

1 Introduced by Council Member Cumber and Co-Sponsored by Council
2 Members Salem, Carlucci and Gay and substituted by the Finance
3 Committee:

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6 **ORDINANCE 2023-20**

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

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

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

18
19 **WHEREAS,** the City of Jacksonville's Procurement Code has not
20 been comprehensively reviewed and updated by the City Council in over
21 30 years; and

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

29 **WHEREAS,** additionally, the City desires to increase
30 transparency, accountability, and ethics in City procurement for the
31 benefit of City officers, City employees, and the citizens of

1 Jacksonville; now, therefore

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

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

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

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

1 Protests, Suspension, and Debarments), Chapter 126 (Procurement
2 Code), *Ordinance Code*, are hereby created to read as follows:

3 **CHAPTER 126 - PROCUREMENT CODE**

4 **PART 1. - GENERAL REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC**
5 **CONTRACTING**

6 **SUBPART A. - GENERAL REGULATIONS**

7 **Sec. 126.101. - Short title.**

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

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

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

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

1 integrity in the City's procurement process.

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

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

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

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

15 **Sec. 126.105. - Definitions.**

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

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

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

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

8 *Chief* means the Chief of Procurement as established in Chapter
9 24 of the Code or any successor chief position.

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

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

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

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

25 *Director* means the Director of the Department of Finance and
26 Administration or any successor director position.

27 *Division* means the Division of Procurement, or any successor
28 division or City unit.

29 *Emergency* means an immediate danger to the public health,
30 safety, or welfare, an immediate danger of loss of public or
31 private property, a reasonably unforeseen breakdown in

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

9 *Formal purchase* means the definition ascribed to this term in
10 this Chapter.

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

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

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

27 *Professional design services* mean those services within the
28 scope of the practice of architecture, professional engineering,
29 landscape architecture, or registered surveying and mapping, as
30 defined by the laws of the State of Florida, or those performed
31 by any architect, professional engineer, landscape architect,

1 or registered surveyor and mapper in connection with his or her
2 professional employment or practice.

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

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

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

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

29 *Using agency* means a (i) City department, division, office,
30 board, agency, commission, or other governmental unit of the
31 City; or (ii) an independent agency required or voluntarily

1 requesting to use the services of the Division.

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

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

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

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

26 **Sec. 126.107. - Access to supplier records; supplier compliance with**
27 **applicable laws.**

28 (a) *City access to and examination of supplier records.* Suppliers
29 shall agree by contract and be deemed to have agreed by doing business
30 with the City to allow access and examination at all reasonable times
31 by the City Council Auditor, the Inspector General, the City Ethics

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

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

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

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

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

- 1 h) Professional services performed by a nonprofit professional
2 organization or the members thereof, when the membership
3 includes a significant number of City employees engaged in the
4 practice of the profession;
5 i) Art reproduction services from local suppliers;
6 j) Financial Instruments, Investments, and Services;
7 k) Services related to Building Inspection Division work; and
8 l) Any goods, supplies, services, including professional services,
9 relating to cybersecurity matters, including those matters
10 exempt from public records and open meetings pursuant to Section
11 119.0725, F.S.

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

18 **Sec. 126.109. - Severability.**

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

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

26 **Sec. 126.110. - Definitions.**

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

29 *bid* means any written bid, written proposal, written reply,
30 written quote or written offering of any kind or description
31 whatsoever submitted for the purpose of being awarded or entering

1 a contract, purchase agreement, sales transaction, or other
2 contractual agreement with the City under the provisions of this
3 P-Code.

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

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

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

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

29 (a) *Declaration and findings.* In recognition that the preservation
30 of the integrity of the public contracting and procurement process
31 of the City is vital and is a matter of great public interest, the

1 City Council determines and declares that:

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

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

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

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

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

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

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

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

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

10 (c) *Collusion prohibited.*

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

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

25 (d) *Required disclosures regarding City officers and employees.*

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

1 (e) *Certain ex parte communications prohibited.*

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

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

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

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

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

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

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

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

18 (b) *Unauthorized purchases.*

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

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

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

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

21 (c) *Bid tampering prohibited.*

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

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

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

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

9 (a) *Public access to records.*

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

16 (b) *Electronic access to procurement documents.*

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

25 (c) *Triennial supplier survey.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **SUBPART A. - PROCUREMENT THRESHOLDS**

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

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

1 threshold amount provided in F.S. § 287.017, for Category
2 Two, as may be revised from time to time; or

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

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

29 **Sec. 126.302. - Informal Purchases.** Purchases and sales other than
30 those defined in Section 126.301 shall be considered Informal
31 Purchases and made in accordance with the process and procedures for

1 Informal Purchases detailed in the Procurement Operating Manual.

2 **SUBPART B. PROCUREMENT MODES**

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

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

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

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

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

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

29 The City's use of electronic transmissions, forms, and media,
30 including acceptance of electronic submittals and signatures,
31 including digital signatures, is authorized consistent with Chapter

1 668, F.S., for use of such electronic transmission, form, and media,
2 so long as such guidance provides for:

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

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

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

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

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

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

29 (a) *Procurement methods.* The following procurement methods are
30 authorized under this Chapter and governed by applicable procurement
31 laws, including, but not limited to, the state procurement laws

1 referenced:

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

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

31 (c) *Procedures regarding pre-selection and procurement methods.* The

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

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

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

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

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

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

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

11 (f) *Required notice regarding certain procurement methods.* The Chief
12 shall provide a quarterly report to the Mayor, City Council, Council
13 Auditor, and Office of Inspector General of all formal awards
14 identified as single-source or emergency purchases made each quarter
15 pursuant to this Chapter. Additionally, the Chief Administrative
16 Officer or Chief shall present a quarterly in-person report to the
17 City Council Finance Committee regarding all single-source purchases
18 made each quarter pursuant to this Chapter in excess of \$50,000. Such
19 in-person report shall be presented to the City Council Finance
20 Committee on a day and time as determined by the Finance Committee
21 Chair.

22 (g) *Minimum responses for professional services; resolicitation*
23 *required.* Solicitations for professional services shall require no
24 less than three supplier responses. If solicitations for professional
25 services receive responses from less than three suppliers, the Chief
26 shall resolicit proposals from suppliers, unless the Chief determines
27 in writing, in consultation with the using agency, that no advantage
28 would be obtained by resoliciting.

29 **Sec. 126.307. - Selection procedures for independent audit firm.** In
30 accordance with Section 5.11 of the Charter and the selection
31 procedures set forth in Section 218.391, F.S., the annual independent

1 audit shall be performed by an accountant, or an accounting firm
2 selected by City Council. The public notice or advertisement as well
3 as receipts of responses shall be handled by the Division. The Council
4 Auditor shall, within one business day, notify the Chief of the
5 introduction of the proposed ordinance or resolution making the award,
6 and the Chief shall place the title to such ordinance or resolution
7 on the next JPAC agenda for informational purposes. Once the ordinance
8 or resolution making the award becomes effective the Council Auditor's
9 Office shall, within three business days, notify the Chief, and the
10 Chief shall include the awarding of the service on the next JPAC
11 agenda for informational purposes. The notifications set forth in
12 this Section shall not create the requirement for any notices or
13 advertisements not otherwise required by this Chapter 126.

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

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

25 (b) *City Council's right to accept, reject or modify contract.* In
26 considering any proposed contract referred to in subsection (a) above,
27 the City Council may accept, reject, or propose modifications to any
28 such proposed contract, and may, subject to the approval of the other
29 contracting parties, modify the terms thereof, including but not
30 limited to the scope, financial, duration, renewal, and termination
31 terms of the proposed contract; it being the intent of the City

1 Council that no third party shall have any interest, anticipation or
2 expectation in or to any proposed terms of a contract until such is
3 approved by City Council and executed by all signatories thereto.

4 **Sec. 126.309. - Selection procedures for financial instruments,**
5 **investments, and services.**

6 (a) *Exemption.* Pursuant to Chapter 110 Part 2 of the Code, as the
7 same may be revised from time to time, all deposits and investments
8 of City capital, including the General Employee Pension Fund, and
9 other applicable financially related services, including, without
10 limitation, credit enhancement, liquidity support, investment
11 managers, financial and/or investment advisors, issuing, paying
12 and/or tender agents, rating agencies, printing of preliminary and/or
13 final official statements, offering memorandum, bonds, notes and/or
14 commercial paper, and similar services that are offered in a limited
15 market, that involve complex negotiations, or that require a limited
16 time frame as necessary for a financial transaction involving bonds,
17 notes, commercial paper or other similar transactions, may be procured
18 in accordance with the City's Pension and Treasury Procurement
19 Procedures. Notwithstanding the requirements of the City's Pension
20 and Treasury Procurement Procedures, the Director and the City
21 Treasurer, in cooperation with the Chief, shall develop written
22 criteria and procedures necessary to evaluate and procure financially
23 related services under this section, which shall include, without
24 limitation, such factors as historic investment performance, fee
25 structure, professional staff, size of firm, research capabilities,
26 area of specialization, strategic fit with the overall financial
27 service goals and objectives.

28 (b) *Notice.* Any public notice or advertisement required under
29 procurement procedures developed in accordance with this section, as
30 well as responses thereto, shall be forwarded to the Division within
31 one business day. Once an award is made pursuant to such procurement

1 procedures, the Director shall notify the Chief within one business
2 day, and the Chief shall include the awarding of the service on the
3 next JPAC agenda for information purposes. When the procedures
4 developed in accordance with this section are used for awards that
5 are not time-sensitive, the Chief shall be notified prior to public
6 notice or advertisement for solicitations, and the Chief shall place
7 the public notice or advertisement on the JPAC agenda for
8 informational purposes prior to solicitation or advertisement being
9 made. The advanced notification requirement set forth in the preceding
10 sentence shall not apply to time-sensitive bond, investment, cash,
11 and other such related services as set forth in the written procedures
12 developed in accordance with this section. The notifications set
13 forth in this subsection (b) shall not create the requirement for any
14 notices or advertisements not otherwise required by this Chapter 126.

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

16 (a) *Compliance with contract terms and timing.* All City payments
17 made pursuant to a contract, including a purchase order, or award
18 under this Chapter shall be made in accordance with the terms of the
19 award and/or contract. The City shall endeavor to pay contractors
20 monthly, upon proper payment application to the applicable City
21 Department. City Departments are to perform all necessary inspections
22 and otherwise endeavor to ensure that prompt review and as applicable
23 approval that certified work is completed. The City shall pay all
24 approved invoices promptly and in accordance with Chapter 218, Part
25 7 (Local Government Prompt Payment Act), F.S.

26 (b) *Certification of payment by contractor.* As a condition precedent
27 to the City's obligation to make a progress or final payment on a
28 capital improvement project, a prime contractor shall give to the
29 city a payment affidavit stating, if that be the fact, that any and
30 all subcontractors, suppliers, laborers and others furnishing labor,
31 services, or materials on the capital improvement project under

1 contract with or at the direction of the prime contractor have been
2 paid in full or, if the fact be otherwise, showing the names and
3 contact information for all subcontractors, suppliers, laborers and
4 others who have not been paid in full and the amount due or to become
5 due each of them for labor, services, or materials furnished. The
6 affidavit should be in a form approved by the Director.

7 (c) *Joint Payment.*

8 (1) All contracts in amounts up to \$500,000, where payment or
9 performance bonds have been waived in accordance with Section
10 18.11 of the Charter, shall provide for the joint payment of
11 contractors and subcontractors for services rendered.

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

16 **Sec. 126.311. - Required contract provisions.** All contracts made
17 pursuant to this Chapter shall include any contract provisions
18 required by law. The Chief shall detail in the Procurement Operating
19 Manual all such required contract provisions to be included in
20 contracts executed pursuant to this Chapter.

21 * * *

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

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

24 It is the policy of the City of Jacksonville that the rehabilitation
25 of ex-offenders is an essential component in a community fight against
26 criminal activity; the hiring of ex-offenders into fair paying jobs
27 helps restore the economic stability of ex-offenders, perpetuates
28 their rehabilitation, reduces recidivism and contributes to a
29 community crime free environment; providing consideration and
30 opportunities to ex-offenders with companies doing business with the
31 City of Jacksonville can be accomplished without compromising the

1 security of the businesses, or the City and its citizens, and without
2 unnecessarily depriving others of opportunities; and that the City
3 of Jacksonville should take a leading role in the rehabilitation of
4 ex-offenders, and has done so through the City's third-party service
5 provider ex-offender re-entry programs that provide job training
6 and/or job placement services to Ex-Offenders.

7 **Sec. 126.502. - Definitions.**

8 As used in this part:

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

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

16 *Ex-Offender* means a person who has pled guilty, no contest or
17 nolo contendere to a felony offense; or has been found guilty
18 of a felony offense by a judge or jury; regardless of
19 adjudication of guilt.

20 *Ex-Offender Program Provider* shall mean the Jacksonville
21 Sheriff's Office Jacksonville Re-Entry Center, any entity under
22 contract with the City to provide job training and/or job
23 placement services to Ex-Offenders, or any other entity that
24 specializes in job training and/or job placement services for
25 Ex-Offenders.

26 **Sec. 126.503. - Contracting requirements for businesses contracting**
27 **with the City of Jacksonville.**

28 No contract in an amount of \$200,000 or greater for construction,
29 remediation, or capital improvements shall be awarded unless the
30 contractor agrees in writing on a bid form provided by the City (the
31 "Form 4A") to do the following (collectively, the "Form 4A

1 Requirements"):

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

4 (b) Consider for job placement after contract award at least one
5 otherwise qualified Ex-Offender, to the extent a job opportunity is
6 available under the project and an otherwise qualified Ex-Offender
7 has applied for such job;

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

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

15 (2) the number of Ex-Offenders interviewed for employment under
16 the project;

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

19 (4) whether the contractor maintains an employment policy that
20 Ex-Offenders will be given full and fair consideration in
21 employment;

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

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

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

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

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

5 To the extent permitted by applicable state or federal law, if a
6 contractor fails to comply with the Form 4A Requirements, the City
7 may withhold payments due under the contract until such contractor
8 has complied with the same. Notwithstanding the foregoing, if a
9 contractor hires an Ex-Offender during the project and indicates the
10 same on the Compliance Report, upon providing the City with
11 satisfactory evidence of the hire, such contractor shall be exempt
12 from performing the Form 4A Requirements for the remainder of the
13 project term. For purposes of this subsection, "satisfactory
14 evidence" shall include, without limitation, the contractor's payroll
15 information and other information obtained from the Florida
16 Department of Corrections website. The contractor shall include such
17 satisfactory evidence of the Ex-Offender hire with the Compliance
18 Report.

19 **Sec. 126.505. - Webpage information.**

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

29 **Sec. 126.506. - Reporting.**

30 The Chief shall provide an annual report to the Mayor and the City
31 Council no later than December 31 of each fiscal year for the previous

1 fiscal year on the information provided by contractors on the
2 Compliance Report pursuant to this Section. The first such report
3 shall be due no later than December 31, 2018, for the fiscal year
4 beginning October 1, 2017, and ending September 30, 2018. Such annual
5 reports shall at a minimum include information and data regarding the
6 number of:

7 (a) Ex-offenders hired by contractors pursuant to this Section;

8 (b) Ex-offenders interviewed by contractors;

9 (c) Ex-offenders who applied for employment with a contractor and
10 were denied employment;

11 (d) Contractors that maintained an employment policy providing
12 that Ex-Offenders will be given full and fair consideration in
13 employment;

14 (e) Contractors that have indicated on recruitment literature
15 that Ex-Offenders will be given full and fair consideration in
16 employment by the contractor;

17 (f) Contractors that reported no job opening and no hiring during
18 the project;

19 (g) Contractors that contacted Ex-Offender Program Providers;

20 (h) Contracts awarded to contractors for construction,
21 remediation or capital improvement projects in an amount of \$200,000
22 or greater and the aggregate contract award amount; and

23 (i) Contractors that failed to comply with this Section.

24 * * *

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

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

27 It is the policy of the City of Jacksonville to procure American
28 manufactured, assembled or produced goods whenever feasible and in
29 the best interests of the City under this Chapter. The City Council
30 finds that the economic welfare and security of its residents is of
31 utmost concern to the City. Local and regional preferences can

1 stimulate and sustain the local economy and thereby provide a public
2 benefit. Likewise, a domestic preference policy which encourages the
3 selection and utilization of American-made goods and products can
4 similarly be a stimulus to the local and regional economy by
5 encouraging the production, manufacture and assembly of products
6 which would be suitable for use in American-made products. Therefore,
7 it is hereby declared that the carrying out of the purposes of this
8 Part by the City is deemed to be furthering a proper municipal
9 purpose.

10 **Sec. 126.702. - Definitions.**

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

14 *Bid* means a competitive bid procedure established through the
15 issuance of an invitation for bid. The term "bid", as used
16 herein, shall not include requests for proposals (unless
17 specified in the RFP document), requests for qualifications,
18 requests for quotes and requests for information.

19 *Buy American preference* means and shall apply to the following
20 products that are:

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

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

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

28 To qualify for this preference, 51 percent of the components of
29 the final product manufactured, assembled or produced to be sold
30 to the City must be made in the United States. The Chief shall
31 administratively resolve any issues relating to Buy American

1 preferential status, and that decision on whether a contractor
2 or supplier is eligible for a Buy American preference shall be
3 final.

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

6 **Sec. 126.703. - Exemptions.**

7 The provisions of this Section do not apply to:

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

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

19 (c) Bids for the purchase of, or contract for, the construction/
20 renovation of public buildings, facilities, public works, or other
21 public construction projects.

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

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

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

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

29 (h) Contracts awarded pursuant to the Jacksonville Small and
30 Emerging Business Program, as provided in Chapter 126, Part 6 of the
31 Code, including those contracts where a low bidder is a prime JSEB

1 contractor on a non-set aside bid.

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

3 Except where federal, state, or local laws, regulations, or policies
4 mandates to the contrary, in the purchase of goods by means of a
5 competitive bid, a preference will be given to a responsive and
6 responsible contractor or supplier offering American manufactured,
7 assembled or produced goods, who is within five percent of the lowest
8 responsive and responsible bidder, by way of an opportunity of
9 providing said goods for the lowest responsive and responsible bid
10 amount.

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

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

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

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

26 **Sec. 126.707. - Waiver.**

27 The application of the buy American preference to a particular
28 purchase, contract, or category of contracts for goods may be waived
29 upon written recommendation of the Chief and approval of the Chief
30 Financial Officer of the City.

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

1 The Chief shall be charged with the responsibility to promulgate an
2 administrative policy or regulations consistent with this Section
3 which establishes criteria and procedures for the implementation of
4 this policy including matters involving the consideration of
5 exemptions, comparison of qualifications, and waiver of the policy
6 as provided herein.

7 **Sec. 126.709. - Reporting.**

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

16 * * *

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

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

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

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

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

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

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

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

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

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

17 **126.902. - Contractor suspension debarment.**

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

21 i. is more than 60 calendar days in default or breach of a
22 contract with the City;

23 ii. has failed to perform or has unsatisfactorily performed
24 the terms and conditions of one or more contracts with the
25 City, which failure to perform or unsatisfactory
26 performance was the result of circumstances within the
27 contractor or supplier's control;

28 iii. may be precluded from contracting with the City under this
29 Chapter;

30 iv. has failed to abide by the federal, state and local prompt
31 payment requirements or contractual terms and conditions

1 regarding the same;

2 v. has failed to abide by or honor commitments made pursuant
3 to Part 6 regarding the JSEB Program;

4 vi. has violated any federal, state, or local laws, including
5 this Chapter;

6 vii. has engaged in conduct prohibited hereunder or that is a
7 serious threat to the integrity of the public procurement
8 and contracting process, as determined by the Chief;

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

10 ix. has been debarred by another government entity.

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

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

23 (b) *Notice of suspension or debarment.* Upon reaching a decision to
24 suspend or debar a contractor or supplier, the Chief shall provide
25 said contractor or supplier with a written notice of suspension or
26 debarment via certified mail, return receipt requested, and via U.S.
27 Mail or facsimile, stating the reason for and the proposed period of
28 suspension or debarment (for less egregious violations, as determined
29 by the Chief, a period of probation may be proposed, any violations
30 during which period will subject the contractor or supplier to
31 debarment of no less than three years). As part of the notice of

1 suspension or debarment, the Chief shall advise the contractor or
2 supplier that, if, within ten calendar days after the date of the
3 notice, it fails to provide the Chief with a written Notice of Protest
4 that states, in detail, the grounds on which the protest is based,
5 then the action contained in the notice of suspension or debarment
6 shall become final without further notice, and shall represent final
7 administrative action.

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

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

25 **Sec. 126.903. - Remedies prior to an award of contract.** If prior to
26 award it is determined that a competitive solicitation or proposed
27 award of a contract is in violation of law, the competitive
28 solicitation or proposed award shall be:

- 29 i. Canceled; or
30 ii. Revised to comply with the law.

31 **Section 4. Creating a new Part 6 (Cultural Service Grants**

1 **and Art in Public Places), Subpart A (Cultural Service Grant Program)**
2 **and Subpart B (Art in Public Places Program), Chapter 118 (City**
3 **Grants), Ordinance Code.** A new Part 6 (Cultural Service Grants and
4 Art in Public Places), Subpart A (Cultural Service Grant Program) and
5 Subpart B (Art in Public Places Program), Chapter 118 (City Grants),
6 *Ordinance Code*, is hereby created to read as follows:

7 **CHAPTER 118 - CITY GRANTS**

8 * * *

9 **PART 6. - CULTURAL SERVICE GRANTS AND ART IN PUBLIC PLACES**

10 **SUBPART A. - CULTURAL SERVICE GRANT PROGRAM**

11 **Sec. 118.601. - Creation and purpose.**

12 There is hereby created a Cultural Service Program, which shall be
13 comprised of the Cultural Service Grant and Capital Grant Program
14 pursuant to this Subpart A and the Art in Public Places Program
15 pursuant to Subpart B. The mission and purpose of the Cultural Service
16 Program is to provide public support to organizations which contribute
17 to the cultural quality of life of Jacksonville's citizens and to
18 administer the City's Art in Public Places Program. The provisions
19 of Chapter 118, Parts 1 through 5 shall apply to this Part 6.

20 **Sec. 118.602. - Responsibility.**

21 (a) Cultural Council of Greater Jacksonville City appointments and
22 terms:

23 (1) Members of the Cultural Council of Greater Jacksonville. The
24 Cultural Council of Greater Jacksonville is a not for profit
25 501(C)(3). Pursuant to its bylaws, the Mayor appoints, and the City
26 Council confirms six members to serve two terms of three years.

27 (b) The Cultural Council of Greater Jacksonville (Cultural Council)
28 is hereby designated as the agent of the City for the purposes of
29 determining and authorizing the allocation of a lump sum Cultural
30 Service Grant and Capital Grant appropriation designated in the
31 annual budget ordinance or supplemental appropriation ordinances as

1 being appropriated for eligible recipients. The determinations and
2 authorizations made by the Cultural Council and its Cultural Service
3 Grant Committee in accordance with the provisions of this Section
4 shall be final and not subject to further administrative review by
5 any executive or administrative official of the City. No cultural
6 organization as defined in this Chapter may make a request for
7 operating, program, or special project support except through an
8 allocation from the Cultural Service Grant and Capital Grant Program,
9 except for:

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

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

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

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

1 Council shall include in the request relevant information regarding
2 cultural services to be provided to the community as a result of the
3 funding; and shall be responsible for documenting the validity of the
4 request to the MBRC, the City Council Finance Committee and City
5 Council throughout the budgeting process.

6 (b) The process for the annual Cultural Council appropriation for
7 administering the Art in Public Places Program as provided in Subpart
8 B of this Part 6 will begin with the Cultural Council preparation of
9 an annual appropriation request to fund all duties required to
10 administer such Program. The appropriation request shall be submitted
11 and processed in the same manner and at the same time as the
12 appropriation request referenced in paragraph (a), above.

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

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

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

27 (a) The Cultural Council shall be responsible for establishing an
28 annual Cultural Service Grant Program (CSGP) Committee. The
29 Composition of the CSGP Committee shall include one non-voting and
30 ten voting members: a CSGP Committee chairperson (non-voting),
31 appointed by the President of the Cultural Council Board of Directors;

1 three other Cultural Council Board members selected by the Board
2 President and Committee Chairperson; and seven individuals selected
3 by the above group (Cultural Council Board President, CSGP Committee
4 chairperson, and three selected Cultural Council Board members) from
5 a pool of nominations established through a community wide nomination
6 process. The Cultural Service Grant Committee shall have a liaison
7 relation with one member of City Council and one representative of
8 the Mayor's Office.

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

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

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

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

19 (1) Review and evaluation of all applications based on established
20 criteria;

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

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

24 (4) Participate in the allocations process.

25 (f) The Cultural Service Grant Committee shall recommend to the
26 Cultural Council Board of Directors the organizations to be funded
27 and the amount of the funding.

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

29 (a) The Cultural Council shall develop and be responsible for the
30 administration of the Cultural Service Grant Program. Administrative
31 and operating procedures shall be established and amended as necessary

1 to meet the mission of the program and current needs of the community.
2 The Cultural Council may classify the cultural organizations in
3 reasonable classifications for the purpose of this program. The
4 procedure prescribed herein, as further developed by the Cultural
5 Council, shall be the only procedure available to cultural
6 organizations for requesting public support.

7 (b) The following components shall be included in any administrative
8 and operating procedures developed and implemented by the Cultural
9 Council:

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

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

27 (3) The Cultural Council (which, for the purposes of this
28 subsection, includes the duly authorized Cultural Service Grant
29 committee thereof) shall consider appropriation requests returned by
30 the requesting agencies. The Cultural Council shall afford the
31 requesting agencies an opportunity to make an oral or written

1 presentation to justify or explain their respective appropriation
2 requests, and no requesting agency shall be denied this opportunity
3 solely because it has never submitted an appropriation request before
4 or because a previous appropriation request has been denied.

5 (4) All meetings and sessions of the Cultural Service Grant
6 Committee shall be held in a publicly accessible location and shall
7 be noticed and open to the public.

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

9 To be eligible for funding an organization must meet the following
10 criteria.

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

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

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

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

25 (e) The organization shall have a broad base of community
26 representation in management and membership. The members of the board
27 of directors shall not receive any compensation for their service as
28 directors, but they may be reimbursed for actual monetary expenditures
29 on behalf of the organization. The corporate charter or by-laws shall
30 provide a method of selection of the board of directors which will
31 periodically subject the directors to the possibility of replacement

1 by other qualified persons. The membership of the organization shall
2 be open to as large a portion of the public as possible, subject to
3 such nondiscriminatory conditions and qualifications for membership
4 as may be imposed by the corporate charter or by-laws; provided that
5 this requirement shall not be construed to prevent or prohibit an
6 organization from having different classes of membership with
7 different conditions and qualifications for admission and different
8 relative rights, privileges, and duties.

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

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

14 (h) The organization shall provide services or activities which
15 benefit or are made available to a broad range of the people of the
16 City and shall be offered on a nondiscriminatory basis to those
17 people.

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

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

29 (k) If a capital allocation is funded at or above \$25,000 the
30 organization must enter into a restrictive covenant agreement with
31 the City of Jacksonville to ensure dedicated use of the relative

1 facilities or properties for public proposes and arts-specific
2 purposes for a period of not less than ten years.

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

6 (m) Each recipient of the Operating and/or Capital grant funds must
7 go through the application process to prove that the recipient can
8 provide at least a one-dollar cash match for each dollar granted. The
9 Cultural council will make requests for disbursements of funds and
10 is responsible for monitoring and ensuring the funds are spent for
11 its intended purpose and reporting on the results and use of these
12 funds to the City of Jacksonville.

13 **Sec. 118.608. - Criteria for judging applicants for cultural service**
14 **grants.**

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

- 17 (a) Quality of programs;
18 (b) Community outreach and service to culturally diverse
19 populations;
20 (c) Management capability of board and staff;
21 (d) Community impact;
22 (e) Need for the organization in the community; and
23 (f) Exploration of innovative ideas and programming.

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

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

28 (b) Cultural service grant funds must be kept in an individual bank
29 account, notwithstanding the provision to the contrary in Section
30 118.201, separate from other organization funds. It may be an
31 interest-bearing account, but the total amount of the grant and the

1 interest must be spent by the end of the contract period; except that
2 a remaining balance may be maintained in the cultural service grant
3 account, notwithstanding the provision to the contrary in Section
4 118.301(a)(5). This balance must be identified and documented in
5 quarterly and year end reports and shall not exceed \$500. This balance
6 shall be returned to the City within the first 90 days of the first
7 fiscal year in which the recipient no longer receives a Cultural
8 Service Grant appropriation. The portion of unspent funds that exceed
9 \$500 shall follow the provisions of Section 118.301(a)(5).

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

11 (a) Upon approval of the annual budget by the City Council, one
12 contract will be prepared and administered throughout the Finance and
13 Administration Department, which will reflect the total amount of the
14 lump sum appropriation for cultural service grants to all cultural
15 organizations. Funds shall be distributed to the Cultural Council on
16 a quarterly basis in amounts to be determined annually,
17 notwithstanding the provision to the contrary in Section
18 118.201(f)(7), upon receipt by the Finance and Administration
19 Department of a quarterly financial and programmatic report.

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

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

29 (d) The Cultural Council shall provide the City Auditor's office
30 with an independently prepared or audited financial statement
31 (depending on grant amount) from all recipients at the conclusion of

1 the grant period. All application forms, procedures, reporting
2 requirements, and contract agreements for recipient organizations
3 (other than the Cultural Council) will be developed by the Cultural
4 Council and will be between the Cultural Council and the individual
5 recipient organizations.

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

7 **Sec. 118.611. - Definitions.**

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

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

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

23 *Construction or alterations* means new construction, where
24 construction costs are \$100,000 or more, and rehabilitation,
25 renovation, remodeling, or improvements (herein collectively
26 "alterations") to existing buildings. Alterations to buildings that
27 are under \$100,000 in cost or are primarily "redecorating" and involve
28 no actual structural alterations, shall be excluded. Alterations of
29 a strictly structural or mechanical nature necessary to keep the
30 facility functional, but without altering the aesthetic character of
31 the facility shall be excluded. Examples of this type of alteration

1 would be replacing an air conditioning system or major repairs to a
2 leaking roof or windows. These types of structural items shall be
3 included when part of a larger renovation project involving aesthetic
4 changes to facilities.

5 *Public facility* means any City-owned or controlled building or
6 facility intended for habitation where public employees work on a
7 regular basis or which the general public uses on a regular basis.
8 Public facility includes, but is not limited to, office buildings,
9 recreation and community centers, libraries, firehouses, police
10 substations, vertical construction within parks and recreation
11 spaces. Public facility specifically excludes water and sewer pump
12 stations, electrical and communications substations and switching
13 houses, and similar unoccupied structures except in designated Urban
14 Art and Streetscaping Areas.

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

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

21 (a) Public art is a work of art to which the general public has open
22 and easy access and which will enrich and give dimension to the public
23 environment, and which reflects generally accepted community
24 standards of aesthetic appeal and artistic expression in the
25 decorative arts.

26 (b) The goal of the Art in Public Places Committee of the Cultural
27 Council of Greater Jacksonville will be to choose art which is
28 compatible with and which will enhance the architecture and general
29 environment of the City. In some cases, the work will be site specific
30 (i.e., art which is commissioned especially for the specific space
31 and becomes integral to the site). Such art may relate to the function

1 and the users of the facility, to the history or population of its
2 neighborhood and/or may become a part of its architecture. Planning
3 of site-specific works will begin early in the project and may be
4 collaboration between artist and architect.

5 (c) Acceptable forms of public art shall include all visual arts
6 mediums, including, but not limited to, painting, drawing, original
7 prints, mixed media, sculpture, bas relief, mobiles, murals, kinetic
8 art, electronic art, photography, clay, glass, fiber and textiles,
9 as well as art which may be functional (e.g., doors, gates, furniture,
10 flooring and walls).

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

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

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

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

29 There is hereby created an Art In Public Places Committee. The
30 Committee will be an 11-member board appointed by the Mayor as
31 follows: two from the Cultural Council of Greater Jacksonville Board

1 of Directors; three from the professions of architecture, interior
2 design, landscape architecture, planning, art professional, or art
3 historian; and six from the community at large as community
4 representatives, each residing within a different planning district
5 whose interests, professions and community activities reflect the
6 diversity of the Jacksonville arts community and of the community at
7 large. All members shall be confirmed by the City Council. Initially
8 one member of each group shall be appointed for three years, one of
9 each shall serve two years and one of each shall serve one year.
10 Thereafter, all terms shall be for three years. No member appointed
11 to the Committee for two consecutive full terms shall be eligible for
12 appointment to the next succeeding term. The Committee shall be
13 responsible for receiving, reviewing, and acting on the
14 recommendations of the Art Selection Panels.

15 **Sec. 118.614. - Funding.**

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

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

25 (c) Eighty percent of the allocation percentage shall be dedicated
26 to the public art, ten percent of the allocation percentage shall be
27 dedicated to public art maintenance, and up to ten percent of the
28 allocation percentage shall be dedicated to public art administration
29 and community education; provided however, the maintenance and
30 administration allocation percentages shall not apply to
31 appropriations originating from any funds which prohibit expenditures

1 for maintenance and administration. These amounts shall be used at
2 the discretion of the Cultural Council in collaboration with the
3 Finance and Administration Department and any other City department
4 as appropriate for the public art maintenance and administration and
5 community education.

6 (d) The maintenance costs for any installation shall be included in
7 the initial project budget.

8 **Sec. 118.615. - Duties.**

9 The duties of the Cultural Council are as follows:

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

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

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

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

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

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

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

2 The Art in Public Places Committee shall, when deemed appropriate by,
3 and as outlined in, the Art in Public Places Program Five-Year Plan
4 for Program Development and Implementation, form Art Selection Panels
5 to make recommendations to the Committee on the selection of public
6 art. Each Selection Panel will be composed of up to nine members: a
7 Chair, who will be a member of and represent the Art In Public Places
8 Committee; a representative of the site selected for the art (staff
9 or board member); architect or other design professional for the
10 project, if available; two artists, art educators or art
11 professionals; and one to three community representatives, at least
12 one of whom shall reside in the planning district within which the
13 art shall be sited. The artists or arts professional representatives
14 will be selected from a list, maintained by the Committee, of
15 interested and qualified individuals. The Chief Administrative
16 Officer shall select a department representative to provide subject
17 matter expertise and city process guidance, including but not limited
18 to risk management, ADA compliance, and ordinance code compliance.

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

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

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

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

27 (iii) Direct purchase: Purchase of existing work and all rights
28 thereto.

29 (iv) Invitational commission: Selecting a specific artist for direct
30 commission.

31 (b) The Cultural Council and the Art in Public Places Committee

1 shall seek to ensure that at least 15 percent of the artists selected
2 for purchase or commission will be resident(s) in the Greater
3 Jacksonville area, (the counties of Duval, St Johns, Nassau, Clay,
4 and Baker). The Cultural Council and the Art in Public Places
5 Committee will also encourage the selection of regional artists e.g.,
6 Florida and the Southeastern United States.

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

15 Any provisions of this Chapter conflicting with the expressed intent
16 and procurement methodology of the Art In Public Places program are
17 hereby waived.

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

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

23 (1) Photographic reproduction rights (to be shared by artist and
24 owner);

25 (2) Right to remove/relocate art;

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

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

30 (c) City will retain ownership of proposal models or drawings of
31 commissioned art.

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

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

6 The Cultural Council shall administer the Art In Public Places program
7 on behalf of the City. The Cultural Council will provide professional
8 and support staff for the operation of the program and administration
9 of the Art in Public Places Program and the art selection process.

10 **Sec. 118.620. - School Board; independent authorities authorized to
11 use program.**

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

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

18 **Sec. 118.621. - Schedule.**

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

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

23 **Section 5. Creating a new Part 4 (Contract Administration
24 and Oversight), Chapter 21 (Executive Branch, generally), Ordinance
25 Code.** A new Part 4 (Contract Administration and Oversight), Chapter
26 21 (Executive Branch, generally), *Ordinance Code*, is hereby created
27 to read as follows:

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

29 * * *

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

31 **Sec. 21.401. - Contract administrator; contract risk assessment**

1 **program.** Department directors and/or chief executive
2 officers/executive directors of using agencies shall assign a
3 departmental or agency employee (for purposes of this section the
4 "contract administrator"), to certain contracts identified by the
5 Office of Inspector General as high-risk contracts. The Chief
6 Administrative Officer or designee, in consultation with the Office
7 of Inspector General, shall develop a contract risk assessment
8 program, which among other things identifies key high-risk contract
9 factors, for using agencies in the administration and oversight of
10 high-risk contracts. The contract administrator shall be responsible
11 and accountable for the administration and oversight of high-risk
12 contracts, ensuring that the contract deliverables are met, and the
13 City's payment of invoices are justified. For purposes of this section
14 the term "contract deliverables" shall mean matters regarding the
15 project scope and consistency with appropriation purposes and
16 limitations, project time limits and scheduling compliance, project
17 milestones, product and performance delivery, review dates, plan
18 updates, and contract renewal evaluation.

19 **Sec. 21.402. - Contract administrator training.** The Chief of
20 Procurement, City Ethics Director, and Inspector General, or
21 designees, shall provide training annually to using agencies
22 regarding procurement methods and procedures, ethics in public
23 contracting, contract risk assessment program, contract
24 administration and oversight, and the contract administration
25 certification program administered by the Chief of Procurement.

26 **Sec. 21.403. - Employee disclosure of personal and business**
27 **relationships.** A City employee performing, or participating in, the
28 administration, oversight, and approval of payment of a City contract
29 made pursuant to this Code shall, prior to performing, or
30 participating in, City contract administration, oversight, and
31 approval of payment duties regarding a City contract, disclose in

1 writing to their department head, division chief, or other comparable
2 supervisory personnel, all current or former personal and business
3 relationships with the contractor, its officers, employees, and
4 agents on a disclosure form developed by the City Ethics Office. Such
5 disclosure form shall include a definition of "current or former
6 personal and business relationships". The applicable department
7 head, chief, or other comparable supervisory personnel shall review
8 and approve such written disclosures in consultation with the City
9 Ethics Office.

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

15 **Section 6. Amending Part 4 (Nondiscrimination Policy),**
16 **Chapter 126 (Procurement Code), Ordinance Code.** Part 4
17 (Nondiscrimination Policy), Chapter 126 (Procurement Code), *Ordinance*
18 *Code*, is hereby amended to read as follows:

19 **CHAPTER 126 - PROCUREMENT CODE**

20 * * *

21 **PART 4. - NONDISCRIMINATION POLICY; FEDERAL AND STATE GRANT**
22 **REQUIREMENTS**

23 **Sec. 126.401. - Policy.**

24 It is hereby declared to be the City policy to assure equal
25 opportunities to every person, regardless of race, color, religion,
26 sex, ~~color~~, sexual orientation, gender identity, familial status,
27 national origin, age-handicap or national origin disability in
28 securing or holding employment in a field of work or labor for which
29 the person is qualified, as provided and enforced by Chapter 402.
30 It is also the City policy that persons doing business with the City
31 shall recognize and comply with this policy and will not expend

1 public funds in a manner as will encourage, perpetuate, or foster
2 discrimination. Nevertheless, it is not the intent or policy of the
3 City to impose or require quotas or other formulas based on race,
4 color, religion, sex, ~~color,~~ sexual orientation, gender identity,
5 familial status, national origin, age handicap or national origin
6 disability for securing or holding employment or awarding City
7 contracts or to create a presumption of discrimination or
8 nondiscrimination. This provision shall be automatically updated to
9 conform to applicable state and federal law on protected categories.

10 **Sec. 126.402. - Definitions.**

11 As used in this part:

12 (a) *City contracts* means all contracts of the City for the purchase
13 of supplies, contractual services, including professional design
14 services, professional services, and capital improvements.

15 * * *

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

21 * * *

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

23 (a) With respect to a person seeking the award of a City contract,
24 a copy of a final order finding noncompliance with the policy of
25 nondiscrimination required by this Part shall be furnished to the
26 committee or the Mayor, whichever requested the investigation. No
27 City contract shall be awarded to a person failing to comply with
28 the policy of nondiscrimination required by this Part.

29 (b) With respect to the nondiscrimination provisions of a City
30 contract, a copy of a final order finding noncompliance with the
31 provisions shall be furnished to the Mayor and the Chief. Every

1 order shall afford the bidder or contractor affected an opportunity
2 to demonstrate to the satisfaction of the authority issuing the
3 order which becomes final, within the reasonable time as the issuing
4 authority determines, that the breach of the nondiscrimination
5 provisions has been corrected. At the expiration of the reasonable
6 time, the issuing authority shall enter a further order determining
7 whether the breach has been corrected, furnishing copies thereof to
8 the affected person, the Mayor, and the Chief. A person failing to
9 correct the breach of the nondiscrimination provisions within the
10 period permitted shall be deemed an irresponsible bidder, and no
11 City contract shall be awarded to this person. An irresponsible
12 bidder under this subsection shall have the opportunity to submit
13 to the Commission at any time a program adopting and maintaining a
14 policy of nondiscrimination and, upon approval thereof by the
15 Commission, the prohibitions of this subsection shall terminate.

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

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

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

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

1 and the City Council Secretary of the same.

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

4 Part 6 (Jacksonville Small and Emerging Business Program), Chapter
5 126 (Procurement Code), *Ordinance Code*, is hereby amended to read as
6 follows:

7 **CHAPTER 126 - PROCUREMENT CODE**

8 * * *

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

10 **SUBPART A. - GENERAL PROVISIONS**

11 * * *

12 **Sec. 126.604. - Definitions.**

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

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

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

19 * * *

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

21 **DISPARITY STUDY UPDATE**

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

23 (a) Subject to the availability of funds, the JSEB Administrator
24 shall competitively procure and maintain annually a contract with a
25 third-party contractor or contractors to provide a bond enhancement
26 program for the benefit of JSEBs. The bond enhancement program shall
27 provide support services to assist JSEBs in their efforts to secure
28 performance and payment bonds for public and private contracts. The
29 program shall not provide the underlying bond but shall provide a
30 refined basis for underwriting bonds, small business support
31 services, and contractor monitoring necessary for such bond

1 underwriting, as well as improvement plans for JSEBs who do not
2 qualify.

3 (b) Section 126.~~2301(b)~~ of the Code provides that JSEBs are not
4 required to submit bid bonds for projects under \$500,000. Section
5 126.~~2301(g)~~ provides that JSEBs shall be exempt from obtaining a
6 payment and performance bond for projects that are (i) equal to or
7 less than the "Discretionary Bond Threshold" amount, as defined in
8 Chapter 126, Part ~~23~~ of the Code; and (ii) equal to or less than the
9 payment and performance bond waiver amount permitted in Section 18.11
10 of the Charter.

11 * * *

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

14 * * *

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

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

21 **Section 8. Amending Section 122.605 (Review, amendment,**
22 **adoption and appropriation by City Council), Part 6 (Capital**
23 **Improvement Plan), Chapter 122 (Public Property), Ordinance Code.**

24 Section 122.605 (Review, amendment, adoption and appropriation by
25 City Council), Part 6 (Capital Improvement Plan), Chapter 122 (Public
26 Property), *Ordinance Code*, is hereby amended to read as follows:

27 **CHAPTER 122 - PUBLIC PROPERTY**

28 * * *

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

30 * * *

31 **Sec. 122.605. - Review, amendment, adoption and appropriation by**

1 **City Council.**

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

4 * * *

5 (c) The City Council may amend the Capital Improvement Plan and any
6 appropriations made pursuant to Section 122.605(a)(4) during the
7 then current fiscal year, but only upon an enactment by City Council
8 specifically identifying the reasons that deferral of such amendment
9 until the immediately following annual budget review will be
10 detrimental to the best interest of the community. Enactment of an
11 ordinance approving a proposed CIP amendment during the fiscal year
12 shall require approval by a two-thirds majority of the Council
13 Members present. Any amendment to the CIP must include all
14 information required with respect to a project that is required for
15 inclusion in the annual CIP.

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

29 **Section 9. Amending Section 108.505 (Special Counsel), Part**
30 **5 (Legal Services), Chapter 108 (Central Services), Ordinance Code.**

Section 108.505 (Special Counsel), Part 5 (Legal Services), Chapter 108 (Central Services), *Ordinance Code*, is hereby amended to read as follows:

CHAPTER 108 - CENTRAL SERVICES

* * *

PART 5. - LEGAL SERVICES

* * *

Sec. 108.505. - Special Counsel.

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

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

* * *

Section 10. Amending Section 24.603 (Duties of Chief of

1 **Procurement), Part 6 (Procurement Division), Chapter 24 (Finance and**
2 **Administration Department), Ordinance Code.** Section 24.603 (Duties
3 of Chief of Procurement), Part 6 (Procurement Division), Chapter 24
4 (Finance and Administration Department), *Ordinance Code*, is hereby
5 amended to read as follows:

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

7 * * *

8 **PART 6. - PROCUREMENT DIVISION**

9 * * *

10 **Sec. 24.603. - Duties of Chief of Procurement.**

11 It shall be the duty of the Chief to:

12 (a) Procure or contract for all supplies, contractual services,
13 professional design services, professional services and capital
14 improvements required by using agencies, except as provided herein;

15 * * *

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

17 (t) Oversee the Office of Equal Business Opportunity;

18 (u) Oversee training on procurement methods in accordance with Part
19 4, Chapter 21, Ordinance Code; and

20 (v) Develop, implement, and administer a contract administration
21 certification program for City employees, subject to available funds
22 and staff.

23 * * *

24 **Section 11. Bond Counsel.** Prior to the prospective effective
25 date of this ordinance and in accordance with Article 7 of the City
26 Charter, the General Counsel is authorized to engage bond counsel and
27 disclosure counsel as appropriate and necessary to assist the City
28 in its finance matters.

29 **Section 12. Establishment of prospective date of July 1,**
30 **2024, for the Code repeals, amendments, and new provisions contained**
31 **in this ordinance to become effective.** The Code repeals, amendments,

1 and new provisions contained in this ordinance shall not become
2 effective until July 1, 2024.

3 **Section 13. Directive to the Chief of Procurement to amend**
4 **the Procurement Operating Manual consistent with this ordinance on**
5 **or before June 1, 2024.** The Chief of Procurement ("Chief") shall
6 amend the Procurement Operating Manual (as defined in Chapter 126,
7 Ordinance Code) consistent with this ordinance on or before June 1,
8 2024. The Mayor shall approve the amended Procurement Operating
9 Manual required under this Section. The Chief shall promptly file a
10 copy of the amended Procurement Operating Manual with the Council
11 Secretary, the Council Auditor, and the Inspector General to allow
12 the Council Auditor and Inspector General to provide comments to the
13 Chief regarding the amended Procurement Operating Manual. The Chief
14 shall review and consider any comments from the Council Auditor and
15 Inspector General regarding the amended Procurement Operating Manual
16 and may further amend the Procurement Operating Manual, as
17 appropriate, based on such comments and consistent with this
18 ordinance. The Chief shall promptly provide the Council Secretary,
19 the Council Auditor, and the Inspector General with the final amended
20 Procurement Operating Manual. The Procurement Operating Manual, as
21 amended in accordance with this section, shall not become effective
22 until July 1, 2024. The Chief shall develop and implement workshops
23 and training materials to inform City agencies of the Code changes
24 and the amended Procurement Operating Manual required in this Section.

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

29 **Section 15. Codification Instructions.** The Codifier and the
30 Office of General Counsel are authorized to make all chapter and
31 division "tables of contents" consistent with the changes set forth

1 herein. Such editorial changes and any others necessary to make the
2 Ordinance Code consistent with the intent of this legislation are
3 approved and directed herein, and changes to the Ordinance Code shall
4 be made forthwith and when inconsistencies are discovered.

5 **Section 16. Effective Date.** This Ordinance shall become
6 effective upon signature by the Mayor or upon becoming effective
7 without the Mayor's signature.

8
9 Form Approved:

10
11 /s/ Mary E. Staffopoulos

12 Office of General Counsel

13 Legislation Prepared By: Lawsikia J. Hodges

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