intent from all listed JSEBs  
19 describing the work, materials, equipment or services to be  
20 performed or provided by the JSEBs and the agreed upon dollar value  
21 shall be due with the bid documents but in no event before the  
22 expiration of 48 hours after the submission of the bid.

23 (c)For construction related professional services contracts, the  
24 highest ranked proposer must deliver at the time of fee and  
25 contract negotiations signed letters of intent between itself and  
26 the JSEBs to be utilized.

27 If the JSEB Administrator finds that a bidder/proposer did not make  
28 sufficient Good Faith Efforts, the JSEB Administrator shall  
29 communicate this finding to the User Department and recommend that

1 the bid/proposal be rejected. A bidder/proposer may protest this  
2 determination pursuant to the City's bid protest procedures.

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

4 (a) Upon award of a contract by the City that includes Project  
5 Specific Goal(s), the prompt pay obligations in the City's contract  
6 with the prime contractor, and the contract between the prime  
7 contractor and the subcontractors and subconsultants named in  
8 response to this Act become covenants of performance by the  
9 contractor in favor of the City.

10 (b) The contractor shall provide a listing of all JSEBs and any  
11 other subcontractors to be used in the performance of the contract,  
12 and subcontractor payment information to the City with each request  
13 for payment submitted to the City. The JSEB Administrator and the  
14 User Department shall monitor subcontractor participation during  
15 the course of the contract and shall have reasonable access to all  
16 contract-related documentation held by the contractor.

17 (c) The contractor cannot make changes to the Schedule of  
18 Participation or substitute subcontractors named in the Schedule of  
19 Participation without the Chief's prior written approval based on  
20 the Ombudsman's recommendation and JSEB Administrator's compliance  
21 review. Unauthorized changes or substitutions shall be a violation  
22 of this chapter, and may constitute grounds for rejection of the  
23 bid or proposal or cause termination of the executed contract for  
24 breach, the withholding of payment and/or subject the contractor to  
25 contract penalties or other sanctions.

26 (1) All requests for changes or substitutions of the  
27 subcontractors named in the Schedule of Participation shall be  
28 made to the Ombudsman with a copy to the JSEB Administrator in  
29 writing, and shall clearly and fully set forth the basis for  
30 the request. A contractor shall not substitute a subcontractor

1 or perform the work designated for a subcontractor with its  
2 own forces unless and until the Chief approves such  
3 substitution in writing. A contractor shall not allow a  
4 substituted subcontractor to begin work until the Chief has  
5 approved the substitution based on the recommendation of the  
6 JSEB Administrator.

7 (2)The facts supporting the request must not have been known  
8 nor reasonably should have been known by either party prior to  
9 the submission of the Schedule of Participation. Bid shopping  
10 is prohibited. The contractor must bring this dispute to the  
11 Ombudsman for resolution.

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

16 (4)If the City requires the substitution of a subcontractor  
17 listed in the Schedule of Participation, the contractor shall  
18 undertake Good Faith Efforts to fulfill the Schedule of  
19 Participation if the Project Specific Goals would not  
20 otherwise be met. If the Goal(s) cannot be reached and Good  
21 Faith Efforts have been made, the contractor may substitute  
22 with a non-JSEBs.

23 (d)If a Contractor plans to hire a subcontractor on any scope of  
24 work that was not previously disclosed in the Schedule of  
25 Participation, the contractor shall obtain the approval of the JSEB  
26 Administrator to modify the Schedule of Participation and must make  
27 Good Faith Efforts to ensure that JSEBs have a fair opportunity to  
28 bid on the new scope of work.

29 (e)Changes to the scopes of work shall be documented by the User  
30 Department at the time they arise, to establish the reasons for the

1 change and the effect on achievement of the Project Specific  
2 Goal(s).

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

4 The certification status of all JSEBs shall be reviewed bi-annually  
5 (i.e., every two years) by the JSEB Administrator through re-  
6 certification application. Failure of the firm to seek re-  
7 certification by filing the necessary documentation with the  
8 Department within 60 days from the date of receipt of written  
9 notification from Department may result in de-certification.

10 (a) It is the responsibility of the JSEB to notify the Department of  
11 any change in its circumstances affecting its continued eligibility  
12 for the Program. Failure to do so may result in the firm's de-  
13 certification and preclusion from future participation.

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

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

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

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

26 (b) A firm that has been denied certification or re-certification or  
27 been decertified may protest the denial or de-certification as  
28 follows:

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

4 (2) An informal hearing shall be held by the JSEB  
5 Administrator, at which the firm may present additional facts  
6 and evidence in support of its eligibility. The JSEB  
7 Administrator may request the attendance of any witness and  
8 production of any documents concerning the applicant's  
9 affairs. The applicant's failure to comply promptly with these  
10 requests may be grounds for denial of the appeal.

11 (3) The JSEB Administrator shall determine the firm's  
12 eligibility on the basis of the information provided at the  
13 hearing. The JSEB Administrator's written decision shall be  
14 communicated to the firm within ten days of the hearing.

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

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

27 (c) A third party may challenge the eligibility of an applicant for  
28 certification or a certified firm. The presumption that the  
29 challenged firm is eligible shall remain in effect until the City

1 renders a final decision. A third party challenge shall be made as  
2 follows:

3 (1)The challenge shall be made in writing to the Director and  
4 shall include all information relied upon by the challenging  
5 party.

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

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

14 Except as provided in this part to implement the Program, the  
15 provisions of Parts 1, 2, 3 and 4, of Chapter 126, apply. The  
16 Director shall establish rules that specify the manner in which  
17 conflicts between the provisions of Parts 1, 2, 3, or 4 of this  
18 chapter are to be resolved.

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

20 (a)The entire amount of that portion of a construction subcontract  
21 that is performed by the JSEBs own forces shall be counted,  
22 including the cost of supplies and materials obtained by the JSEBs  
23 for the work of the subcontract, and supplies purchased or  
24 equipment leased by the JSEBs. Supplies and equipment the JSEBs  
25 purchases or leases from the prime contractor or its Affiliate  
26 shall not count as JSEB participation.

27 (b)The entire amount of fees or commissions charged by a JSEBs for  
28 providing a bona fide service, such as professional, technical,  
29 consultant or managerial services, or for providing bonds or  
30 insurance specifically required for the performance of a contract



1 shall be counted, provided the fee is reasonable and not excessive  
2 as compared with fees customarily charged for similar services.

3 (c) If a firm ceases to be a certified JSEBs during a contract, the  
4 dollar value of work performed under a contract with that firm  
5 after it has ceased to be certified shall be counted in the City's  
6 internal accounting. No contractor shall be penalized in any way as  
7 a result of the failure of a project to achieve its Project  
8 Specific Goals because of the operation of this Section.

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

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

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

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

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

22 (2) Providing information to the City in connection with  
23 submission of a bid, responses to requests for qualifications  
24 or proposals, Good Faith Efforts documentation, post-award  
25 compliance, or other Program operations that the providing  
26 party knew or should have known to be false or misleading.

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

28 (4) Substituting JSEBs subcontractors without first receiving  
29 approval for such substitutions.

1 (5)Committing any other violations of the provisions of this  
2 chapter.

3 (6)Submitting false documentation for payments.

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

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

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

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

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

21 **Section 6. Codification Instructions.** The Codifier and  
22 the Office of General Counsel are authorized to make all chapter  
23 and division "tables of contents" consistent with the changes set  
24 forth herein. Such editorial changes and any others necessary to  
25 make the Ordinance Code consistent with the intent of this  
26 legislation are approved and directed herein, and changes to the  
27 Ordinance Code shall be made forthwith and when inconsistencies are  
28 discovered.

29 **Section 7. Effective Date.** This ordinance shall become  
30 effective upon signature by the Mayor or upon becoming effective

1 without the Mayor's signature.

2 Form Approved:

3

4           /s/ Lawsikia J. Hodges          

5 Office of General Counsel

6 Legislation Prepared By: Lawsikia J. Hodges

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