

Introduced by Council Member Freeman:

ORDINANCE 2025-148

AN ORDINANCE REGARDING THE JACKSONVILLE SMALL AND EMERGING BUSINESS ("JSEB") PROGRAM; AMENDING SECTION 126.604 (DEFINITIONS), SUBPART A (GENERAL PROVISIONS), PART 6 (JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM), CHAPTER 126 (PROCUREMENT CODE), *ORDINANCE CODE*, PROVIDING FOR NON-PROFIT BUSINESS PARTICIPATION WITHIN DEFINITIONS OF JSEB AND PROVIDING A MAXIMUM ANNUAL INCOME THRESHOLD FOR A NON-PROFIT BUSINESS AS A JSEB; AMENDING SECTION 126.607 (JSEB MONITORING COMMITTEE; ANNUAL PROGRAM REVIEW), SUBPART B (PROGRAM ADMINISTRATION), PART 6 (JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM), CHAPTER 126 (PROCUREMENT CODE), *ORDINANCE CODE*, TO UPDATE GOALS, CLARIFY SCHEDULE AND PARTICIPATION IN REPORTS TO THE MONITORING COMMITTEE, TO CLARIFY COMPOSITION AND APPOINTMENTS OR DESIGNATIONS OF MEMBERS, PROVIDE FOR A VICE CHAIR, TO CLARIFY TERM LIMITS, TO SPECIFY STAFF SUPPORT, TO CLARIFY MEETING ATTENDANCE REQUIREMENTS, TO PROVIDE FOR SUBSTITUTE MEMBERS AT MEETINGS, AND TO PROVIDE FOR AUDITS; AMENDING SECTION 126.609 (ACCESS TO CAPITAL), SUBPART C (PROGRAM SUPPORT SERVICES; MARKETING AND OUTREACH; DISPARITY STUDY UPDATE), PART 6 (JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM), CHAPTER 126 (PROCUREMENT CODE),

ORDINANCE CODE, TO PROVIDE FOR THE POSTING OF CERTAIN REPORTS TO RELEVANT PUBLIC WEBSITES; AMENDING SECTIONS 126.613 (JACKSONVILLE SMALL AND EMERGING BUSINESSES DEFINED), TO PROVIDE CERTIFICATION CRITERIA FOR NON-PROFIT JACKSONVILLE SMALL AND EMERGING BUSINESSES, AND CONFORMING LANGUAGE, 126.614 (JSEB AND PROGRAM ELIGIBILITY), TO CONFORM LANGUAGE REGARDING JSEB AND PROGRAM ELIGIBILITY FOR NON-PROFIT BUSINESSES, 126.616 (CONTRACT PRE-AWARD COMPLIANCE PROCEDURES), TO CLARIFY LANGUAGE REGARDING CONTRACT PRE-AWARD COMPLIANCE PROCEDURES, 126.620 (CONTINUING OBLIGATIONS OF JSEBS AND GRADUATION), TO CONFORM LANGUAGE REGARDING CONTINUING OBLIGATIONS OF JSEBS AND GRADUATION, 126.621 (DE-CERTIFICATION, DENIAL AND APPEAL PROCEDURE), TO CLARIFY THE PROCESS FOR DE-CERTIFICATION, DENIAL AND APPEAL PROCEDURE, 126.623 (COUNTING SUBCONTRACTING PARTICIPATION OF JSEBS), TO CONFORM LANGUAGE REGARDING SUBCONTRACTING PARTICIPATION AND 126.624 (ACTS WHICH MAY RESULT IN EXPULSION FROM THE JSEB PROGRAM; FINES, AND CRIMINAL OFFENSES), SUBPART D (PROGRAM ELIGIBILITY, PROCEDURES, AND OTHER REQUIREMENTS), PART 6 (JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM), CHAPTER 126 (PROCUREMENT CODE), ORDINANCE CODE, TO CLARIFY ACTS WHICH MAY RESULT IN EXPULSION FROM THE JSEB PROGRAM AND TO PROVIDE FOR ADDITIONAL REMEDIES; PROVIDING FOR CODIFICATION INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.

1
2 **WHEREAS,** the City of Jacksonville ("City") determined in 2004
3 that growing Jacksonville Small and Emerging Businesses ("JSEBs") was
4 beneficial to the City and its individual residents; and

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

10 **WHEREAS,** Nonprofit organizations foster civic engagement,
11 provide unending opportunities for leadership, encourage creativity,
12 and provide employment; and

13 **WHEREAS,** supporting small and emerging business is beneficial
14 to the City and its individual residents, regardless of a business'
15 tax-exempt status; and

16 **WHEREAS,** the City desires to further improve certain aspects
17 of the Program to better assist JSEBs, for-profit and non-profit
18 alike, in achieving their individual and collective goals and to
19 promote continued participation in the Program, ensuring continuity
20 and mentorships within the Program; now therefore

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

22 **Section 1. Amending Section 126.604 (Definitions), Subpart**
23 **A (General Provisions), Part 6 (Jacksonville Small and Emerging**
24 **Business Program), Chapter 126 (Procurement Code), Ordinance Code.**
25 Section 126.604 (Definitions), Subpart A (General Provisions), Part
26 6 (Jacksonville Small and Emerging Business Program), Chapter 126
27 (Procurement Code), *Ordinance Code*, is hereby amended to read as
28 follows:

29 **CHAPTER 126 - PROCUREMENT CODE**

30 * * *

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

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SUBPART A. - GENERAL PROVISIONS

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Sec. 126.604. - Definitions.

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

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

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

Front, broker, or pass-through shall mean a JSEB that is not registered as a supplier or distributor through the Florida Department of Revenue, or a JSEB subcontractor who does not self-perform 100 percent of the subcontractor work pursuant to the Schedule of Participation, or a JSEB prime contractor who does not self-perform at least 40 percent of the work for the project.

JSEB shall mean a person or entity certified as a "Jacksonville Small and Emerging Business" pursuant to the requirements set forth in Subpart D of this Part 6. Unless otherwise specified, the term *JSEB* includes both for-profit businesses and non-profit businesses.

JSEB Administrator shall mean the individual responsible for administering and managing the JSEB Program pursuant to Chapter 26, Part 2 of the Code.

Micro-business JSEB shall mean a JSEB having annual gross revenue, averaged over the immediately preceding three-year period, not exceeding \$3,000,000 as to a for-profit business, and \$2,000,000 as to a non-profit business.

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

Project Specific Goals shall mean specific JSEB subcontractor

1 participation goals, as set by the JSEB Administrator and Chief of
2 Procurement, that a prime contractor must adhere to in a City awarded
3 contract.

4 *Program Goals* shall mean the goals for the Program set forth in
5 Subpart D herein.

6 *Schedule of Participation* shall mean the bidder/proposer's
7 detailed list of all JSEB and non-JSEB subcontractors from which the
8 bidder/proposer solicited bids or quotations in accordance
9 with Section 126.616 herein.

10 * * *

11 **Section 2. Amending Section 126.607 (JSEB Monitoring**
12 **Committee; Annual Program Review), Subpart B (Program**
13 **Administration), Part 6 (Jacksonville Small and Emerging Business**
14 **Program), Chapter 126 (Procurement Code), Ordinance Code.** Section
15 126.607 (JSEB Monitoring Committee; Annual Program Review), Subpart
16 B (Program Administration), Part 6 (Jacksonville Small and Emerging
17 Business Program), Chapter 126 (Procurement Code), *Ordinance Code*,
18 is hereby amended to read as follows:

19 **CHAPTER 126 - PROCUREMENT CODE**

20 * * *

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

22 * * *

23 **SUBPART B. - PROGRAM ADMINISTRATION**

24 * * *

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

- 26 (a) *Establishment; purpose.* There is established a seven-member
27 JSEB Monitoring Committee ("Committee"), to annually review,
28 in consultation with the JSEB Administrator: (i) the status
29 of the Program Goals, including, but not limited to, the
30 percentage, number, and dollar value of contracts awarded to
31 JSEBs through direct contracting and subcontracts, to set

1 annual, achievable goals to grow and improve the Program;
2 (ii) the training programs, and the "AC Program"; (iii)
3 difficulties or accomplishments of the Program; (iv) a
4 comparison of the achievements under the Program compared
5 with the Program Goals; (v) the maximum threshold amount for
6 annual averaged gross revenue referenced in Section
7 126.613(c); and (vi) the limitation on the number of program
8 participation years in Section 126.613(c) to determine if
9 such amounts and limitation on the number of years are
10 appropriate for the Program; (vii) the need for legislation.
11 The Equal Business Opportunity Office shall present to the
12 JSEB Monitoring Committee on the status of continuing
13 education, training and mentoring programs, and program
14 marketing and community outreach, as described in Sec.
15 126.610, including recommended goals, methods to measure
16 goals, and the achievement or otherwise or previously set
17 goals, as as to each topic. At the spring and fall Committee
18 meetings, at minimum, the City's Risk Manager shall present
19 to the Committee regarding the available insurance programs
20 for Florida small businesses and make recommendations
21 regarding methods or programs to assist JSEBs in obtaining
22 requisite insurance, as described in Sec. 126.611. Based on
23 the Committee's required Program review, the Committee may
24 recommend to the Mayor or City Council amendments to the
25 Program in the form of a report.

26 (b) *Composition; appointments.* The Mayor shall appoint three
27 members of the Committee., ~~and the~~ The City Council shall
28 appoint three ~~four~~ members. The Council President shall
29 designate one member. The Committee shall be comprised as
30 follows:

31 (1) one non-JSEB contractor who is a professional engineer,

- 1 general contractor or architect appointed by the Mayor;
- 2 (2) one member of the Council designated by the Council
- 3 President ~~non-JSEB contractor who is a licensed general~~
- 4 ~~contractor appointed by the City Council;~~
- 5 (3) two JSEB contractors, one appointed by the Mayor and one
- 6 appointed by the City Council;
- 7 (4) two private citizens, one appointed by the Mayor and one
- 8 appointed by the City Council; and
- 9 (5) one representative from the Northeast Florida Builders
- 10 Association, Inc., or similar trade association, or from
- 11 the Food & Commercial Workers International Union, or
- 12 similar trade association, appointed by the City
- 13 Council.

14 Members shall serve for three-year staggered terms. The ~~two~~ non-JSEB

15 contractor members must have a current contract with the City or have

16 had a contract with the City in the past. The Mayor shall appoint a

17 Chair and the Chair shall serve until such a time as another Chair

18 shall be appointed by the Mayor. The Council President shall appoint

19 a Vice Chair and the Vice Chair shall serve until such a time as

20 another Vice Chair shall be appointed by the Council President. The

21 Mayor and City Council shall strive to reflect the diversity of Duval

22 County in its appointments; ~~each of the~~ six appointed ~~seven~~ members

23 shall be confirmed by City Council. Any member appointed to the

24 Committee for two consecutive full terms shall not be eligible for

25 the next succeeding term. Terms shall conclude on December 31. In

26 addition to regular meetings, the Chair may call special meetings of

27 the Committee. The Chair shall preside at all meetings of the

28 Committee. The Vice Chair shall preside if the Chair is absent.

- 29 (c) *Meetings; applicable laws.* The Committee shall meet quarterly
- 30 with the JSEB Administrator. ~~7—The Committee who shall then~~
- 31 generate a quarterly report for the Mayor and City Council no

1 later than 14 days after each quarterly meeting. The Office
2 of Economic Development ~~JSEB Administrator, or his designee,~~
3 shall provide staff support to the Committee. Committee
4 meetings shall be staffed by the Office of General Counsel.
5 The JSEB Monitoring Committee shall be governed by F.S. Chs.
6 286 and 112, Pt. 3, and Chapters 50 (Boards and Commissions)
7 and 602 (Jacksonville Ethics Code), of the Code.

8 (d) Attendance at meetings; quorum. Committee members shall make
9 good effort to attend each quarterly meeting. A Committee
10 member may designate a substitute to attend one or more
11 quarterly meetings. Any designated substitute must have the
12 same qualifications as the substituted member, as described
13 in subsection (b). Each substitute for a Mayor's appointee
14 shall be approved by the Mayor. Each substitute for a Council
15 appointee shall be approved by the Council President.
16 Approved substitutes may be approved for up to the term of
17 the substituted member. The Council President shall name a
18 Council member as a substitute for the Council member
19 designated under subsection (b)(2). An appointed member who
20 fails to attend 2 consecutive meetings, and fails to have a
21 substitute at the two consecutive meetings, shall be replaced
22 by the entity that appointed the member, and the entity shall
23 name a substitute for the member to serve until a replacement
24 member is successfully appointed. The presence of four
25 members shall constitute a quorum of the Committee. The
26 affirmative vote of at least a majority of those members
27 present and voting shall be necessary to take action. For the
28 purpose of this section, each approved substitute member is
29 considered a member during a meeting in which they sit in
30 substitute.

31 (e) At any regularly scheduled meeting, or a special meeting, the

Committee may request an audit of the JSEB program, in part or in whole, to the Finance and Administration Department; Office of Ethics, Compliance and Oversight; Office of Inspector General; or Council Auditor's Office; or any combination thereof, for good cause and by a vote of five members. Any resulting audit report shall be directed to the Chair of the Committee, with copies delivered to the Mayor and the Council President.

Section 3. Amending Section 126.609 (Access to capital), Subpart C (Program Support Services; Marketing and Outreach; Disparity Study Update), Part 6 (Jacksonville Small and Emerging Business Program), Chapter 126 (Procurement Code), Ordinance Code.
Section 126.609 (Access to capital), Subpart C (Program Support Services; Marketing and Outreach; Disparity Study Update), Part 6 (Jacksonville Small and Emerging Business Program), Chapter 126 (Procurement Code), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 126 - PROCUREMENT CODE

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PART 6. - JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM

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

DISPARITY STUDY UPDATE

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Sec. 126.609. - Access to capital.

(a) Subject to availability of funds, the City has established the JSEB Access to Capital Program Trust Fund pursuant to Section 111.610 of the Code to assist JSEBs with obtaining access to capital (the "AC Program"). The JSEB Administrator, or a third-party contractor engaged through the JSEB Administrator ("Program Manager"), shall manage the

1 distribution of said funds, in accordance with guidelines
2 developed and approved by the JSEB Administrator in order to
3 ensure proper administration and monitoring and to ensure
4 continuity for the program. Such guidelines may be developed
5 and approved by the JSEB administrator without further
6 Council approval. All funds deposited into the Access to
7 Capital Special Revenue Fund shall be the subject of a
8 permanent and continuing appropriation when used for the
9 purpose of loans to assist JSEBs with obtaining access to
10 capital. In the event that the JSEB Administrator, or ~~his~~
11 designee, serves as the Program Manager of the AC Program,
12 the Mayor, or ~~his~~ designee, is authorized to execute on behalf
13 of the City all loan agreements and related documents
14 authorized pursuant to the AC Program. In the event a third-
15 party serves as the Program Manager, such third-party Program
16 Manager shall act as an agent of the City and is authorized
17 to execute on behalf of the City all loan agreements and
18 related documents authorized pursuant to the AC Program.

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

22 (c) The JSEB Administrator, on a quarterly basis, shall provide
23 a report on the activity in the AC Program for the preceding
24 three-month period. Such reports will be posted on the Equal
25 Business Opportunity Office website and the JSEB website.

26 (d) The JSEB Administrator or the Program Manager shall host
27 workshops no less than twice a year to inform potential JSEB
28 participants about the AC Program.

29 (e) The JSEB Administrator shall provide a quarterly activity
30 report for the preceding three months to the JSEB Monitoring
31 Committee for its use in complying with the reporting

requirements pursuant to Section 126.607 herein. Such reports will be posted on the Equal Business Opportunity Office website and the JSEB website.

Section 4. Amending Sections 126.613 (Jacksonville Small and Emerging Businesses defined), 126.614 (JSEB and Program eligibility), 126.616 (Contract pre-award compliance procedures), 126.620 (Continuing obligations of JSEBs and graduation), 126.621 (De-certification, Denial and appeal procedure), 126.623 (Counting subcontracting participation of JSEBs) and 126.624 (Acts which may result in expulsion from the JSEB program; fines, and criminal offenses), Subpart D (Program Eligibility, Procedures, and Other Requirements), Part 6 (Jacksonville Small and Emerging Business Program), Chapter 126 (Procurement Code), Ordinance Code. Sections 126.613 (Jacksonville Small and Emerging Businesses defined), 126.614 (JSEB and Program eligibility), 126.616 (Contract pre-award compliance procedures), 126.620 (Continuing obligations of JSEBs and graduation), 126.621 (De-certification, Denial and appeal procedure), 126.623 (Counting subcontracting participation of JSEBs) and 126.624 (Acts which may result in expulsion from the JSEB program; fines, and criminal offenses), Subpart D (Program Eligibility, Procedures, and Other Requirements), Part 6 (Jacksonville Small and Emerging Business Program), Chapter 126 (Procurement Code), Ordinance Code, are hereby amended to read as follows:

CHAPTER 126 - PROCUREMENT CODE

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PART 6. - JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM

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

Sec. 126.613. - Jacksonville Small and Emerging Businesses certification criteria defined.

(a) Each JSEB must provide financial statements prepared by a

certified public accountant and participate in one or more training, education, or mentoring programs during each 36-month period commencing from the certification date and provide evidence of such to the JSEB Administrator. All businesses must be certified under the provisions set forth below. Certifications will be granted only in those areas for which the business owner(s) has the ability and expertise to manage and control the firm's operations and work.

(b) A business may not be in the program for a total of more than fifteen years from the date of the JSEB's first contract as a prime contractor of the City or as a subcontractor retained by a prime contractor of the City, whichever is earlier, provided, however, that participation may be increased by two one-year periods for good cause as determined by the JSEB Administrator. A JSEB must provide financial statements prepared by a certified public accountant and participate in one or more training, education, or mentoring programs during each 36-month period commencing from the certification date and provide evidence of such to the JSEB Administrator.

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

(1) A for-profit small business must meet the following criteria:

A. The business must be a for-profit small business concern, including, but not limited to, a sole proprietorship, partnership, corporation, or limited liability company;

B. The business must have annual gross revenue, averaged over the immediately preceding three-year period, not exceeding \$12,000,000. The averaged annual gross revenue maximum threshold amount shall be subject to

annual analysis by the JSEB Administrator and reviewed
by the JSEB Monitoring Committee pursuant to Section
126.607 herein;

C. The business must be managed and controlled by a JSEB
eligible person(s). As used in this Part, a JSEB
eligible person means, a person with an ownership of
at least 51 percent of the business being certified,
and who,

1. Meets the residency requirements as follows,

i. is a resident of Duval County for a minimum
twelve consecutive month period immediately
preceding the JSEB application date, or

ii. is a resident of Duval, St. Johns, Nassau,
Baker, or Clay County if the business has a
principal place of business in Duval County for a
minimum 18-month consecutive period;

2. Is a citizen of the United States, or lawfully
admitted permanent resident of the United States;

3. Has held such ownership interests in the business
for at least one year, provided that the business has
been in existence for at least one year;

4. Has made real and substantial contributions of
capital or expertise to acquire the ownership interest
in the business; and,

5. Has an overall understanding of, and managerial and
technical competence, experience and expertise,
directly related to the business operations and work.

D. The business must perform a commercially useful
function typical of the field for which certification
is granted;

E. The business must have expertise normally required by

1 the industry for the field for which certification is
2 sought;

3 F. The business must have all current licenses required
4 by local, State, or federal law, to perform the
5 services for which certification is sought;

6 G. The business must not be a front, broker, or pass-
7 through as defined in Subpart A of this Chapter.
8 Familial relationships where capital is provided for
9 the business will be subject to scrutiny and possible
10 rejection;

11 H. A business must not be subject to any formal or
12 informal restrictions that limit the customary
13 discretion of the managing JSEB eligible person. There
14 can be no restrictions through corporate charter
15 provisions, by-law provisions, contracts or any other
16 formal or informal devices that prevent the managing
17 JSEB owner(s), without the cooperation or vote of a
18 non-qualifying person or entity from making any
19 business decision of the business.

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

27 (2) A non-profit small business must meet the following
28 criteria:

29 A. The business must be incorporated in the state of
30 Florida in compliance with Chapter 617, F.S., and
31 maintain a 501(c)(3) tax-exempt status from the IRS;

- 1 B. The business must maintain an incorporation status
2 as, "active", by the Florida Department of State,
3 Division of Corporations;
- 4 C. The business must be in compliance with all applicable
5 requirements of Florida Statutes, including but not
6 limited to Chapter 496, F.S. (the Solicitation of
7 Contributions Act, requirements for entities who
8 solicit donations from a location in Florida or from
9 people in Florida);
- 10 D. The business must have annual gross revenue, averaged
11 over the immediately preceding three-year period, not
12 exceeding \$2,000,000. The averaged annual gross
13 revenue maximum threshold amount shall be subject to
14 annual analysis by the JSEB Administrator and
15 reviewed by the JSEB Monitoring Committee pursuant
16 to Section 126.607 herein;
- 17 E. The business has a principal place of business in
18 Duval County for a minimum twelve consecutive month
19 period immediately preceding the JSEB application
20 date;
- 21 F. The business must perform a commercially useful
22 function typical of the field for which certification
23 is granted;
- 24 G. The business must have expertise normally required
25 by the industry for the field for which certification
26 is sought;
- 27 H. The business must have all current licenses required
28 by local, State, or federal law, to perform the
29 services for which certification is sought;
- 30 I. The business must not be a front, broker, or pass-
31 through as defined in Subpart A of this Chapter;

1 J. The business must not be subject to any formal or
2 informal restrictions that limit the customary
3 discretion of the governing board or chief executive
4 officer;

5 K. The business must have, and renew annually, written
6 approval of the governing board to participate as a
7 member of the JSEB program, subject to annual analysis
8 by the JSEB Administrator and reviewed by the JSEB
9 Monitoring Committee pursuant to Section
10 126.607 herein.

11 ~~(2) Have annual gross revenue, averaged over the immediately~~
12 ~~preceding three-year period, not exceeding \$12,000,000. The~~
13 ~~averaged annual gross revenue maximum threshold amount shall~~
14 ~~be subject to annual analysis by the JSEB Administrator and~~
15 ~~reviewed by the JSEB Monitoring Committee pursuant to Section~~
16 ~~126.607 herein;~~

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

24 ~~(4) Own and control at least 51 percent of the business entity~~
25 ~~being certified;~~

26 ~~(5) Own any license required by local, State, or federal law;~~

27 ~~(6) Have expertise normally required by the industry for the~~
28 ~~field for which certification is sought;~~

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

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

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

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

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

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

~~(i) Which business is at least 51 percent owned by one or more individuals who have held such ownership interests for at least one year and who have each met the criterion in paragraph (c) (1) provided that such business has been in existence for at least one year; and~~

~~(ii) Be a citizen or lawfully admitted permanent resident of the United States and be compliant with the residency requirements of this Program.~~

(d) For the purpose of this Part, business manager(s) means, as to a for-profit business: the managing JSEB eligible person(s); and, as to a non-profit business: the chief executive officer authorized by the governing board. Only a
firm that is managed and controlled by a JSEB person(s) may be certified under this Program. As used in this Part, managed and controlled means that the business managers
The JSEB owner(s) must actually exercise control over the business firm—operations, work, management and policy.
Indicia of such management and control are set forth below.

~~(1) A firm must not be subject to any formal or informal~~

1 ~~restrictions that limit the customary discretion of such~~
2 ~~owner(s). There can be no restrictions through corporate~~
3 ~~charter provisions, by-law provisions, contracts or any~~
4 ~~other formal or informal devices that prevent the JSEB~~
5 ~~owner(s), without the cooperation or vote of a non-~~
6 ~~qualifying person or entity from making any business~~
7 ~~decision of the firm.~~

8 (1) ~~(2)~~ The business managers ~~JSEB owner(s)~~ may delegate
9 various areas of the management or daily operations of the
10 business firm to hired or appointed persons who are not
11 JSEB eligible persons ~~would not qualify to be JSEBs~~ only
12 if such delegation is typical in the industry for such
13 businesses. Such delegations of authority must be
14 revocable, and the business managers ~~JSEB~~ must retain the
15 power to direct hire and discharge ~~fire~~ any such hired or
16 appointed person. ~~The JSEB owner must have an overall~~
17 ~~understanding of, and managerial and technical competence,~~
18 ~~experience and expertise, directly related to the firm's~~
19 ~~operations and work.~~

20 (2) ~~(3)~~ The business managers ~~JSEB owner~~ cannot engage in
21 outside employment or other business interests that
22 ~~conflicte~~conflicts with the management of the JSEB business
23 ~~firm~~ or prevents the business managers ~~owner~~ from devoting
24 sufficient time and attention to the affairs of the JSEB
25 business firm to manage and control its activities unless
26 such activities would be appropriate with commensurate
27 businesses, in order to avoid sham or fraudulent
28 certifications.

29 (e) Only an independent business firm may be certified as a JSEB.
30 For the purpose of this Part, an ~~An~~ independent business firm
31 means ~~is~~ one whose viability does not depend on its

1 relationship with another business firm. Recognition of an
2 applicant business as a separate entity for tax or corporate
3 purposes is not necessarily sufficient to demonstrate that a
4 business firm is independent. Issues to be considered to
5 determine business independence include ~~In determining~~
6 ~~whether an applicant is an independent business, the JSEB~~
7 ~~Administrator will:~~

8 (1) The extent to which the JSEB has ongoing ~~Scrutinize~~
9 relationships with non-JSEBs in such areas as
10 personnel, facilities, equipment, financial and/or
11 bonding support, and other resources.

12 (2) The extent to which ~~Consider whether~~ present or recent
13 family, or employer/employee relationships between the
14 JSEB business managers ~~owner(s) of the applicant~~
15 compromise the JSEB's ~~applicant's~~ independence.

16 (3) The extent to which a pattern of exclusive or primary
17 dealings with a prime contractor demonstrates
18 compromised independence of the JSEB. ~~Examine the~~
19 ~~applicant's relationships with non-JSEB prime~~
20 ~~contractors to determine whether a pattern of exclusive~~
21 ~~or primary dealings with a prime contractor compromises~~
22 ~~the applicant's independence.~~

23 (4) ~~Consider the~~ The consistency of relationships between
24 the JSEB applicant and non-JSEBs with normal industry
25 practices.

26 ~~(5) An owner shall be certified only for specific types of~~
27 ~~work for which the owner(s) has the ability and~~
28 ~~expertise to manage and control the firm's operations~~
29 ~~and work.~~

30 (f) A business shall be certified only for specific types of work
31 for which the business has the capacity and expertise and the

business managers have the management and control of the business operations over the type of work.

Sec. 126.614. - JSEB and Program eligibility.

- (a) Only businesses that meet the criteria of the Program may be certified for participation in the Program. The applicant has the burden of persuasion.
- (b) The certification status of all JSEBs shall be reviewed every 36 months from the date of initial certification through a re-certification application. Failure of the business firm to seek re-certification by filing the necessary documentation with the Equal Business Opportunity Office within 60 days from the date of receipt of written notification from the Equal Business Opportunity Office may result in de-certification.
- (c) It is the responsibility of the JSEB to notify the JSEB Administrator of any change in its circumstances affecting its continued eligibility for the Program. Failure to do so may result in ~~the firm's~~ de-certification.
- (d) The JSEB Administrator shall decertify a business firm that does not meet the eligibility criteria.
- (e) A JSEB may receive no more than five prime contracts set aside, including prime contracts from participation goals, per year or an aggregate total prime contracts set aside per year in the amount of \$4,000,000, whichever is greater.
- (f) Joint ventures between JSEBs and non-JSEBs are not eligible for the Program, unless they provide structured, detailed, mentoring opportunities, proof of which shall be provided to the JSEB Administrator.

* * *

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

* * *

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

* * *

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

* * *

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

A JSEB shall apply for re-certification every 36 months from the date of initial certification through a re-certification application developed by the JSEB Administrator. Failure of the JSEB firm to seek re-certification by filing the necessary documentation with the Equal Business Opportunity Office within 60 days from the date of receipt of written notification from the Equal Business Opportunity Office may result in de-certification.

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

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

(c) ~~A firm, or qualifying individuals,~~ JSEBs ~~who~~ that have participated in the JSEB program for a total of nine years from the date of the JSEB's first contract as a prime contractor of the City or as a subcontractor retained by a prime contractor of the City, whichever is earlier, may earn the designation JSEB Prime Member and are strongly encouraged to serve as mentors to other participants in the Program.

1 (d) ~~A firm, or qualifying individuals,~~ JSEBs ~~who~~ that have
2 participated in the JSEB program for a total of 15 years from
3 the date of the JSEB's first contract as a prime contractor
4 of the City or as a subcontractor retained by a prime
5 contractor of the City, whichever is earlier, and subject to
6 the extensions for good cause provided in Section 126.613,
7 shall graduate from the Program.

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

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

12 (b) A business ~~firm~~ that has been denied certification or re-
13 certification, or has been decertified, may object to ~~protest~~
14 the denial or de-certification as follows:

15 (1) Within 15 days of receipt of denial of certification or
16 re-certification, or notice of intent to decertify, the
17 business ~~firm~~ may object to ~~protest such action~~ in writing
18 to the JSEB Administrator.

19 (2) Within 30 days of receipt of an objection, an ~~An~~ informal
20 hearing shall be held by the JSEB Administrator, at which
21 the business ~~firm~~ may present additional facts and
22 evidence in support of its eligibility. The JSEB
23 Administrator may request the attendance of any witness
24 and production of any documents from the objecting
25 business reasonably necessary to evaluate the eligibility
26 of the business concerning the applicant's affairs. The
27 business' applicant's failure to produce requested
28 witness(es) or documents ~~comply~~ within a reasonable time
29 ~~promptly with these requests~~ may be grounds for denial of
30 the appeal.

31 (3) The JSEB Administrator shall determine the ~~firm's~~

1 eligibility of the business on the basis of the
2 information available ~~provided~~ at the hearing. The JSEB
3 Administrator's written decision shall be communicated to
4 the business ~~firm~~ within ten days of the hearing. The
5 decision must articulate with specificity the facts upon
6 which the decision relies and must notify the business
7 that the business has 15 days to appeal the decision.

8 (4) Within 15 days of receipt of the JSEB Administrator's
9 decision on eligibility, the ~~The~~ business applicant may
10 appeal the JSEB Administrator's decision, in writing, to
11 the City's Government Awards Committee or the
12 Professional Services Evaluation Committee ~~within five~~
13 ~~days of receipt of the determination.~~ The Committee shall
14 hold a hearing within 30 ~~ten~~ days of receipt of the
15 written notice of appeal, and render a final decision
16 within 10 ~~30~~ days of the hearing. The presumption that
17 the decertified business ~~firm~~ is eligible shall remain in
18 effect until the City renders a final decision.

19 (5) A business ~~firm~~ denied or found to be ineligible may not
20 apply for certification for one year after the effective
21 date of the final decision.

22 (c) A third party may challenge the eligibility of business
23 certified as a JSEB ~~an applicant for certification or a~~
24 ~~certified firm.~~ The presumption that the challenged JSEB ~~firm~~
25 is eligible shall remain in effect until the City renders a
26 final decision. A third party challenge shall be made as
27 follows:

28 (1) The challenge shall be made in writing to the JSEB
29 Administrator and shall include all information relied
30 upon by the challenging party. A challenge to the
31 eligibility of a certified JSEB cannot be made

1 anonymously. Such a challenge must articulate specific
2 facts, sworn to under the penalty of perjury, that could
3 reasonably support a finding the ineligibility of the
4 challenged certified JSEB.

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

13 (3) Within 30 days of receipt of a challenge, an informal
14 hearing shall be held by the JSEB Administrator, at which
15 the challenged business may present additional facts and
16 evidence in support of its eligibility against the written
17 challenge as described in subsection (1).

18 (4) The JSEB Administrator shall determine the eligibility
19 of the business on the basis of the information available
20 at the hearing. The JSEB Administrator's written decision
21 shall be communicated to the challenged business within
22 ten days of the hearing. The decision must articulate
23 with specificity the facts upon which the decision relies
24 and must notify the challenged business that the business
25 has 15 days to appeal a decision of ineligibility.

26 (5) Within 15 days of receipt of the JSEB Administrator's
27 decision of in-eligibility, the challenged business may
28 appeal the JSEB Administrator's decision, in writing, to
29 the City's Government Awards Committee or the
30 Professional Services Evaluation Committee. The Committee
31 shall hold a hearing within 30 days of receipt of the

1 written notice of appeal and render a final decision
2 within 10 days of the hearing. The presumption that the
3 challenged business is eligible shall remain in effect
4 until the City renders a final decision.

5 (6) A business found to be ineligible may not apply for
6 certification for one year after the effective date of
7 the final decision.

8 (7) A final decision the eligibility of a certified JSEB
9 challenged under this section is not subject to appeal by
10 a third party.

11 (8) The same third party may not challenge the same certified
12 JSEB within a 12 month period.

13 (9) Any subsequent challenge by any third party must
14 articulate specific facts, sworn to under the penalty of
15 perjury, such facts must be either newly discovered or
16 not otherwise articulated in any previous failed
17 challenge to the certified JSEB, and must reasonably
18 support a finding the ineligibility of the challenged
19 certified JSEB.

20 * * *

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

22 * * *

23 (c) If a business ~~firm~~ ceases to be a certified JSEB during a
24 contract, the dollar value of work performed under a contract
25 with that business ~~firm~~ after it has ceased to be certified
26 shall be counted in the City's internal accounting. No
27 contractor shall be penalized in any way as a result of the
28 failure of a project to achieve its Project Specific Goals
29 because of the operation of this Section.

30 * * *

31 **Sec. 126.624. - Acts which may result in expulsion from the JSEB**

1 **program; fines, and criminal offenses.**

2 (a) The following violations of this Chapter are unlawful and may
3 be prosecuted in the County Court of the Fourth Judicial
4 Circuit, Duval County, ~~Municipal Court~~ as Class D offenses:

5 (1) Providing information to the City in connection with an
6 application for or challenge to certification, re-
7 certification or de-certification as JSEBs that the
8 providing party knew or should have known to be false or
9 misleading.

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

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

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

19 ~~(5) Committing any other violations of the provisions of this~~
20 ~~Chapter.~~

21 (5)(6) Submitting false documentation for payments.

22 Prosecution under this subsection does not prohibit lawful
23 prosecution under any other provision of law.

24 * * *

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

Section 7. Effective Date. This Ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Form Approved:

/s/ Shannon MacGillis

Office of General Counsel

Legislation Prepared By: Shannon MacGillis

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