

**CM GAY AMENDMENT #1
(NCSPHS Committee - 2023-20)**

See redlined copy for the actual proposed amendment language

Amend Ordinance 2023-20 to do the following:

- 1) Correct multiple scrivener's errors in the bill title and bill;
- 2) Reorganize sections in bill to correlate with the amended bill title;
- 3) Amend Section 126.104 (Execution of contracts) to permit City contracts to be transmitted and executed in electronic form;
- 4) Amend Section 126.108 (Exemptions from competitive solicitation) to add an exemption for goods, supplies and services relating to cybersecurity matters;
- 5) Amend Section 126.112 (Integrity in public contracting – City officers and employees) to require employees to require employee to disclose certain personal and business relationships on a form developed by the Ethics Office;
- 6) Amend Section 126.203 (Evaluation Committees) to require employees serving as evaluators on procurement evaluation committees to complete the ethics disclosure form regarding personal and business relationships;
- 7) Amend Section 126.207 (Officers) to provide for the chair and vice chair of the Jacksonville Procurement Awards Committee to be ex-officio positions in lieu of the Mayor appointing;
- 8) Clarify wording in Section 126.304 (Electronic media and digital signatures);
- 9) Amend Section 126.306(c) and (d) regarding the Procurement Operating Manual (“Manual”) to:
 - a. Clarify that any amendments made by the Chief to the Manual will align with best practices;
 - b. Allow the Council Auditor and Inspector General to comment on amendments to the Manual prior to the amendments becoming effective;
 - c. Require procedures for noncompetitive/exempt solicitations be included in the Manual;
 - d. Require procedures for a system of contractor performance ratings;
 - e. Require procedures for ethics in public contracting;
 - f. Require procedures for an owner-direct purchase program consistent with state law and rules; and
 - g. Expressly permit and require the Chief to promulgate rules in the Manual for emergency procurements for all procurement types, including supplies, contractual services, and capital improvements.

- 10) Amend Part 7 (Buy American Program) to include a new section 126.709 (Reporting) to require the Chief to report information and data regarding the program;
- 11) Clarify wording in Section 126.104 (Applicability to Independent Agencies);
- 12) Amend the heading of Part 4 – Contract Administration and Oversight- to include contract execution (see new section 21.404);
- 13) Amend section 21.402 (Contract Administrator Training) to reference the contract administration certification program;
- 14) Create a new section 21.403 (Employee disclosure of personal and business relationships) to require employee to disclose certain personal and business relationships on a form developed by the Ethics Office;
- 15) Create a new section 21.404 (Contract execution) to permit City contracts to be transmitted and executed in electronic form;
- 16) Create a new subsection 122.605(d) to reference emergency capital improvements made pursuant to Chapter 122. In instances where emergency capital improvements are made pursuant to Chapter 122, the Mayor will be required to file emergency legislation amending the Capital Improvement Plan after the emergency procurement is made.
- 17) Amend the prospective date to July 1, 2024, for the ordinance code changes to take effect;
- 18) Amend the deadline date to June 1, 2024, for the Chief of Procurement to update the Procurement Operating Manual consistent with the ordinance changes;
- 19) Amend Section 108.505, Part 5, Chapter 108 to reference bond counsel and disclosure counsel as a specialized legal subject area regarding Office of General Counsel’s engagement of special counsel and add a new section in the bill that recognizes Office of General Counsel’s ability to engage bond and disclosure counsel pursuant to the City Charter; and
- 20) Amend the bill sections appropriately to reflect the changes in this amendment.

1 Introduced by Council Member Cumber:
2
3

4 **ORDINANCE 2023-20**

5 AN ORDINANCE RELATING TO THE CITY OF
6 JACKSONVILLE'S PROCUREMENT CODE; REPEALING AND
7 REPLACING PART 1 (GENERAL REGULATIONS), PART 2
8 (SUPPLIES, CONTRACTUAL SERVICES AND CAPITAL
9 IMPROVEMENTS), PART 3 (PROFESSIONAL SERVICES
10 CONTRACTS), PART 5 (EXTRAORDINARY CRITICAL
11 PURCHASING PROCEDURES), PART 7 (DESIGN-BUILD
12 CONTRACTS), AND PART 9 (ART IN PUBLIC PLACES),
13 CHAPTER 126 (PROCUREMENT CODE), *ORDINANCE CODE*,
14 AND PART 6 (CULTURAL SERVICE GRANT PROGRAM),
15 CHAPTER 118 (CITY GRANTS), *ORDINANCE CODE*, IN
16 THEIR ENTIRETY; CREATING A NEW PART 1 (GENERAL
17 REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC
18 CONTRACTING), PART 2 (JACKSONVILLE PROCUREMENT
19 AWARDS COMMITTEE), PART 3 (PROCUREMENT
20 THRESHOLDS, MODES, METHODS, AND PROCEDURES),
21 PART 5 (EX-OFFENDER PROGRAM), PART 7 (BUY
22 AMERICAN PROGRAM), AND PART 9 (~~BID~~ PROTESTS,
23 SUSPENSION, AND DEBARMENTS), CHAPTER 126
24 (PROCUREMENT CODE), *ORDINANCE CODE*, TO MODERNIZE
25 AND PROVIDE FOR GREATER EFFICIENCIES IN THE CITY
26 OF JACKSONVILLE PROCUREMENT CODE; ~~AMENDING PART~~
27 ~~4 (NONDISCRIMINATION POLICY), CHAPTER 126~~
28 ~~(PROCUREMENT CODE), *ORDINANCE CODE*, TO AMEND THE~~
29 ~~DEFINITION OF NONDISCRIMINATION CONSISTENT WITH~~
30 ~~EMPLOYEE SERVICES NONDISCRIMINATION POLICY;~~
31 ~~AMENDING PART 6 (JACKSONVILLE SMALL AND EMERGING~~

~~BUSINESS PROGRAM), CHAPTER 126 (PROCUREMENT
CODE), ORDINANCE CODE, TO MAKE THE PART
CONSISTENT WITH THE CHANGES IN THIS ORDINANCE;
CREATING A NEW PART 6 (CULTURAL SERVICE GRANTS
AND ART IN PUBLIC PLACES), SUBPART A (CULTURAL
SERVICE GRANT PROGRAM) AND SUBPART B (ART IN
PUBLIC PLACES PROGRAM), CHAPTER 118 (CITY
GRANTS), ORDINANCE CODE, TO RELOCATE THE ART IN
PUBLIC PLACES PROGRAM PREVIOUSLY UNDER PART 9,
CHAPTER 126, ORDINANCE CODE, TO PART 6, CHAPTER
118, ORDINANCE CODE; CREATING A NEW PART 4
(CONTRACT ADMINISTRATION AND OVERSIGHT;
CONTRACT EXECUTION), CHAPTER 21 (EXECUTIVE
BRANCH, GENERALLY), ORDINANCE CODE, TO REQUIRE
CONTRACT ADMINISTRATION AND OVERSIGHT IN CITY
CONTRACTS; AMENDING PART 4 (NONDISCRIMINATION
POLICY), CHAPTER 126 (PROCUREMENT CODE),
ORDINANCE CODE, TO AMEND THE DEFINITION OF
NONDISCRIMINATION CONSISTENT WITH EMPLOYEE
SERVICES NONDISCRIMINATION POLICY; AMENDING
PART 6 (JACKSONVILLE SMALL AND EMERGING BUSINESS
PROGRAM), CHAPTER 126 (PROCUREMENT CODE),
ORDINANCE CODE, TO MAKE THE PART CONSISTENT WITH
THE CHANGES IN THIS ORDINANCE; AMENDING SECTION
122.605 (REVIEW, AMENDMENT, ADOPTION AND
APPROPRIATION BY CITY COUNCIL), PART 6 (CAPITAL
IMPROVEMENT PLAN), CHAPTER 122 (PUBLIC
PROPERTY), ORDINANCE CODE, TO PROVIDE FOR
EMERGENCY CAPITAL IMPROVEMENT PROJECTS IN
ACCORDANCE WITH CHAPTER 126, ORDINANCE CODE;
AMENDING SECTION 108.505 (SPECIAL COUNSEL), PART~~

1 5 (LEGAL SERVICES), CHAPTER 108 (CENTRAL
2 SERVICES), ORDINANCE CODE, TO REFERENCE BOND AND
3 DISCLOSURE COUNSEL; AMENDING SECTION 24.603
4 (DUTIES OF CHIEF OF PROCUREMENT), PART 6
5 (PROCUREMENT DIVISION), CHAPTER 24 (FINANCE AND
6 ADMINISTRATION DEPARTMENT), ORDINANCE CODE, TO
7 ADD ADDITIONAL DUTIES OF THE CHIEF OF
8 PROCUREMENT REGARDING CONTRACT ADMINISTRATION
9 AND OVERSIGHT; ~~CREATING A NEW PART 4 (CONTRACT~~
10 ~~ADMINISTRATION~~PROVIDING FOR OFFICE OF GENERAL
11 COUNSEL TO ENGAGE BOND COUNSEL AND OVERSIGHT),
12 ~~CHAPTER 21 (EXECUTIVE BRANCH, GENERALLY),~~
13 ~~ORDINANCE CODE, TO REQUIRE CONTRACT~~
14 ~~ADMINISTRATION AND OVERSIGHT IN CITY~~
15 ~~CONTRACTS~~DISCLOSURE COUNSEL TO ASSIST THE CITY
16 IN ITS FINANCE MATTERS PURSUANT TO ARTICLE 7 OF
17 THE CITY CHARTER; ESTABLISHING A PROSPECTIVE
18 DATE OF ~~FEBRUARY~~JULY 1, 2024, FOR CODE REPEALS,
19 AMENDMENTS, AND NEW PROVISIONS CONTAINED IN THIS
20 ORDINANCE TO BECOME EFFECTIVE; DIRECTING THE
21 CHIEF OF PROCUREMENT TO UPDATE THE PROCUREMENT
22 OPERATING MANUAL CONSISTENT WITH THIS ORDINANCE
23 PRIOR TO ~~JANUARY~~JUNE 1, 2024; PROVIDING FOR
24 OVERSIGHT BY THE PROCUREMENT DIVISION, FINANCE
25 AND ~~ADIMINISTRATION~~ADMINISTRATION DEPARTMENT;
26 PROVIDING FOR CODIFICATION INSTRUCTIONS;
27 PROVIDING AN EFFECTIVE DATE.

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

31 **WHEREAS**, the City desires to streamline and make the City's

1 procurement process more efficient for City agencies and third-party
2 entities contracting with the City by adapting the existing Code
3 procedures to the City's Enterprise Resource Planning (ERP) system,
4 streamlining the existing procurement awards committees, and
5 providing greater efficiency and flexibility to the City regarding
6 procurement methods, modes, and procedures; and

7 **WHEREAS**, additionally, the City desires to increase
8 transparency, accountability, and ethics in City procurement for the
9 benefit of City officers, City employees, and the citizens of
10 Jacksonville; now, therefore

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

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

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

31 **Section 3. Creating a new Part 1 (General Regulations;**

1 **Ethics and Transparency in Public Contracting), Part 2 (Jacksonville**
2 **Procurement Awards Committee), Part 3 (Procurement Thresholds, Modes,**
3 **Methods, and Procedures), Part 5 (Ex-Offender Program); Part 7 (Buy**
4 **American Program), and Part 9 (Bid Protests, Suspension, and**
5 **Debarments), Chapter 126 (Procurement Code), Ordinance Code. Part 1**
6 **(General Regulations; Ethics and Transparency in Public Contracting),**
7 **Part 2 (Jacksonville Procurement Awards Committee), Part 3**
8 **(Procurement Thresholds, Modes, Methods, and Procedures), Part 5 (Ex-**
9 **Offender Program), Part 7 (Buy American Program), and Part 9 (Bid**
10 **Protests, Suspension, and Debarments), Chapter 126 (Procurement**
11 **Code), Ordinance Code, are hereby created to read as follows:**

12 **CHAPTER 126 - PROCUREMENT CODE**

13 **PART 1. - GENERAL REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC**
14 **CONTRACTING**

15 **SUBPART A. - GENERAL REGULATIONS**

16 **Sec. 126.101. - Short title.**

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

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

20 This Jax P-Code shall be construed and applied to promote the
21 following guiding principles. The guiding principles of this Jax P-
22 Code are to:

- 23 a) Simplify, clarify, and modernize the local laws governing
24 the City's procurement process;
- 25 b) Permit the continued improvement and development of the
26 City's procurement process' policies and practices;
- 27 c) Provide for increased public confidence in the City's
28 procurement process' policies and practices;
- 29 d) Ensure the fair treatment of all persons who participate
30 in the City's procurement process;
- 31 e) Provide increased economy and efficiency in the City's

1 procurement process;

2 f) Maximize to the fullest extent practicable the City's
3 purchasing value in the City's procurement process;

4 g) Foster effective open competition to the fullest extent
5 practicable in the City's procurement process while also
6 meeting the City's procurement needs;

7 h) Adapt the City's procurement policies and practices to the
8 City's Enterprise Resource Planning (ERP) system; and

9 i) Provide safeguards for the maintenance of quality and
10 integrity in the City's procurement process.

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

12 Except as otherwise provided herein, this Jax P-Code shall apply to
13 all City procurements and independent agency procurements in
14 accordance with Section 126.104. Nothing in this Jax P-Code or the
15 Procurement Operating Manual shall prevent any using agency from
16 complying with the terms and conditions of any grant, gift, or bequest
17 where otherwise authorized by law.

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

19 This Chapter is ~~only~~ applicable to independent agencies that are
20 required by ordinance ~~to comply with this Jax P-Code or Charter to~~
21 procure services through the Division. Independent agencies that are
22 not required to ~~comply with this Jax P-Code~~ procure services through
23 the Division may voluntarily procure services underpursuant to this
24 Chapter.

25 **Sec. 126.105. - Definitions.**

26 The following terms or phrases, wherever used or referred to in this
27 Chapter, shall have the following respective meanings for the
28 purposes of this Chapter, unless different meanings are clearly
29 indicated by the context. Capitalized terms used in this Chapter,
30 but not defined herein, shall have the meanings ascribed to them in
31 the Procurement Operating Manual. When not inconsistent with the

1 context, words used in the present tense shall include the future,
2 and words in the plural shall include the singular and words in the
3 singular shall include the plural.

4 *Bid* means the document(s) received by the City pursuant to a
5 competitive solicitation issued under this Chapter. The term
6 includes (i) price quotes received pursuant to an invitation to
7 bid, (ii) proposals received pursuant to a request for
8 proposals, (iii) statements of qualifications received pursuant
9 to a request for qualifications, (iv) replies received pursuant
10 to an invitation to negotiate.

11 *Bidder* means those persons who submit a bid, proposal, response,
12 or reply to a competitive solicitation issued under this
13 Chapter.

14 *Capital improvement* means (i) any permanent addition,
15 construction, or fixture to publicly owned real property or
16 structures and/or (ii) a "capital improvement project" as ~~more~~
17 ~~specifically~~ defined in Chapter 122, Part 6, Ordinance of the
18 Code, as amended.

19 *Chief* means the Chief of Procurement as established in Chapter
20 24 of the Code or any successor chief position.

21 *Competitive solicitation* means the process of requesting and
22 receiving sealed bids for formal purchases in accordance with
23 the terms of an invitation to bid, a request for proposals, a
24 request for qualifications, invitation to negotiate or other
25 competitive procurement process hereunder.

26 *Contractual services* mean the rental, repair and maintenance of
27 equipment and personal property required by using agencies but
28 not furnished by their own employees, and utilities and other
29 services of all types, including types not enumerated herein.
30 This term shall not include professional services, professional
31 design services, or capital improvements as defined herein.

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

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

5 *Director* means the Director of the Department of Finance and
6 Administration or any successor director position.

7 *Division* means the Division of Procurement, or any successor
8 division or City unit.

9 *Emergency* means an immediate danger to the public health,
10 safety, or welfare, an immediate danger of loss of public or
11 private property, a reasonably unforeseen breakdown in
12 machinery, a reasonably unforeseen threatened curtailment,
13 diminution, or termination of an essential governmental service,
14 the reasonably unforeseen development of a dangerous condition
15 or the development of a reasonably unforeseen circumstance that
16 threatens the curtailment or diminution of an essential
17 governmental service or of deposits and investments of City
18 capital or other threatened losses to the City that, in the
19 opinion of the Chief, require emergency action.

20 *Formal purchase* means the definition ascribed to this term in
21 ~~Section 126.301, this Chapter.~~

22 *Local bidder* means a bidder who maintains a permanent place of
23 business in the City and is a separate and distinct term from
24 that used in Part 6 herein, which contains differing
25 requirements. If, with respect to a purchase or contract, there
26 shall be no local bidder within the City, the term local bidder
27 shall include a bidder whose principal office is in and whose
28 principal business is conducted in the State of Florida.

29 *Procurement* means buying, purchasing, renting, leasing, or
30 otherwise acquiring any supplies, services, or construction. It
31 also includes all functions that pertain to the obtaining of any

1 supply, service, or construction, including the description of
2 requirements, selection and solicitation of sources, preparation
3 and award of contract and contract administration.

4 *Procurement Operating Manual* means the manual containing the
5 rules~~and,~~ regulations, and procedures promulgated ~~by the Chief,~~
6 ~~and approved by the Mayor, pursuant to Section 126.306 of in~~
7 accordance with this Chapter.

8 *Professional design services* mean those services within the
9 scope of the practice of architecture, professional engineering,
10 landscape architecture, or registered surveying and mapping, as
11 defined by the laws of the State of Florida, or those performed
12 by any architect, professional engineer, landscape architect,
13 or registered surveyor and mapper in connection with his or her
14 professional employment or practice.

15 *Professional services* mean services other than those defined
16 herein as "professional design services," the value of which is
17 substantially measured by the professional competence of the
18 person or entity performing them and which are not susceptible
19 to realistic competition by cost of services alone. Professional
20 services will generally include, without limitation, services
21 customarily rendered by medical practitioners or professionals,
22 certified public accountants, audit services, attorneys,
23 financial, political, personnel, technological, systems,
24 planning and management consultants, and insurance brokers for
25 purposes of consulting, structuring coverage and procuring
26 insurance.

27 *Responsive bidder or proposer or respondent* means a bidder or
28 proposer or respondent who has submitted a bid or proposal or
29 reply that conforms, in all material respects, to an invitation
30 for bids, request for proposals, an invitation to negotiate or
31 any other procurement method authorized pursuant to this

1 chapter.

2 *Supplies* means commodities, goods, materials, equipment and
3 other tangible articles or things which shall be furnished to
4 or used by a using agency, including commercial printing,
5 binding or publication of stationery, forms, journals, and
6 reports.

7 *Supplier or Contractor* means a person or entity contracting with
8 the City or a using agency to provide services pursuant to this
9 Chapter.

10 *Using agency* means a (i) City department, division, office,
11 board, agency, commission, or other governmental unit of the
12 City; or (ii) an independent agency required or voluntarily
13 requesting to use the services of the Division.

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

15 (a) *Execution of form approved contracts.* Contracts form approved
16 by the Office of General Counsel and executed by the contractor and
17 the City pursuant to this Chapter on behalf of the executive branch
18 shall be executed by the Mayor, or his designee, and the Corporation
19 Secretary. The Corporation Secretary shall maintain copies of
20 executed contracts for the executive branch. Contracts form approved
21 by the Office of General Counsel and executed by the contractor and
22 the City pursuant to this Chapter on behalf of the internal operations
23 of the office of the legislative branch shall be executed by the City
24 Council President or, if authorized by the City Council President,
25 the Vice President, and the City Council Secretary. The City Council
26 Secretary shall maintain copies of executed contracts for the
27 legislative branch.

28 (b) *Execution of purchase order contracts.* Purchase orders, except
29 those for capital improvements, shall be approved and executed by the
30 Chief after approval by the Director as to the availability of funds.
31 The terms and conditions contained in purchase orders shall be binding

1 upon contractors ~~by~~ doing business with the City or using agency.

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

7 **Sec. 126.107. - Access to supplier records; supplier compliance with**
8 **applicable laws.**

9 (a) *City access to and examination of supplier records.* Suppliers
10 shall agree by contract and be deemed to have agreed by doing business
11 with the City to allow access and examination at all reasonable times
12 by the City Council Auditor, the Inspector General, the City Ethics
13 Office or any duly authorized representative of the City Council
14 Auditor, Inspector General or City Ethics Office to business records
15 directly pertinent to the transaction until the expiration of three
16 years after final payment pursuant to the transaction or contract.
17 Regarding the City Council Auditor, all examinations shall be in
18 accordance with Article 5 of the Charter and Chapters 13 and 102 of
19 the Code. Regarding the Inspector General and the City Ethics Office,
20 the Inspector General and the City Ethics Office may examine business
21 records of persons or entities doing business with the City pursuant
22 to Chapter 602 of the Code.

23 (b) *Compliance with applicable laws.* Suppliers shall agree by
24 contract and be deemed to have agreed by doing business with the City
25 to comply with all applicable federal, state, and local laws, rules,
26 and regulations as the same exist or as may be amended from time to
27 time, including, but not limited to the Public Records Law, F.S. Ch.
28 119.

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

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

- 1 a) Any exempt contractual services or commodities described under
2 Section 287.057, F.S., as applicable;
- 3 b) Program or agency reviews if the fee for such review services
4 does not exceed the formal threshold amount applicable to such
5 services;
- 6 c) Government Collaborative Agreements;
- 7 d) Government Joint Projects;
- 8 e) Active Government Procured Contracts (Piggyback);
- 9 f) Short-Term No Costs Pilot Projects;
- 10 g) Supplies or services to be provided by those specifically
11 prescribed within authorizing legislation;
- 12 h) Professional services performed by a nonprofit professional
13 organization or the members thereof, when the membership
14 includes a significant number of City employees engaged in the
15 practice of the ~~particular~~ profession;
- 16 i) Art reproduction services from local suppliers;
- 17 j) Financial Instruments, Investments, and Services; ~~and~~
- 18 k) Services related to Building Inspection Division work; and
- 19 k+1) Any goods, supplies, services, including professional
20 services, relating to cybersecurity matters, including those
21 matters exempt from public records and open meetings pursuant
22 to Section 119.0725, F.S.

23 Unless otherwise provided herein, the exempt services listed above
24 shall be subject to all other provisions and requirements of this
25 Chapter. The Chief may promulgate non-competitive procedures
26 pertaining to the procurement of exempt services listed above in the
27 Procurement Operating Manual, subject to JPAC and the Mayor's
28 approval.

29 **Sec. 126.109. - Severability.**

30 If any provision of this Jax P-Code or any application thereof to any
31 person or circumstances is held invalid, such invalidity shall not

1 affect other provisions or applications of this Jax P-Code which can
2 be given effect without the invalid provision or application.
3 Accordingly, the provisions of this Jax P-Code are declared to be
4 severable.

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

6 **Sec. 126.110. - Definitions.**

7 For purposes of this subpart the following terms shall have the
8 meanings given below:

9 *bid* means any written bid, written proposal, written reply,
10 written quote or written offering of any kind or description
11 whatsoever submitted for the purpose of being awarded or entering
12 a contract, purchase agreement, sales transaction, or other
13 contractual agreement with the City under the provisions of this
14 P-Code.

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

19 *public official* means any one or more individuals who have been
20 elected to any state or local office and which office has a
21 geographical jurisdiction or description covering all of, more
22 than but including all or a portion of, or less than but including
23 a portion of, Duval County, Florida, any one or more individuals
24 who have been appointed to the governing body of any independent
25 agency of the City, or an appointed employee of the City.

26 *financial interest* means any ownership interest of a public
27 official in any proposer, bidder, contractor, or first tier
28 subcontractor (that is, a person or business entity under contract
29 to provide or providing capital improvement services, professional
30 design services, professional services, labor, materials,
31 supplies or equipment directly to the proposer, bidder, or

1 contractor) whereby the public official knows that he or she has
2 received or will receive any financial gain resulting from or in
3 connection with the soliciting, procuring, awarding, or making of
4 a bid or contract; provided, however, financial interest shall
5 not include any interest in any increase in value of, or dividends
6 paid on, any stock which is publicly traded on any public stock
7 exchange.

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

9 (a) *Declaration and findings.* In recognition that the preservation
10 of the integrity of the public contracting and procurement process
11 of the City is vital and is a matter of great public interest, the
12 City Council determines and declares that:

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

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

20 (3) In order to preserve the integrity of the public contracting
21 and purchasing process, the privilege of transacting business
22 with the City should be denied to persons or entities involved
23 in certain crimes or listed on certain state or national
24 prohibited ~~vender~~contractor lists.

25 (4) It is the intent of the City Council to provide sufficient
26 authority to the City, its departments, and independent
27 agencies, to ensure the integrity of public contracting and
28 purchasing. To the extent any provision contained herein is in
29 direct conflict with federal or state laws, such applicable
30 federal or state laws shall control and govern.

31 (b) *Prohibited contractors.* The City shall not accept any bid from

1 or award any contract to or transact any business with:

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

5 (2) Any person or entity who pleads nolo contendere or guilty
6 or who is convicted in a court of competent jurisdiction for
7 violating Section 101 of the Immigration Reform and Control
8 Act of 1986 (unlawful employment of an alien) for a period of
9 two years beginning from the date of such plea of nolo
10 contendere, guilty plea or conviction by a court of competent
11 jurisdiction; and

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

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

21 (c) *Collusion prohibited.*

22 (1) By virtue of submitting a bid each bidder shall be deemed to
23 guarantee that he has not been a party with other bidder(s)
24 to an express or implied agreement to bid a fixed or uniform
25 price. Violation of this implied guarantee shall render void
26 the bid of the offending bidder(s) and, subject to applicable
27 requirements and/or discretion described herein, may result in
28 forfeiture of the offender's bid bond and other disciplinary
29 measures contained herein and/or under Florida law.

30 (2) A disclosure to or acquisition by a competitive bidder, in
31 advance of the opening of the bids, of any of the terms or

1 conditions of the bid submitted by another competitor may
2 render those bidders' bids void and, subject to applicable
3 requirements and/or discretion described herein, may result in
4 forfeiture of the offender's bid bond.

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

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

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

13 Adherence to procedures that ensure a fair open and impartial
14 procurement process is essential to public confidence in the City's
15 procurement process. The Chief shall promulgate and publish rules
16 that prohibit certain ex parte bidder communications during the City's
17 procurement process.

18 **Sec. 126.112. - Integrity in public contracting - City officers and**
19 **employees.**

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

22 (1) *Required disclosure.* A public official who knows that he or she
23 has a financial interest in a bid or contract shall make disclosure
24 in writing to the Division or using agency, whichever is receiving
25 or has received the bid or contract, (i) at the time that the bid or
26 contract is submitted or subsequently no later than the close of the
27 second full, regular work day after the bid or contract is submitted
28 (not including the day that the bid is submitted or any Saturday,
29 Sunday or City holiday), or (ii) prior to or at the time that the
30 public official acquires a financial interest in the bid or contract
31 and such disclosure shall include but not be limited to the following:

1 the bid number, the name of the public official and his or her public
2 office or position, the name and address of the business entity in
3 which the public official has a financial interest, and the position
4 or relationship of the public official with that business entity.

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

8 (3) *Prohibited purchases from Officers or Employees.*
9 Notwithstanding any waivers or exemptions permitted under Florida
10 law, purchase of supplies, contractual services or capital
11 improvements shall not be made from a person who is an officer or
12 employee subject to F.S. Ch. 112, Pt. III or in which any officer
13 or employee has a private financial interest, direct or indirect,
14 within the meaning of F.S. Ch. 112, Pt. III.

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

29 (b) *. Unauthorized purchases.*

30 (1) *Unauthorized purchases by Officers or Employees.* It shall be
31 unlawful for an officer or employee of the City or of a using agency

1 willfully or negligently to order any purchase or to make a contract
2 in a manner contrary to the provisions of this P-Code. A purchase
3 ordered or contract or sales transaction made contrary to the
4 provisions hereof shall be null and void unless and until accepted
5 and ratified by the appropriate awarding authority, which awarding
6 authority shall then advise the Chief and the City Council Auditor
7 as to its disposition. Unless authorized or permitted to do so by
8 executive order of the Mayor, no one other than those described in
9 Section 126.106 hereof shall have the authority, whether actual or
10 apparent, to execute any purchase order, contract, including contract
11 modifications, or any sales transaction on behalf of the City. The
12 prohibition contained in this section shall not apply to errors or
13 omissions of the Division in providing advice to using agencies
14 regarding purchases under this Chapter.

15 (2) *Chief referrals.* The Chief shall refer all purchases,
16 contracts, or sales transactions made contrary to the provisions of
17 this P-Code to the appropriate awarding authority and a copy to the
18 Mayor, City Council Auditor, and Inspector General designating the
19 purchase, contract, or sales transaction as unauthorized with a
20 recommendation as to its disposition. Relevant facts or information
21 in the possession of the Chief believed to aid the awarding authority
22 in its determination shall be included.

23 (3) *Unauthorized expenditures for certain artwork or improvements.*
24 It shall be unlawful for an officer or employee of the City, or of a
25 using agency, to expend funds for any artwork or improvement which
26 includes thereon a likeness of any living person. The prohibition
27 contained herein shall not apply to the expenditure of funds for a
28 photograph or portrait of a public employee or official kept in the
29 normal course of business, in the offices where the public employee
30 or official conducts business, nor for random decorative artwork
31 which is not intended as recognition for the living persons depicted.

1 (c) *Bid tampering prohibited.*

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

4 (d) Employee disclosure of personal and business relationships. A
5 City employee performing, or participating in, a single-source
6 procurement or serving as an Evaluation Committee member shall, prior
7 to performing, or participating in, a single-source procurement or
8 serving as an Evaluation Committee member disclose in writing to the
9 Chief all current or former personal and business relationships with
10 the contractor, bidder, respondent, or proposer, its officers,
11 employees, and agents on a disclosure form developed by the City
12 Ethics Office. Such disclosure form shall include a definition of
13 "current or former personal and business relationships". The Chief,
14 in consultation with the City Ethics Office and the applicable
15 department head, chief, or other comparable supervisory personnel,
16 shall review and approve such written disclosures. The Chief may
17 promulgate additional procedures related to this subsection in the
18 Procurement Operating Manual.

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

20 (a) *Public access to records.*

21 Except as otherwise exempt or confidential by law, the Division's
22 records shall be public records and made available to the public upon
23 request. Such records shall be open to inspection and copying by the
24 public during normal business hours. In accordance with City public
25 records policies, the Division may charge the public reasonable costs
26 for gathering and copying records.

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

28 The Jax P-Code, the Procurement Operating Manual, and any procurement
29 policies, procedures, rules, directives, and other procurement
30 governing documents, including amendments thereto, shall be posted
31 electronically on the Division's website in a conspicuous manner for
32 the public to view. Subject to available funds, the Chief may make

1 procurement documents under this Chapter, including awards,
2 solicitations documents, purchase orders, etc., electronically
3 accessible to the public.

4 (c) *Triennial supplier survey.*

5 The Chief shall triennially conduct a survey to obtain feedback from
6 bidders and suppliers on the City's procurement process. Such survey
7 shall be on a form approved by City and participation in the survey
8 shall be open to past, current, and prospective bidders and
9 suppliers. Survey topics may include, without limitation, various
10 aspects of the City's procurement process such as information
11 transparency and accessibility, pre-conferences, bid submittal
12 packages, evaluations, and awards. The Chief shall review and
13 consider such survey results and may recommend amendments to the
14 Procurement Operating Manual ~~for JPAC's approval pursuant to Part~~
15 2 in accordance with this Chapter.

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

17 **Sec. 126.201. - Jacksonville Procurement Awards Committee**
18 **established.** The Jacksonville Procurement Awards Committee or JPAC
19 is hereby established for the purpose of awarding contracts pursuant
20 to this Chapter.

21 **Sec. 126.202. - Composition.** JPAC shall consist of the following
22 three members: the Director, the Director of Public Works, and the
23 City Risk Manager, or their respective designees. However, when an
24 independent agency is using the services of the Division, the chief
25 administrative officer /executive director, or other equivalent
26 position, of the independent agency, or his designee, shall be a
27 member of the JPAC in lieu of the Director; and further provided,
28 that, when the Downtown Investment Authority ("DIA") is the using
29 agency, the DIA executive director ~~of the DIA~~ shall be a member of
30 JPAC in lieu of the Director.

31 **Sec. 126.203. - Evaluation Committees.** For all evaluated competitive

1 solicitations, the Chief shall designate an evaluation committee
2 consisting of at least two individuals recommended by the respective
3 using agency ("Evaluation Committee"). Prior to the Chief designating
4 individuals to serve on an Evaluation Committee, the Chief shall
5 require all potential evaluators to complete the disclosure form
6 required in Section 126.112(d) of the Code and obtain an ethical
7 clearance from the City Ethics Office and the applicable department
8 head, chief, or other comparable supervisory personnel. The
9 Evaluation Committee shall evaluate and score competitive
10 solicitation proposals, responses, or replies in accordance with the
11 competitive solicitation terms.

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

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

1 However, unless otherwise provided by executive order of the Mayor
2 regarding the designation or delegation of the Mayor's approval
3 authority, actions by the JPAC shall become final only upon approval
4 by: (i) the independent agency; or (ii) the Mayor or his designee,
5 as applicable.

6 **Sec. 126.205. - Meetings; public notice; minutes.** JPAC shall meet
7 at least once a week but may meet more frequently as necessary to
8 accommodate the procurement needs of using agencies. Unless otherwise
9 provided by law, all meetings shall be subject to Section 286.011
10 (Open Meetings Laws), F.S. JPAC shall keep official minutes of its
11 meetings, which shall be maintained on file in the Division as a
12 permanent electronic or physical public record. JPAC, to the extent
13 feasible, shall also keep recordings of the JPAC proceedings, subject
14 to public records retention laws.

15 **Sec. 126.206. - Voting; quorum.** JPAC recommendations shall require
16 a concurring vote of a majority of the members present. Three JPAC
17 members shall constitute a quorum for the purpose of meetings and
18 transacting business.

19 **Sec. 126.207. - Officers.** The Chair of JPAC shall be the Director
20 and the Vice Chair of JPAC shall be designated by the Mayor~~Director~~
21 of Public Works. JPAC may elect other officers from among its
22 members.

23 **Sec. 126.208. - Rules of Procedure.** JPAC may establish rules of
24 procedure necessary to its governing and the conduct of its affairs,
25 consistent with the applicable provisions of the Ordinance Code.

26 **Sec. 126.209. - Administrative Support.** The Chief and Division shall
27 provide JPAC with administrative support.

28 **Sec. 126.210. - Compliance.** JPAC shall be subject to the provisions
29 of ~~F.S.~~ Chapter 112, Part III, F.S., and Chapters 50, 58 and 602,
30 Ordinance of the Code, except as may be otherwise set forth in this
31 Chapter.

1 **PART 3. - PROCUREMENT THRESHOLDS, MODES, METHODS**
2 **AND PROCEDURES**

3 **SUBPART A. - PROCUREMENT THRESHOLDS**

4 **Sec. 126.301. - Formal Purchases.** Unless exempt under Section
5 126.108 of this P-Code, the following purchases shall be formal
6 purchases:

7 (1) Supplies, professional services, or contractual services,
8 as defined herein, where the estimated costs or fees thereof
9 exceed \$150,000;

10 (2) Professional design services, as defined herein, where the
11 estimated cost for the basic construction of a project exceeds
12 the threshold amount provided in F.S. § 287.017, for Category
13 Five, as may be revised from time to time, or where the
14 estimated fees for a planning or study activity exceed the
15 threshold amount provided in F.S. § 287.017, for Category
16 Two, as may be revised from time to time; or

17 (3) Capital improvements where the estimated cost thereof
18 exceeds the threshold amount provided in F.S. § 255.0525(2),
19 as may be revised from time to time (on a case-by-case basis,
20 the Chief shall have the discretion to reduce the threshold
21 amount for capital improvements consistent with the
22 competitive encouragement threshold amount of F.S. §
23 255.101(2), as may be revised from time to time).

24 Unless otherwise exempt under this Chapter, Formal Purchases shall
25 be publicly noticed, advertised, and competitively procured as
26 provided in the Procurement Operating Manual. No formal purchase
27 order, contract, or agreement shall be subdivided to avoid this
28 requirement. A successful bidder who is awarded a formal contract for
29 equal to or less than the discretionary payment and performance bond
30 exemption amounts set forth in F.S. § 255.05(1)(d), (the "Statutory
31 Discretionary Bond Threshold"), may, at the discretion of the JPAC,

1 upon the request of the using agency and recommendation of the Chief,
2 be exempted from executing the otherwise required payment and
3 performance bonds. Final determinations on the need for payment bonds
4 for projects equal to or less than the Statutory Discretionary Bond
5 Threshold shall be made by the Chief after determining if there is
6 an alternate form of security or payment method more readily available
7 or appropriate. For JSEBs, as defined in Chapter 126, Part 6, payment
8 and performance bonds shall not be required on City projects with a
9 value equal to or less than the Statutory Discretionary Bond Threshold
10 or equal to or less than the payment and performance bond waiver
11 amount permitted in Section 18.11 of the Charter.

12 **Sec. 126.302. - Informal Purchases.** Purchases and sales other than
13 those defined in Section 126.301 shall be considered Informal
14 Purchases and made in accordance with the process and procedures for
15 Informal Purchases detailed in the Procurement Operating Manual.

16 **SUBPART B. PROCUREMENT MODES**

17 **Sec. 126.303. - Electronic Procurement System.**

18 (a) *Authorization for the Use of Electronic Transactions and*
19 *Systems.* Subject to available funding and as permitted by law, the
20 Chief may implement an electronic procurement system to conduct
21 procurement transactions, including, but not limited to, competitive
22 solicitations, informal quotations, or any other procurement method
23 by electronic means or in electronic form. Electronic means shall
24 include, without limitation, electronic systems such as e-
25 procurement, e-commerce, e-government procurement and any other
26 comparable or similar digital or electronic systems used to conduct
27 procurement transactions. Any such electronic procurement system
28 shall include standardization and normalization of data to enable
29 such system to be compatible and interoperable with other City
30 departments, divisions, and agencies.

31 (b) *Electronic Posting.* The City may electronically post

1 solicitations, decisions and other matters related to procurement
2 on a centralized Internet website designated by the City for this
3 purpose.

4 (c) *Electronic Records*. As permitted by law, wherever this Code or
5 the policies and procedures promulgated hereunder require that a
6 document, record, or notice ~~to~~ be in writing, an electronic format
7 is authorized.

8 (d) *Electronic Public Notices*. The Chief may publish electronic
9 public notices for procurement methods used in this Chapter in
10 accordance with Section 50.0311, F.S.

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

12 The City's use of electronic transmissions, forms, and media,
13 including acceptance of electronic submittals and signatures,
14 including digital signatures, is authorized consistent with Chapter
15 668, F.S., for use of such electronic transmission, form, and media,
16 so long as such guidance provides for:

17 (1) Appropriate security to prevent unauthorized access to the
18 competitive solicitation, approval, award, and contracting
19 process; and

20 (2) Accurate retrieval or conversion of electronic forms of
21 such information into a medium which permits inspection and
22 copying in accordance with Chapter 119.07 and 119.071, F.S.

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

24 **Sec. 126.305. - Pre-Selection Procurement Methods.**

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

27 1) A *Request for Information (RFI)*. The Chief, in
28 consultation with the using agency, may issue a Request
29 for Information solicitation to collect information about
30 the capabilities of bidders.

31 2) A *Request for Qualifications (RFQ)*. The Chief, in

1 consultation with the using agency, may issue a Request
2 for Qualifications solicitation to solicit information
3 from bidders to evaluate a bidder's qualifications and
4 qualify two or more bidders for future solicitations.

5 3) *An Intent to Bid (ITB)*. The Chief, in consultation with
6 the using agency, may issue an intent to bid which is
7 intended to provide notice and information to potential
8 bidders. The publication of an intent to bid does not
9 obligate the City to make the purchases referred to in the
10 intent to bid.

11 **Sec. 126.306. - Procurement Methods and Selection.**

12 (a) *Procurement Methods*. ~~Unless exempt under Section 126.108 of~~
13 ~~this Code, all Formal Purchases shall be awarded by one of~~ The
14 following procurement methods are authorized under this Chapter and
15 governed by applicable procurement laws, including, but not limited
16 to, the state procurement laws referenced:

- 17 1) Invitation to Bid (ITB) (Chapter 255, F.S.);
- 18 2) Request for Proposals (RFP) (Chapter 255, F.S.);
- 19 3) Competitive Multi-step Bidding (Chapter 255, F.S.);
- 20 4) Consultants' Competitive Negotiation Act (CCNA)
21 (Architectural, Engineering, Landscape Architectural, or
22 Surveying & Mapping Services) (Section 287.055, F.S.);
- 23 5) Design-Build Contracts (Section 287.055, F.S.);
- 24 6) Construction Management and Program Management (Section
25 255.103, F.S.);
- 26 7) Invitation to Negotiate (ITN);
- 27 8) Single-Source Procurements;
- 28 9) Emergency Procurements;
- 29 10) Guaranteed Energy, Water, and Wastewater Performance
30 Savings Contracting (Section 489.145, F.S.);
- 31 11) Public Private Partnerships (Section 255.065, F.S.);

- 1 12) Unsolicited Proposals;
- 2 13) Government Collaborative Agreements;
- 3 14) Government Joint Projects;
- 4 15) Government Auction Purchases;
- 5 16) Government Procured Contracts (Piggyback);
- 6 17) Short-Term No Costs Pilot Projects;
- 7 18) Direct Negotiations; and
- 8 19) Any other procurement method permitted by state law and/or
- 9 used by state agencies.

10 (b) *Choice of Procurement Method.* The Chief, after consulting with
11 the using agency shall have the discretion and authority to select
12 the source selection method that is deemed to be in the City's
13 interest and consistent with the purposes and guiding principles set
14 forth in this Code.

15 (c) *Procedures regarding Pre-Selection and Procurement Methods.* The
16 Chief shall promulgate definitions and procedures that are customary,
17 standard, and to the extent feasible, commonly considered a best
18 practice in public procurement regarding the listed Pre-Selection and
19 Procurement Methods authorized in this section. Such procedures
20 shall not be inconsistent with any applicable governing law, including
21 the requirements of this Code. Such procedures may include without
22 limitation, conditions for use of such method, public notice
23 requirements, solicitation opening, acceptance, evaluation,
24 corrections, withdrawal, and award.

25 (d) *Procurement Operating Manual.* The Chief shall develop, prepare,
26 and maintain the Procurement Operating Manual, which shall include
27 rules, regulations, and procedures relative to the implementation of
28 this Chapter. Such rules, regulations and procedures shall not be
29 inconsistent with this Code or any applicable governing state or
30 federal law. Based on the Chief's recommendations, JPAC shall
31 recommend to the Mayor for approval amendments to the Procurement

1 Operating Manual. Any such amendment to the Procurement Operating
2 Manual shall not become effective until thirty (30) days after the
3 Mayor's approval of the amendment. The manual shall at a minimum
4 prescribe rules and regulations regarding:

5 i. Procurement operations to be followed by using agencies, the
6 Division, and the business community;

7 ii. Specifications for standardized items purchased by the City
8 and using agencies;

9 iii. Procedures for the pre-selection and procurement methods in
10 accordance with this Part, subject to applicable federal,
11 state, and local laws;

12 ~~iii.~~iv. Procedures as needed for the purchases, supplies, services,
13 and agreements that are exempt from competitive solicitation
14 under this Chapter;

15 ~~iv.~~v. Types of services and any matters related thereto (e.g.,
16 capital improvements, professional services, including
17 design services, contractual services, and supplies);

18 ~~v.~~vi. Any electronic procurement system used and implemented by
19 the City in accordance with this Chapter;

20 ~~vi.~~vii. Bid protest procedures not inconsistent with Part 9 of this
21 Chapter;

22 ~~vii.~~viii. Performance and payment bonds, bid bonds and other security;

23 ~~viii.~~ix. Contracts, including purchase orders, executed pursuant to
24 this Chapter;

25 ~~ix.~~x. Required solicitation, contract, and bond forms, subject to
26 review by the Office of General Counsel;

27 ~~x.~~xi. Pre-qualifications for bidders not otherwise prohibited by
28 law;

29 ~~xi.~~xii. Value engineering not otherwise prohibited by law;

30 ~~xii.~~xiii. Novation, change of name, change of business status or
31 assignment; and

1 xiv. A system of contractor performance ratings regarding the
2 Contractor's performance in City contracts;

3 xv. Ethics in public contracting;

4 xvi. An Owner-Direct Purchase Program regarding the City's state
5 sales tax exemption, subject to Chapter 212, F.S., and Rule
6 12A-1.094, Florida Administrative Code, as may be amended,
7 which requires the City to participate in owner-direct
8 purchases for procurements exceeding \$10,000, unless the
9 Chief determines, in consultation with the using agency,
10 that the City's participation in an owner-direct purchase
11 for a procurement is not feasible and/or beneficial to the
12 City's interests; and

13 xvii. A listing of contract provisions required by law to be
14 included in contracts executed pursuant to this Chapter.

15 Nothing in this Section shall be construed as limiting or superseding
16 the provisions of this Chapter. The Chief shall issue the Procurement
17 Operating Manual and shall ensure compliance therewith by the using
18 agencies. The regulations and procedures contained in the Procurement
19 Operating Manual shall represent a complete plan of operation for the
20 City's procurement system. ~~A copy~~ Upon the Mayor's approval of
21 amendments to the Procurement Operating Manual, and any amendments
22 thereto, the Chief shall be promptly filed file copies of the amendments
23 with the Council Secretary, Inspector General, and Council Auditor.
24 The Inspector General, and Council Auditor may provide the Chief with
25 comments regarding the amendments prior to the amendments becoming
26 effective.

27 ~~(d)~~ (d) Emergency procurements; procedures. The Chief shall
28 promulgate emergency purchasing procedures in the Procurement
29 Operating Manual for all types of procurements, including supplies,
30 contractual services, capital improvements, professional services,
31 and professional design services. The emergency procurement

1 procedures shall be consistent with this Code and applicable state
2 law. Procurements subject to Section 255.20, F.S., shall meet the
3 emergency requirements provided in Section 255.20, F.S.

4 (e) Required Notice Regarding Certain Procurement Methods. The Chief
5 shall provide a quarterly report to the Mayor, Council Secretary,
6 Council Auditor, and Office of Inspector General of any single-source
7 or emergency purchase made pursuant to this Chapter more than the
8 formal threshold amounts described in Part 3.

9 **Sec. 126.307. - Selection Procedures for Independent Audit Firm.** In
10 accordance with Section 5.11 of the Charter and the selection
11 procedures set forth in Section 218.391, F.S., the annual independent
12 audit shall be performed by an accountant, or an accounting firm
13 selected by City Council. The public notice or advertisement as well
14 as receipts of responses shall be handled by the Division. The Council
15 Auditor shall, within one business day, notify the Chief of the
16 introduction of the proposed ordinance or resolution making the award,
17 and the Chief shall place the title to such ordinance or resolution
18 on the next JPAC agenda for informational purposes. Once the ordinance
19 or resolution making the award becomes effective the Council Auditor's
20 Office shall, within three business days, notify the Chief, and the
21 Chief shall include the awarding of the service on the next JPAC
22 agenda for informational purposes. The notifications set forth in
23 this Section shall not create the requirement for any notices or
24 advertisements not otherwise required by this Chapter 126.

25 **Sec. 126.308. - Selection Procedures for Sports and Entertainment**
26 **Facilities Promoter and/or Manager.**

27 (a) *City Council approval required.* Notwithstanding anything to the
28 contrary in this Chapter, no contract with the City of Jacksonville,
29 to manage or promote a sports or entertainment facility, which
30 contract is awarded after May 22, 2012, shall be valid or binding
31 against the City, unless and until approved by the City Council; and

1 no City officer or employee shall execute same without City Council
2 approval. This Section shall apply to all applicable proposed
3 contracts, whether negotiated and preliminarily approved through the
4 professional services processes of this Part, or by any other process.

5 (b) *City Council's right to accept, reject or modify contract.* In
6 considering any proposed contract referred to in subsection (a) above,
7 the City Council may accept, reject, or propose modifications to any
8 such proposed contract, and may, subject to the approval of the other
9 contracting parties, modify the terms thereof, including but not
10 limited to the scope, financial, duration, renewal, and termination
11 terms of the proposed contract; it being the intent of the City
12 Council that no third party shall have any interest, anticipation or
13 expectation in or to any proposed terms of a contract until such is
14 approved by City Council and executed by all signatories thereto.

15 **Sec. 126.309. - Selection Procedures for Financial Instruments,**
16 **Investments, and Services.**

17 (a) *Exemption.* Pursuant to Chapter 110 Part 2 of the Code, as the
18 same may be revised from time to time, all deposits and investments
19 of City capital, including the General Employee Pension Fund, and
20 other applicable financially related services, including, without
21 limitation, credit enhancement, liquidity support, investment
22 managers, financial and/or investment advisors, issuing, paying
23 and/or tender agents, rating agencies, printing of preliminary and/or
24 final official statements, offering memorandum, bonds, notes and/or
25 commercial paper, and similar services that are offered in a limited
26 market, that involve complex negotiations, or that require a limited
27 time frame as necessary for a financial transaction involving bonds,
28 notes, commercial paper or other similar transactions, may be procured
29 in accordance with the City's Pension and Treasury Procurement
30 Procedures. Notwithstanding the requirements of the City's Pension
31 and Treasury Procurement Procedures, the Director and the City

1 Treasurer, in cooperation with the Chief, shall develop written
2 criteria and procedures necessary to evaluate and procure financially
3 related services under this section, which shall include, without
4 limitation, such factors as historic investment performance, fee
5 structure, professional staff, size of firm, research capabilities,
6 area of specialization, strategic fit with the overall financial
7 service goals and objectives.

8 (b) *Notice.* Any public notice or advertisement required under
9 procurement procedures developed in accordance with this section, as
10 well as responses thereto, shall be forwarded to the Division within
11 one business day. Once an award is made pursuant to such procurement
12 procedures, the Director shall notify the Chief within one business
13 day, and the Chief shall include the awarding of the service on the
14 next JPAC agenda for information purposes. When the procedures
15 developed in accordance with this section are used for awards that
16 are not time-sensitive, the Chief shall be notified prior to public
17 notice or advertisement for solicitations, and the Chief shall place
18 the public notice or advertisement on the JPAC agenda for
19 informational purposes prior to solicitation or advertisement being
20 made. The advanced notification requirement set forth in the preceding
21 sentence shall not apply to time-sensitive bond, investment, cash,
22 and other such related services as set forth in the written procedures
23 developed in accordance with this section. The notifications set
24 forth in this subsection (b) shall not create the requirement for any
25 notices or advertisements not otherwise required by this Chapter 126.

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

27 (a) *Compliance with contract terms and Timing.* All City payments
28 made pursuant to a contract, including a purchase order, or award
29 under this Chapter shall be made in accordance with the terms of the
30 award and/or contract. The City shall endeavor to pay contractors
31 monthly, upon proper payment application to the applicable City

1 Department. City Departments are to perform all necessary inspections
2 and otherwise endeavor to ensure that prompt review and as applicable
3 approval that certified work is completed. The City shall pay all
4 approved invoices promptly and in accordance with Chapter 218, Part
5 7 (Local Government Prompt Payment Act), F.S.

6 (b) *Certification of payment by contractor.* As a condition precedent
7 to the City's obligation to make a progress or final payment on a
8 capital improvement project, a prime contractor shall give to the
9 city a payment affidavit stating, if that be the fact, that any and
10 all subcontractors, suppliers, laborers and others furnishing labor,
11 services, or materials on the capital improvement project under
12 contract with or at the direction of the prime contractor have been
13 paid in full or, if the fact be otherwise, showing the names and
14 contact information for all subcontractors, suppliers, laborers and
15 others who have not been paid in full and the amount due or to become
16 due each of them for labor, services, or materials furnished. The
17 affidavit should be in a form approved by the Director.

18 (c) *Joint Payment.*

19 (1) All contracts in amounts up to \$500,000, where payment or
20 performance bonds have been waived in accordance with Section
21 18.11 of the Charter, shall provide for the joint payment of
22 contractors and subcontractors for services rendered.

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

27 **Sec. 126.311. - Required contract provisions.** All contracts made
28 pursuant to this Chapter shall include any contract provisions
29 required by law. The Chief shall detail in the Procurement Operating
30 Manual all such required contract provisions to be included in
31 contracts executed pursuant to this Chapter.

1 * * *

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

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

4 It is the policy of the City of Jacksonville that the rehabilitation
5 of ex-offenders is an essential component in a community fight against
6 criminal activity; the hiring of ex-offenders into fair paying jobs
7 helps restore the economic stability of ex-offenders, perpetuates
8 their rehabilitation, reduces recidivism and contributes to a
9 community crime free environment; providing consideration and
10 opportunities to ex-offenders with companies doing business with the
11 City of Jacksonville can be accomplished without compromising the
12 security of the businesses, or the City and its citizens, and without
13 unnecessarily depriving others of opportunities; and that the City
14 of Jacksonville should take a leading role in the rehabilitation of
15 ex-offenders, and has done so through the City's third-party service
16 provider ex-offender re-entry programs that provide job training
17 and/or job placement services to Ex-Offenders.

18 **Sec. 126.502. - Definitions.**

19 As used in this part:

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

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

27 *Ex-Offender* means a person who has pled guilty, no contest or
28 nolo contendere to a felony offense; or has been found guilty
29 of a felony offense by a judge or jury; regardless of
30 adjudication of guilt.

31 *Ex-Offender Program Provider* shall mean the Jacksonville

1 Sheriff's Office Jacksonville Re-Entry Center, any entity under
2 contract with the City to provide job training and/or job
3 placement services to Ex-Offenders, or any other entity that
4 specializes in job training and/or job placement services for
5 Ex-Offenders.

6 **Sec. 126.503. - Contracting requirements for businesses contracting**
7 **with the City of Jacksonville.**

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

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

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

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

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

26 (2) the number of Ex-Offenders interviewed for employment under
27 the project;

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

30 (4) whether the contractor maintains an employment policy that
31 Ex-Offenders will be given full and fair consideration in

1 employment;

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

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

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

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

15 **Sec. 126.504. - Compliance; Exemption.**

16 To the extent permitted by applicable state or federal law, if a
17 contractor fails to comply with the Form 4A Requirements, the City
18 may withhold payments due under the contract until such contractor
19 has complied with the same. Notwithstanding the foregoing, if a
20 contractor hires an Ex-Offender during the project and indicates the
21 same on the Compliance Report, upon providing the City with
22 satisfactory evidence of the hire, such contractor shall be exempt
23 from performing the Form 4A Requirements for the remainder of the
24 project term. For purposes of this subsection, "satisfactory
25 evidence" shall include, without limitation, the contractor's payroll
26 information and other information obtained from the Florida
27 Department of Corrections website. The contractor shall include such
28 satisfactory evidence of the Ex-Offender hire with the Compliance
29 Report.

30 **Sec. 126.505. - Webpage Information.**

31 The Chief shall list the address and contact information of the City

1 Ex-Offender Program Providers on the City's Procurement Division
2 webpage. To the extent permitted, the City may request the City Ex-
3 Offender Program Providers to compile a listing of available Ex-
4 Offenders for employment by skillset and provide contractors with
5 such listing upon request. The Chief shall also provide the City Ex-
6 Offender Program Providers with the winning bidder's contact
7 information for each approved construction, remediation, or capital
8 improvement project award letter in an amount of \$200,000 or greater.

9 **Sec. 126.506. - Reporting.**

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

- 18 (a) Ex-offenders hired by contractors pursuant to this Section;
- 19 (b) Ex-offenders interviewed by contractors;
- 20 (c) Ex-offenders who applied for employment with a contractor and
21 were denied employment;
- 22 (d) Contractors that maintained an employment policy providing
23 that Ex-Offenders will be given full and fair consideration in
24 employment;
- 25 (e) Contractors that have indicated on recruitment literature
26 that Ex-Offenders will be given full and fair consideration in
27 employment by the contractor;
- 28 (f) Contractors that reported no job opening and no hiring during
29 the project;
- 30 (g) Contractors that contacted Ex-Offender Program Providers;
- 31 (h) Contracts awarded to contractors for construction,

1 remediation or capital improvement projects in an amount of \$200,000
2 or greater and the aggregate contract award amount; and

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

4 * * *

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

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

7 It is the policy of the City of Jacksonville to procure American
8 manufactured, assembled or produced goods whenever feasible and in
9 the best interests of the City under this Chapter. The City Council
10 finds that the economic welfare and security of its residents is of
11 utmost concern to ~~a local government~~ the City. Local and regional
12 preferences can stimulate and sustain the local economy and thereby
13 provide a public benefit. Likewise, a domestic preference policy
14 which encourages the selection and utilization of American-made goods
15 and products can similarly be a stimulus to the local and regional
16 economy by encouraging the production, manufacture and assembly of
17 products which would be suitable for use in American-made products.
18 Therefore, it is hereby declared that the carrying out of the purposes
19 of this Part by the City is deemed to be furthering a proper municipal
20 purpose.

21 **Sec. 126.702. - Definitions.**

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

25 *Bid* means a competitive bid procedure established through the
26 issuance of an invitation for bid. The term "bid", as used
27 herein, shall not include requests for proposals (unless
28 specified in the RFP document), requests for qualifications,
29 requests for quotes and requests for information.

30 *Buy American preference* means and shall apply to the following
31 products that are:

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

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

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

8 To qualify for this preference, 51 percent of the components of
9 the final product manufactured, assembled or produced to be sold
10 to the City must be made in the United States. The Chief shall
11 administratively resolve any issues relating to Buy American
12 preferential status, and that decision on whether a
13 vender~~vender~~contractor or supplier is eligible for a Buy American
14 preference shall be final.

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

17 **Sec. 126.703. - Exemptions.**

18 The provisions of this Section do not apply to:

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

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

30 (c) Bids for the purchase of, or contract for, the construction/
31 renovation of public buildings, facilities, public works, or other

1 public construction projects.

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

4 (e) Purchases made or contracts let under emergency or
5 noncompetitive situations ~~(single source, or a special~~
6 ~~procurements/bid waiver), or for legal services, permitted under this~~
7 Chapter.

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

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

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

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

16 Except where federal, state, or local laws, regulations, or policies
17 mandates to the contrary, in the purchase of goods by means of a
18 competitive bid, a preference will be given to a responsive and
19 responsible vendercontractor or supplier offering American
20 manufactured, assembled or produced goods, who is within five percent
21 of the lowest responsive and responsible bidder, by way of an
22 opportunity of providing said goods for the lowest responsive and
23 responsible bid amount.

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

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

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

31 The preferences established herein in no way prohibit the right of

1 the Chief to compare the quality of goods proposed for purchase and
2 compare qualifications, character, responsibility and fitness of all
3 persons, firms or corporations submitting bids. Further, the
4 preferences established herein in no way prohibit the right of the
5 Chief ~~from determining~~to determine based on criteria and standards
6 developed administratively to allow for selection by preference
7 permitted in another Section of this Chapter.

8 **Sec. 126.707. - Waiver.**

9 The application of the buy American preference to a particular
10 purchase, contract, or category of contracts for goods may be waived
11 upon written recommendation of the Chief and approval of the Chief
12 Financial Officer of the City.

13 **Sec. 126.708. - Administrative Policy for Implementation.**

14 The Chief shall be charged with the responsibility to promulgate an
15 administrative policy or regulations consistent with this Section
16 which establishes criteria and procedures for the implementation of
17 this policy including matters involving the consideration of
18 exemptions, comparison of qualifications, and waiver of the policy
19 as provided herein.

20 **Sec. 126.709. - Reporting.**

21 The Chief shall provide an annual report to the Mayor and the City
22 Council no later than December 31 of each fiscal year for the previous
23 fiscal year regarding the Buy American Program. The first such report
24 shall be due no later than December 31, 2025. The Chief shall include
25 in the annual report information and data regarding the number of Buy
26 American preferences given to contractors and suppliers in contract
27 awards each fiscal year and other pertinent information and data
28 regarding the program.

29 * * *

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

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

1 (a) *Right to Protest.* Any actual or prospective bidder, proposer,
2 respondent, or contractor who is aggrieved in connection with the
3 competitive solicitation or award of a contract may protest to the
4 Chief. The protest shall be submitted in writing in accordance with
5 the protest procedures contained in the Procurement Operating Manual.

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

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

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

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

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

20 (e) *Finality.* A decision under subsection C of this section shall
21 be final and conclusive unless any person adversely affected by the
22 decision ~~appeals~~protests administratively to JPAC.

23 (f) *Stay of Procurements During Protests.* In the event of a timely
24 protest under this section, the City shall not proceed further with
25 the competitive solicitation of or with the award of the contract
26 until the purchasing agent, after consultation with the head of the
27 using agency, makes a written determination that the award of the
28 contract without delay is necessary to protect substantial interests
29 of the City.

30 **126.902. - Contractor suspension debarment.**

31 (a) *Chief's discretion and recommendation.* The Chief shall have the

1 discretion to recommend the suspension or debarment or removal of a
2 contractor and/or vendorsupplier as provided herein, who:

- 3 i. is more than 60 calendar days in default or breach of a
4 contract with the City;
- 5 ii. has failed to perform or has unsatisfactorily performed
6 the terms and conditions of one or more contracts with the
7 City, which failure to perform or unsatisfactory
8 performance was the result of circumstances within the
9 contractor or vendor'ssupplier's control;
- 10 iii. may be precluded from contracting with the City under this
11 Chapter;
- 12 iv. has failed to abide by the federal, state and local prompt
13 payment requirements or contractual terms and conditions
14 regarding the same;
- 15 v. has failed to abide by or honor commitments made pursuant
16 to Part 6 regarding the JSEB Program;
- 17 vi. has violated any federal, state, or local laws, including
18 this Chapter;
- 19 vii. has engaged in conduct prohibited hereunder or that is a
20 serious threat to the integrity of the public procurement
21 and contracting process, as determined by the Chief;
- 22 viii. has violated the ethics provisions under this Chapter; or
- 23 ix. has been debarred by another government entity.

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

29 No contractor or vendorsupplier shall be entitled to do business with
30 the City unless and until it shall have remedied any underlying
31 default and/or breach to the satisfaction of the Chief and using

1 agency. Repeated or recurring violations under this Section shall be
2 sufficient reason for the Chief to remove the contractor's name
3 permanently from the bidders' list, subject to review by the JPAC and
4 approval by the Mayor.

5 (b) *Notice of suspension or debarment.* Upon reaching a decision to
6 suspend or debar a contractor or vendorsupplier, the Chief shall
7 provide said contractor or vendorsupplier with a written notice of
8 suspension or debarment via certified mail, return receipt requested,
9 and via U.S. Mail or facsimile, stating the reason for and the
10 proposed period of suspension or debarment (for less egregious
11 violations, as determined by the Chief, a period of probation may be
12 proposed, any violations during which period will subject the
13 contractor or vendorsupplier to debarment of no less than three
14 years). As part of the notice of suspension or debarment, the Chief
15 shall advise the contractor or vendorsupplier that, if, within ten
16 calendar days after the date of the notice, it fails to provide the
17 Chief with a written Notice of Protest that states, in detail, the
18 grounds on which the protest is based, then the action contained in
19 the notice of suspension or debarment shall become final without
20 further notice, and shall represent final administrative action.

21 (c) *Protest.* If, in response to a Notice of Suspension or Debarment,
22 a contractor or vendorsupplier timely provides a written Notice of
23 Protest, the Chief shall schedule a hearing before the JPAC within a
24 reasonable period after receiving the Notice of Protest. Within a
25 reasonable time, after hearing the protest and considering the
26 evidence and/or statements presented, ~~the appeals board~~JPAC shall
27 issue its findings and recommendation regarding the action proposed
28 by the Chief. JPAC's recommendation shall become final and shall
29 represent final administrative action.

30 (d) *Determination.* The determination as to whether a contractor or
31 vendorsupplier is in violation hereunder and whether the violation

1 is within the contractor or vendor'ssupplier's control shall be made
2 by the Chief. To aid in this duty, an appropriate executive officer
3 of each independent or using agency must inform the Chief whenever a
4 contractor or vendersupplier is in violation hereunder, regardless
5 of the reason therefor, and provide a statement of the circumstances
6 surrounding the violation. Nothing herein removes the appealsprotest
7 process set forth in this Chapter.

8 **Sec. 126.904903. - Remedies prior to an award of contract.** If prior
9 to award it is determined that a competitive solicitation or proposed
10 award of a contract is in violation of law, the competitive
11 solicitation or proposed award shall be:

- 12 i. Canceled; or
- 13 ii. Revised to comply with the law.

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

18 ~~CHAPTER 126 — PROCUREMENT CODE~~

19 ~~* * *~~

20 ~~PART 4. — NONDISCRIMINATION POLICY; FEDERAL AND STATE GRANT~~
21 ~~REQUIREMENTS~~

22 ~~Sec. 126.401. — Policy.~~

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

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

9 ~~Sec. 126.402. - Definitions.~~

10 ~~As used in this part:~~

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

14 * * *

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

20 * * *

21 ~~Sec. 126.406. - Effect of final order finding noncompliance.~~

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

28 ~~(b) With respect to the nondiscrimination provisions of a City~~
29 ~~contract, a copy of a final order finding noncompliance with the~~
30 ~~provisions shall be furnished to the Mayor and the Chief. Every~~
31 ~~order shall afford the bidder or contractor affected an opportunity~~

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

15 **Sec. 126.407. - Federal Uniform Requirements.**

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

21 **Sec. 126.408. - Conflict with Grant Requirements.**

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

1 ~~Section 5. Amending Part 6 (Jacksonville Small and Emerging~~
2 ~~Business Program), Chapter 126 (Procurement Code), Ordinance Code.~~
3 ~~Part 6 (Jacksonville Small and Emerging Business Program), Chapter~~
4 ~~126 (Procurement Code), Ordinance Code, is hereby amended to read as~~
5 ~~follows:—~~

6 ~~CHAPTER 126 — PROCUREMENT CODE~~

7 ~~* * *~~

8 ~~PART 6. — JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM~~

9 ~~SUBPART A. — GENERAL PROVISIONS~~

10 ~~* * *~~

11 ~~Sec. 126.604. — Definitions.~~

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

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

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

18 ~~* * *~~

19 ~~SUBPART C. — PROGRAM SUPPORT SERVICES; MARKETING AND OUTREACH;~~
20 ~~DISPARITY STUDY UPDATE~~

21 ~~Sec. 126.608. — Creation of bond enhancement program.~~

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

1 ~~qualify.~~

2 ~~(b) Section 126.2301(b) of the Code provides that JSEBs are not~~
3 ~~required to submit bid bonds for projects under \$500,000. Section~~
4 ~~126.2301(g) provides that JSEBs shall be exempt from obtaining a~~
5 ~~payment and performance bond for projects that are (i) equal to or~~
6 ~~less than the "Discretionary Bond Threshold" amount, as defined in~~
7 ~~Chapter 126, Part 23 of the Code; and (ii) equal to or less than the~~
8 ~~payment and performance bond waiver amount permitted in Section 18.11~~
9 ~~of the Charter.~~

10 * * *

11 ~~SUBPART D. - PROGRAM ELIGIBILITY, PROCEDURES, AND OTHER~~
12 ~~REQUIREMENTS~~

13 * * *

14 ~~Sec. 126.622. - Other provisions of purchasing code to apply.~~

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

20 ~~Section 6, Section 4.~~ Creating a new Part 6 (Cultural
21 Service Grants and Art in Public Places), Subpart A (Cultural Service
22 Grant Program) and Subpart B (Art in Public Places Program), Chapter
23 118 (City Grants), Ordinance Code. A new Part 6 (Cultural Service
24 Grants and Art in Public Places), Subpart A (Cultural Service Grant
25 Program) and Subpart B (Art in Public Places Program), Chapter 118
26 (City Grants), Ordinance Code, is hereby created to read as follows:

27 CHAPTER 118 - CITY GRANTS

28 * * *

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

30 SUBPART A. - CULTURAL SERVICE GRANT PROGRAM

31 Sec. 118.601. - Creation and purpose.

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

9 **Sec. 118.602. - Responsibility.**

10 (a) Cultural Council of Greater Jacksonville City appointments and
11 terms:

12 (1) Members of the Cultural Council of Greater Jacksonville. The
13 Cultural Council of Greater Jacksonville is a not for profit
14 501(C)(3). Pursuant to its bylaws, the Mayor appoints, and the City
15 Council confirms six members to serve two terms of three years.

16 (b) The Cultural Council of Greater Jacksonville (Cultural Council)
17 is hereby designated as the agent of the City for the purposes of
18 determining and authorizing the allocation of a lump sum Cultural
19 Service Grant and Capital Grant appropriation designated in the
20 annual budget ordinance or ~~in~~ supplemental appropriation ordinances
21 as being appropriated for eligible recipients. The determinations and
22 authorizations made by the Cultural Council and its Cultural Service
23 Grant Committee in accordance with the provisions of this Section
24 shall be final and not subject to further administrative review by
25 any executive or administrative official of the City. No cultural
26 organization as defined in this Chapter may make a request for
27 operating, program, or special project support except through an
28 allocation from the Cultural Service Grant and Capital Grant Program,
29 except for:

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

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

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

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

26 (b) The process for the annual Cultural Council appropriation for
27 administering the Art in Public Places Program as provided in Subpart
28 B of this Part 6 will begin with the Cultural Council preparation of
29 an annual appropriation request to fund all duties required to
30 administer such Program. The appropriation request shall be submitted
31 and processed in the same manner and at the same time as the

1 appropriation request referenced in paragraph (a), above.

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

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

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

16 (a) The Cultural Council shall be responsible for establishing an
17 annual Cultural Service Grant Program (CSGP) Committee. The
18 Composition of the CSGP Committee shall include one non-voting and
19 ten voting members: a CSGP Committee chairperson (non-voting),
20 appointed by the President of the Cultural Council Board of Directors;
21 three other Cultural Council Board members selected by the Board
22 President and Committee Chairperson; and seven individuals selected
23 by the above group (Cultural Council Board President, CSGP Committee
24 chairperson, and three selected Cultural Council Board members) from
25 a pool of nominations established through a community wide nomination
26 process. The Cultural Service Grant Committee shall have a liaison
27 relation with one member of City Council and one representative of
28 the Mayor's Office.

29 (b) Members of the CSGP Committee shall be chosen to represent
30 racial, gender, geographic and age diversity; an expression of
31 interest in the impact of culture in the community; a willingness to

1 participate fully in the process.

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

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

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

8 (1) Review and evaluation of all applications based on established
9 criteria;

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

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

13 (4) Participate in the allocations process.

14 (f) The Cultural Service Grant Committee shall recommend to the
15 Cultural Council Board of Directors the organizations to be funded
16 and the amount of the funding.

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

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

27 (b) The following components shall be included in any administrative
28 and operating procedures developed and implemented by the Cultural
29 Council:

30 (1) The Cultural Council shall publish each year in a newspaper of
31 general circulation in the City, at least one month before the last

1 day on which appropriation request must be submitted to the Cultural
2 Council, a notice that it is accepting Cultural Service Operating
3 and/or Capital Grant requests for the ensuing fiscal year, stating
4 the place where the appropriation request forms may be obtained, the
5 last day on which the completed appropriation requests must be
6 returned to the Cultural Council and when and where the Cultural
7 Council (or a duly authorized committee thereof) will hold a hearing
8 on the appropriation requests (which may include a statement that the
9 hearing may be adjourned from time to time and from place to place
10 until all the appropriation requests have been heard).

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

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

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

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

29 To be eligible for funding an organization must meet the following
30 criteria.

31 (a) The organization must be tax exempt under Section 501(c)(3) of

1 the Federal Internal Revenue Code. A copy of the organization's letter
2 of exemption from the Internal Revenue Service and all amendments
3 thereto shall be provided when the organization submits its first
4 appropriation request and thereafter when any change is made.

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

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

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

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

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

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

3 (h) The organization shall provide services or activities which
4 benefit or are made available to a broad range of the people of the
5 City and shall be offered on a nondiscriminatory basis to those
6 people.

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

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

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

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

26 (m) Each recipient of the Operating and/or Capital grant funds must
27 go through the application process to prove that the recipient can
28 provide at least a one-dollar cash match for each dollar granted. The
29 Cultural council will make requests for disbursements of funds and
30 is responsible for monitoring and ensuring the funds are spent for
31 its intended purpose and reporting on the results and use of these

1 funds to the City of Jacksonville.

2 **Sec. 118.608. - Criteria for judging applicants for cultural service**
3 **grants.**

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

- 6 (a) Quality of programs;
- 7 (b) Community outreach and service to culturally diverse
8 populations;
- 9 (c) Management capability of board and staff;
- 10 (d) Community impact;
- 11 (e) Need for the organization in the community; and
- 12 (f) Exploration of innovative ideas and programming.

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

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

17 (b) Cultural service grant funds must be kept in an individual bank
18 account, notwithstanding the provision to the contrary in Section
19 118.201, separate from other organization funds. It may be an
20 interest-bearing account, but the total amount of the grant and the
21 interest must be spent by the end of the contract period; except that
22 a remaining balance may be maintained in the cultural service grant
23 account, notwithstanding the provision to the contrary in Section
24 118.301(a)(5). This balance must be identified and documented in
25 quarterly and year end reports and shall not exceed \$500. This balance
26 shall be returned to the City within the first 90 days of the first
27 fiscal year in which the recipient no longer receives a Cultural
28 Service Grant appropriation. The portion of unspent funds that exceed
29 \$500 shall follow the provisions of Section 118.301(a)(5).

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

31 (a) Upon approval of the annual budget by the City Council, one

1 contract will be prepared and administered throughout the Finance and
2 Administration Department, which will reflect the total amount of the
3 lump sum appropriation for cultural service grants to all cultural
4 organizations. Funds shall be distributed to the Cultural Council on
5 a quarterly basis in amounts to be determined annually,
6 notwithstanding the provision to the contrary in Section
7 118.201(f)(7), upon receipt by the Finance and Administration
8 Department of a quarterly financial and programmatic report.

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

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

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

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

27 **Sec. 118.611. - Definitions.**

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

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

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

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

25 *Public facility* means any City-owned or controlled building or
26 facility intended for habitation where public employees work on a
27 regular basis or which the general public uses on a regular basis.
28 Public facility includes, but is not limited to, office buildings,
29 recreation and community centers, libraries, firehouses, police
30 substations, vertical construction within parks and recreation
31 spaces. Public facility specifically excludes water and sewer pump

1 stations, electrical and communications substations and switching
2 houses, and similar unoccupied structures except in designated Urban
3 Art and Streetscaping Areas.

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

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

10 (a) Public art is a work of art to which the general public has open
11 and easy access and which will enrich and give dimension to the public
12 environment, and which reflects generally accepted community
13 standards of aesthetic appeal and artistic expression in the
14 decorative arts.

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

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

31 (d) Public art shall not include items that are mass-produced or of

1 standard design.

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

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

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

18 There is hereby created an Art In Public Places Committee. The
19 Committee will be an 11-member board appointed by the Mayor as
20 follows: two from the Cultural Council of Greater Jacksonville Board
21 of Directors; three from the professions of architecture, interior
22 design, landscape architecture, planning, art professional, or art
23 historian; and six from the community at large as community
24 representatives, each residing within a different planning district
25 whose interests, professions and community activities reflect the
26 diversity of the Jacksonville arts community and of the community at
27 large. All members shall be confirmed by the City Council. Initially
28 one member of each group shall be appointed for three years, one of
29 each shall serve two years and one of each shall serve one year.
30 Thereafter, all terms shall be for three years. No member appointed
31 to the Committee for two consecutive full terms shall be eligible for

1 appointment to the next succeeding term. The Committee shall be
2 responsible for receiving, reviewing, and acting on the
3 recommendations of the Art Selection Panels.

4 **Sec. 118.614. - Funding.**

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

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

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

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

28 **Sec. 118.615. - Duties.**

29 The duties of the Cultural Council are as follows:

30 (a) Create updates to the five-year plan known as the Art in Public
31 Places Program Five Year Plan for Program Development and

1 Implementation. This plan may also be revised from time to time by
2 the Cultural Council. Updates shall be provided to the Mayor and City
3 Council at least six months prior to the expiration of the five-year
4 plan and shall be placed on file with the Legislative Services
5 Division. The updates and revisions to the plan shall be reviewed by
6 City Council and shall not take effect until City Council approval.

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

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

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

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

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

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

22 The Art in Public Places Committee shall, when deemed appropriate by,
23 and as outlined in, the Art in Public Places Program Five-Year Plan
24 for Program Development and Implementation, form Art Selection Panels
25 to make recommendations to the Committee on the selection of public
26 art. Each Selection Panel will be composed of up to nine members: a
27 Chair, who will be a member of and represent the Art In Public Places
28 Committee; a representative of the site selected for the art (staff
29 or board member); architect or other design professional for the
30 project, if available; two artists, art educators or art
31 professionals; and one to three community representatives, at least

1 one of whom shall reside in the planning district within which the
2 art shall be sited. The artists or arts professional representatives
3 will be selected from a list, maintained by the Committee, of
4 interested and qualified individuals. The Chief Administrative
5 Officer shall select a department representative to provide subject
6 matter expertise and city process guidance, including but not limited
7 to risk management, ADA compliance, and ordinance code compliance.

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

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

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

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

16 (iii) Direct purchase: Purchase of existing work and all rights
17 thereto.

18 (iv) Invitational commission: Selecting a specific artist for direct
19 commission.

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

27 (c) All purchases made pursuant to this Section shall be made
28 pursuant to an evaluated bid process created by the Purchasing
29 Division and modified as necessary to accomplish the objectives of
30 this Chapter. A proposal fee and/or travel reimbursement may be
31 offered for the invited artists to cover the cost of the formal

1 proposals at the discretion of the Art in Public Places Committee.
2 The proposal fee and/or travel reimbursement shall be part of the
3 amount funded pursuant to this subpart.

4 Any provisions of this Chapter conflicting with the expressed intent
5 and procurement methodology of the Art In Public Places program are
6 hereby waived.

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

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

12 (1) Photographic reproduction rights (to be shared by artist and
13 owner);

14 (2) Right to remove/relocate art;

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

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

19 (c) City will retain ownership of proposal models or drawings of
20 commissioned art.

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

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

26 The Cultural Council shall administer the Art In Public Places program
27 on behalf of the City. The Cultural Council will provide professional
28 and support staff for the operation of the program and administration
29 of the Art in Public Places Program and the art selection process.

30 **Sec. 118.620. - School Board; independent authorities authorized to**
31 **use program.**

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

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

7 **Sec. 118.621. - Schedule.**

8 The allocation percentage appropriation created in Section
9 ~~126.904~~118.614(a) shall apply as follows:

10 (a) 0.75 percent to any project subject to the provisions of this
11 ~~Part~~Subpart and adopted by the City Council.

12 ~~Section 7. Amending Section 24.603 (Duties of Chief of~~
13 ~~Procurement), Part 6 (Procurement Division), Chapter 24 (Finance and~~
14 ~~Administration Department), Ordinance Code. Section 24.603 (Duties~~
15 ~~of Chief of Procurement), Part 6 (Procurement Division), Chapter 24~~
16 ~~(Finance and Administration Department), Ordinance Code, is hereby~~
17 ~~amended to read as follows: —~~

18 ~~CHAPTER 24 — FINANCE AND ADMINISTRATION DEPARTMENT~~

19 ~~* * *~~

20 ~~PART 6. — PROCUREMENT DIVISION~~

21 ~~* * *~~

22 ~~Sec. 24.603. — Duties of Chief of Procurement.~~

23 ~~It shall be the duty of the Chief to:~~

24 ~~(a) Procure or contract for all supplies, contractual services,~~
25 ~~professional design services, professional services and capital~~
26 ~~improvements required by using agencies, except as provided herein;~~

27 ~~* * *~~

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

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

30 ~~(u) Oversee training on procurement methods in accordance with Part~~
31 ~~4, Chapter 21, Ordinance Code; and~~

1 ~~(v) Develop, implement, and administer a contract administration~~
2 ~~certification program for City employees, subject to available funds~~
3 ~~and staff.~~

4 * * *

5 ~~Section 8~~Section 5. Creating a new Part 4 (Contract
6 Administration and Oversight), Chapter 21 (Executive Branch,
7 generally), *Ordinance Code*. A new Part 4 (Contract Administration and
8 Oversight), Chapter 21 (Executive Branch, generally), *Ordinance Code*,
9 is hereby created to read as follows:

10 CHAPTER 21 - EXECUTIVE BRANCH, GENERALLY

11 * * *

12 PART 4. - CONTRACT ADMINISTRATION AND OVERSIGHT; CONTRACT EXECUTION

13 Sec. 21.401. - Contract administrator; contract risk assessment
14 program. Department directors and/or chief executive
15 officers/executive directors of using agencies shall assign a
16 departmental or agency employee (for purposes of this section the
17 "contract administrator"), to certain contracts identified by the
18 Office of Inspector General as high-risk contracts. The Chief
19 Administrative Officer or designee, in consultation with the Office
20 of Inspector General, shall develop a contract risk assessment
21 program, which among other things identifies key high-risk contract
22 factors, for using agencies in the administration and oversight of
23 high-risk contracts. The contract administrator shall be responsible
24 and accountable for the administration and oversight of high-risk
25 contracts, ensuring that the contract deliverables are met, and the
26 City's payment of invoices are justified. For purposes of this
27 section the term "contract deliverables" shall mean matters regarding
28 the project scope and consistency with appropriation purposes and
29 limitations, project time limits and scheduling compliance, project
30 milestones, product and performance delivery, review dates, plan
31 updates, and contract renewal evaluation.

1 **Sec. 21.402. - Contract Administrator Training.** The Chief of
2 Procurement, City Ethics Director, and Inspector General, or
3 designees, shall provide training annually to using agencies
4 regarding procurement methods and procedures, ethics in public
5 contracting, contract risk assessment program, ~~and~~ contract
6 administration and oversight, and the contract administration
7 certification program administered by the Chief of Procurement.

8 **Sec. 21.403. - Employee disclosure of personal and business**
9 **relationships.** A City employee performing, or participating in, the
10 administration, oversight, and approval of payment of a City contract
11 made pursuant to this Code shall, prior to performing, or
12 participating in, City contract administration, oversight, and
13 approval of payment duties regarding a City contract, disclose in
14 writing to their department head, division chief, or other comparable
15 supervisory personnel, all current or former personal and business
16 relationships with the contractor, its officers, employees, and
17 agents on a disclosure form developed by the City Ethics Office. Such
18 disclosure form shall include a definition of "current or former
19 personal and business relationships". The applicable department
20 head, chief, or other comparable supervisory personnel shall review
21 and approve such written disclosures in consultation with the City
22 Ethics Office.

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

28 **Section 6. Amending Part 4 (Nondiscrimination Policy),**
29 **Chapter 126 (Procurement Code), Ordinance Code. Part 4**
30 **(Nondiscrimination Policy), Chapter 126 (Procurement Code), Ordinance**
31 **Code, is hereby amended to read as follows:**

32 **CHAPTER 126 - PROCUREMENT CODE**

* * *

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

Sec. 126.401. - Policy.

It is hereby declared to be the City policy to assure equal opportunities to every person, regardless of race, color, religion, sex, ~~color~~, sexual orientation, gender identity, familial status, national origin, age ~~handicap~~ or ~~national origin~~ disability in securing or holding employment in a field of work or labor for which the person is qualified, as provided and enforced by Chapter 402.

It is also the City policy that persons doing business with the City shall recognize and comply with this policy and will not expend public funds in a manner as will encourage, perpetuate, or foster discrimination. Nevertheless, it is not the intent or policy of the City to impose or require quotas or other formulas based on race, color, religion, sex, ~~color~~, sexual orientation, gender identity, familial status, national origin, age ~~handicap~~ or ~~national origin~~ disability for securing or holding employment or awarding City contracts or to create a presumption of discrimination or nondiscrimination. This provision shall be automatically updated to conform to applicable state and federal law on protected categories.

Sec. 126.402. - Definitions.

As used in this part:

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

* * *

(e) Policy of nondiscrimination means a policy of nondiscrimination against an employee or applicant for employment on account of race, religion, sex, color, national origin, age or handicap, which policy applies in all areas of employee relations substantially conforming

1 to the City's policy of nondiscrimination.

2 * * *

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

4 (a) With respect to a person seeking the award of a City contract,
5 a copy of a final order finding noncompliance with the policy of
6 nondiscrimination required by this Part shall be furnished to the
7 committee or the Mayor, whichever requested the investigation. No
8 City contract shall be awarded to a person failing to comply with
9 the policy of nondiscrimination required by this Part.

10 (b) With respect to the nondiscrimination provisions of a City
11 contract, a copy of a final order finding noncompliance with the
12 provisions shall be furnished to the Mayor and the Chief. Every
13 order shall afford the bidder or contractor affected an opportunity
14 to demonstrate to the satisfaction of the authority issuing the
15 order which becomes final, within the reasonable time as the issuing
16 authority determines, that the breach of the nondiscrimination
17 provisions has been corrected. At the expiration of the reasonable
18 time, the issuing authority shall enter a further order determining
19 whether the breach has been corrected, furnishing copies thereof to
20 the affected person, the Mayor, and the Chief. A person failing to
21 correct the breach of the nondiscrimination provisions within the
22 period permitted shall be deemed an irresponsible bidder, and no
23 City contract shall be awarded to this person. An irresponsible
24 bidder under this subsection shall have the opportunity to submit
25 to the Commission at any time a program adopting and maintaining a
26 policy of nondiscrimination and, upon approval thereof by the
27 Commission, the prohibitions of this subsection shall terminate.

28 **Sec. 126.407. - Federal Uniform Requirements.**

29 The City shall comply with federal and/or state procurement
30 requirements, including 2 CFR Part 200-Uniform Administrative
31 Requirements, Costs Principles, and Audit Requirements for Federal

1 Awards (2 CFR 200.318-200.326), which is incorporated herein by
2 reference, as applicable.

3 Sec. 126.408. - Conflict with Grant Requirements.

4 To the extent that a conflict exists between the provisions of this
5 Chapter and the provisions of federal and/or state procurement
6 requirements necessary to receive and expend grant funding pursuant
7 to Chapter 117, Ordinance Code, the Chief, in his or her discretion
8 in consultation with the Office of General Counsel, is authorized to
9 waive any such conflicting Code provision in this Chapter and comply
10 with the federal and/or state procurement requirement(s). If a Code
11 provision is waived pursuant to this Section, upon final approval of
12 the contract award, the Chief shall notify the City Council Auditor
13 and the City Council Secretary of the same.

14 Section 7. Amending Part 6 (Jacksonville Small and Emerging
15 Business Program), Chapter 126 (Procurement Code), Ordinance Code.
16 Part 6 (Jacksonville Small and Emerging Business Program), Chapter
17 126 (Procurement Code), Ordinance Code, is hereby amended to read as
18 follows:

19 CHAPTER 126 - PROCUREMENT CODE

20 * * *

21 PART 6. - JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM

22 SUBPART A. - GENERAL PROVISIONS

23 * * *

24 Sec. 126.604. - Definitions.

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

27 Chief shall mean the Chief of Procurement pursuant to Chapter 24,
28 Part 6 of the Code.

29 Director shall mean the Director of Finance pursuant to Chapter 24,
30 Part 1 of the Code.

31 * * *

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

2 DISPARITY STUDY UPDATE

3 Sec. 126.608. - Creation of bond enhancement program.

4 (a) Subject to the availability of funds, the JSEB Administrator
5 shall competitively procure and maintain annually a contract with a
6 third-party contractor or contractors to provide a bond enhancement
7 program for the benefit of JSEBs. The bond enhancement program shall
8 provide support services to assist JSEBs in their efforts to secure
9 performance and payment bonds for public and private contracts. The
10 program shall not provide the underlying bond but shall provide a
11 refined basis for underwriting bonds, small business support
12 services, and contractor monitoring necessary for such bond
13 underwriting, as well as improvement plans for JSEBs who do not
14 qualify.

15 (b) Section 126.2301~~(b)~~ of the Code provides that JSEBs are not
16 required to submit bid bonds for projects under \$500,000. Section
17 126.2301~~(g)~~ provides that JSEBs shall be exempt from obtaining a
18 payment and performance bond for projects that are (i) equal to or
19 less than the "Discretionary Bond Threshold" amount, as defined in
20 Chapter 126, Part 23 of the Code; and (ii) equal to or less than the
21 payment and performance bond waiver amount permitted in Section 18.11
22 of the Charter.

23 * * *

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

25 REQUIREMENTS

26 * * *

27 Sec. 126.622. - Other provisions of purchasing code to apply.

28 Except as provided in this part Part to implement the Program, the
29 provisions of Parts 1, 2, 3 and 4, of this Chapter 126, shall apply.
30 The Director shall establish rules that specify the manner in which
31 conflicts between the provisions of Parts 1, 2, 3, or 4 of this

1 Chapter are to be resolved.

2 Section 8. Amending Section 122.605 (Review, amendment,
3 adoption and appropriation by City Council), Part 6 (Capital
4 Improvement Plan), Chapter 122 (Public Property), Ordinance Code.
5 Section 122.605 (Review, amendment, adoption and appropriation by
6 City Council), Part 6 (Capital Improvement Plan), Chapter 122 (Public
7 Property), Ordinance Code, is hereby amended to read as follows:

8 CHAPTER 122 - PUBLIC PROPERTY

9 * * *

10 PART 6. - CAPITAL IMPROVEMENT PLAN

11 * * *

12 Sec. 122.605. - Review, amendment, adoption and appropriation by
13 City Council.

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

16 * * *

17 (c) The City Council may amend the Capital Improvement Plan and any
18 appropriations made pursuant to Section 122.605~~Section 9. — Establishing a~~
19 ~~prospective date of February~~ (a) (4) during the then current fiscal year, but
20 only upon an enactment by City Council specifically identifying the
21 reasons that deferral of such amendment until the immediately
22 following annual budget review will be detrimental to the best
23 interest of the community. Enactment of an ordinance approving a
24 proposed CIP amendment during the fiscal year shall require approval
25 by a two-thirds majority of the Council Members present. Any
26 amendment to the CIP must include all information required with
27 respect to a project that is required for inclusion in the annual
28 CIP.

29 (d) The requirements in subsection (c) of this section shall not
30 apply to emergency procurements of capital improvements made
31 pursuant to Chapter 126 of the Code until after the Chief of

1 Procurement has approved an emergency procurement of a capital
2 improvement. In instances where an emergency procurement of a capital
3 improvement is approved by the Chief of Procurement pursuant to
4 Chapter 126 of the Code prior to the City Council's adoption of a
5 CIP amendment, the Mayor shall promptly file emergency legislation
6 to be considered by the City Council at the City Council meeting
7 immediately following the date that the Chief of Procurement approved
8 the emergency procurement. The emergency legislation shall propose
9 an amendment to the CIP in accordance with subsection (c) above and
10 include justification for the emergency.

11 Section 9. Amending Section 108.505 (Special Counsel), Part
12 5 (Legal Services), Chapter 108 (Central Services), Ordinance Code.
13 Section 108.505 (Special Counsel), Part 5 (Legal Services), Chapter
14 108 (Central Services), Ordinance Code, is hereby amended to read as
15 follows:

16 CHAPTER 108 - CENTRAL SERVICES

17 * * *

18 PART 5. - LEGAL SERVICES

19 * * *

20 Sec. 108.505. - Special Counsel.

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

23 (a) The General Counsel is authorized to expend appropriated
24 funds, without additional Council action for, and to retain the
25 assistance of special counsel to represent the City with
26 targeted issues in the following specialty specialized legal
27 subject areas, all of which ~~do~~ may ~~not~~ require lengthy periods
28 of representation, and, because of their highly specialized
29 nature, infrequency, potential conflicts, or extraterritorial
30 jurisdiction, do not lend themselves to representation by
31 assistant general counsels or because assistant general

1 counsels may be unable to perform the work due to other work
2 assignments, and generally require immediate legal responses.
3 These specialized legal subject areas shall include:
4 bankruptcy, copyright, patent and trademark, developments of
5 regional impact, employee benefits and health care,
6 entertainment, foreign jurisdiction litigation, immigration,
7 intellectual property, maritime, Office of General Counsel
8 employee issues, specialty contracts, stadium leases, bond and
9 disclosure counsel, taxation, and telecommunications.

10 * * *

11 Section 10. Amending Section 24.603 (Duties of Chief of
12 Procurement), Part 6 (Procurement Division), Chapter 24 (Finance and
13 Administration Department), Ordinance Code. Section 24.603 (Duties
14 of Chief of Procurement), Part 6 (Procurement Division), Chapter 24
15 (Finance and Administration Department), Ordinance Code, is hereby
16 amended to read as follows:

17 CHAPTER 24 - FINANCE AND ADMINISTRATION DEPARTMENT

18 * * *

19 PART 6. - PROCUREMENT DIVISION

20 * * *

21 Sec. 24.603. - Duties of Chief of Procurement.

22 It shall be the duty of the Chief to:

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

26 * * *

27 (s) Oversee the Office of Ombudsman; and

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

29 (u) Oversee training on procurement methods in accordance with Part
30 4, Chapter 21, Ordinance Code; and

31 (v) Develop, implement, and administer a contract administration

1 certification program for City employees, subject to available funds
2 and staff.

3 * * *

4 Section 11. Bond Counsel. Prior to the prospective effective
5 date of this ordinance and in accordance with Article 7 of the City
6 Charter, the General Counsel is authorized to engage bond counsel and
7 disclosure counsel as appropriate and necessary to assist the City
8 in its finance matters.

9 Section 12. Establishment of prospective date of July 1,
10 2024, for the Code repeals, amendments, and new provisions contained
11 in this ordinance to become effective. The Code repeals, amendments,
12 and new provisions contained in this ordinance shall not become
13 effective until ~~February~~July 1, 2024.

14 ~~Section 10. Directing~~13. Directive to the Chief of
15 Procurement to amend the Procurement Operating Manual consistent with
16 this ordinance ~~prior to January~~on or before June 1, 2024. The Chief
17 of Procurement ("Chief") shall amend the Procurement Operating Manual
18 (as defined in Chapter 126, Ordinance Code) consistent with this
19 ordinance on or before ~~January~~June 1, 2024. The Mayor shall approve
20 the amended Procurement Operating Manual required under this Section.
21 The Chief ~~of Procurement~~ shall promptly file a copy of the amended
22 Procurement Operating Manual with the Council Secretary, the Council
23 Auditor, and the Inspector General. ~~The Chief of Procurement to~~
24 allow the Council Auditor and Inspector General to provide comments
25 to the Chief regarding the amended Procurement Operating Manual. The
26 Chief shall review and consider any comments from the Council Auditor
27 and Inspector General regarding the amended Procurement Operating
28 Manual and may further amend the Procurement Operating Manual, as
29 appropriate, based on such comments and consistent with this
30 ordinance. The Chief ~~of Procurement~~ shall promptly provide the
31 Council Secretary, the Council Auditor, and the Inspector General

1 with the final amended Procurement Operating Manual. The Procurement
2 Operating Manual, as amended in accordance with this section, shall
3 not become effective until ~~February~~July 1, 2024. The Chief ~~of~~
4 ~~Procurement~~ mayshall develop and implement workshops and training
5 materials to inform City agencies of the Code changes and the amended
6 Procurement Operating Manual required ~~pursuant to~~in this
7 ~~ordinance~~Section.

8 **Section ~~11~~14. Oversight.** The Procurement Division, ~~Finance~~
9 ~~and Administration Department~~, shall have oversight over this
10 ordinance except for the code amendments pertaining to Chapter 118,
11 Part 6 and Chapter 21, Part 4, *Ordinance Code*.

12 **Section ~~12~~15. Codification Instructions.** The Codifier and the
13 Office of General Counsel are authorized to make all chapter and
14 division "tables of contents" consistent with the changes set forth
15 herein. Such editorial changes and any others necessary to make the
16 Ordinance Code consistent with the intent of this legislation are
17 approved and directed herein, and changes to the Ordinance Code shall
18 be made forthwith and when inconsistencies are discovered.

19 **Section ~~13~~16. Effective Date.** This ordinance shall become
20 effective upon signature by the Mayor or upon becoming effective
21 without the Mayor's signature.

22
23
24
25
26 Form Approved:

27
28 _____
29 Office of General Counsel

30 Legislation Prepared By: Lawsikia J. Hodges

31 GC-#1591413-v7-Ordinance_2023-20_Revised_w_Proposed_Amendments.docx

CM GAY AMENDMENT #2
(NCSPHS Committee - 2023-20)

Council Member Gay offers the following amendment to File No. 2023-20:

I. CREATING A NEW PART 1 (GENERAL REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC CONTRACTING), PART 2 (JACKSONVILLE PROCUREMENT AWARDS COMMITTEE), PART 3 (PROCUREMENT THRESHOLDS, MODES, METHODS, AND PROCEDURES), PART 5 (EX-OFFENDER PROGRAM), PART 7 (BUY AMERICAN PROGRAM AND LOCAL BUSINESS PREFERENCE POLICY), SUBPART A (BUY AMERICAN PROGRAM) AND SUBPART B (LOCAL BUSINESS PREFERENCE POLICY), AND PART 9 (BID PROTESTS, SUSPENSION, AND DEBARMENTS), CHAPTER 126 (PROCUREMENT CODE), *ORDINANCE CODE*, TO MODERNIZE AND PROVIDE FOR GREATER EFFICIENCIES IN THE CITY OF JACKSONVILLE PROCUREMENT CODE;

PART 7. – BUY AMERICAN PROGRAM AND LOCAL BUSINESS PREFERENCE POLICY
SUBPART A. BUY AMERICAN PROGRAM

SUBPART B. LOCAL BUSINESS PREFERENCE POLICY

Sec. 126.709. – Local business preference.

(a) *Preference given.* Preference shall be given to local businesses in the purchase of goods and services, including construction and capital improvement services, procured pursuant to this Chapter. Business entities desiring to receive preference as a local business shall be required to affirmatively state and provide documentation as set forth in the solicitation in support of their status as a local business. Any business entity that fails to submit sufficient documentation shall not be granted local preference.

(b) *Definitions.* For purposes of this subpart, "Local business" means a business that (1) has

all required business occupational licenses to operate in the Duval County, as applicable, and is a business entity registered with the State of Florida Division of Corporations indicating a principal office located in Duval County or presents other verifiable documents to substantiate business location in Duval County that is satisfactory to the Chief, (2) has maintained a permanent physical business address located within the limits of Duval County from which the business operates or performs business for at least one year prior to the submission of a response to solicitation under this Chapter and, (3) has at least five full-time employees or one principal officer at the Duval County location.

(c) *Local business preference policy.* The Chief shall develop and implement a local business preference policy to be included in the Procurement Operating Manual. The policy shall be accordance with best procurement practices in Florida. Such policy shall include the following provisions in addition to such other provisions as deemed necessary and appropriate by the Chief:

- (1) *Competitive sealed bids.* For procurements secured through competitive sealed bids or quotes, local preference will be given to the lowest responsive and responsible local business when its bid or quote is within a percentage amount, as determined by the Chief for each bid or quote, not more than ten percent of the lowest responsive and responsible bid or quote submitted by a non-local business by allowing the local business three business days to submit a revised bid or quote that is less than the non-local business bid or quote. If the lowest responsive and responsible local business submits a revised bid or quote that is less than the total price submitted by the lowest responsive and responsible non-local business, then the award shall be made to the local business. If the lowest responsive and responsible local business fails to submit a revised bid or quote that is less than the lowest responsive and responsible non-local business, the award shall be made to the lowest responsive and responsible bidder, regardless of local business status.
- (2) *Evaluated solicitations.* For procurements secured through evaluated solicitations such as competitive sealed proposals, the solicitation shall include a weighted

criterion for a local business, with points to be determined by the Chief. The allocation of local business points shall be clearly defined in each solicitation.

(3) *Exemptions.* Preference for local business shall not apply to the following:

- (i) Contracts for professional services subject to the Consultants' Competitive Negotiation Act (F.S. § 287.055);
- (ii) Purchases or contracts which are funded, in whole or in part, by a government or other entity in which the laws, regulations or policies governing such funding prohibit application of local preference;
- (iii) Set asides and participation goals set by the JSEB Administrator for JSEBs pursuant to Part 6 of this Chapter;
- (iv) Purchases under emergency or noncompetitive procurement exemptions permitted under this Code; and
- (v) Contracts for services that are subject to specific procurement procedures required under state law.

(d) *Additional rules.* The Chief may promulgate additional rules and regulations in the Procurement Operating Manual consistent with this Subpart regarding the local business preference as applied to procurement methods authorized under this Chapter. Such additional rules may include without limitation reciprocity provisions based on the local business preference policies authorized for non-local businesses in other Florida counties and local business preference provisions regarding subcontractors performing work on City contracts.

(e) *Reporting.* The Chief shall provide an annual report to the Mayor and the City Council no later than December 31 of each fiscal year for the previous fiscal year regarding the local business preferences given pursuant to this subpart. The first such report shall be due no later than December 31, 2025. Such annual report shall at a minimum include information and data regarding the number of:

- (i) Local business preferences given pursuant to this subpart;

- (ii) Non-local businesses submitting replies, responses, or proposals to solicitations issued under this Chapter; and
 - (iii) Bid protests filed regarding local business preferences given pursuant to this subpart.
- (f) *Sunset.* The provisions of this subpart shall sunset, be repealed, and be of no further effect on December 31, 2026.

II. Amend Section 126.306 (d) of the Code regarding the Procurement Operating Manual to reference the local business policy.

GC-#1593506-v5-CM_Gay_Amendment_#2_2023-20_(Local_Business_Preference).docx

NCSPHS AMENDMENT

The Neighborhoods, Community Services, Public Health and Safety Committee offers the following Amendment to File No. 2023-671:

- (1) On page 1, line 17, after "ACCOUNT;" insert "PROVISION FOR THE FISCAL YEAR 2024-2025 BUDGET APPROPRIATION FROM THE FUND;" ;
- (2) On page 1, lines 18-20, strike "SOCIAL SERVICES DIVISION OF THE DEPARTMENT OF PARKS, RECREATION AND COMMUNITY SERVICES" and insert "GRANTS AND CONTRACT COMPLIANCE DIVISION OF THE FINANCE AND ADMINISTRATION DEPARTMENT" ;
- (3) On page 2, line 13, strike "who have recently become homeless or" ;
- (4) On page 2, line 15, after "\$1,500.00" insert "per calendar year" ;
- (5) On page 2, line 21, strike "fifteen percent (15%)" and insert "twenty percent (20%)" ;
- (6) On page 2, lines 25-26 and page 3, lines 30-31, strike "Social Services Division of the Parks, Recreation and Community Services Department" and insert "Grants and Contract Compliance Division of the Finance and Administration Department" ;
- (7) On page 3, line 10, strike "Exhibit 1" and insert "Revised Exhibit 1, labeled as "Revised Exhibit 1, Rev B.T., October 16, 2023 - NCSPHS" ;
- (8) On page 3, line 29½, insert a new Section 5 to read as follows:

"Section 5. Fiscal Year 2024-2025 Budget Appropriation. The Fiscal Year 2024-2025 budget appropriation from the Fund shall be an amount not-to-exceed twenty percent (20%) of the available balance within the Fund as of December 31, 2023. Thereafter, appropriations from the Fund shall be in accordance with Section 111.270, Ordinance Code."

- (9) Renumber the remaining Sections accordingly;
- (10) Remove **Exhibit 1**, and replace with **Revised Exhibit 1**, attached hereto, which attaches the revised B.T. to correct account codes;
- (11) On **page 1, line 1**, amend the introductory sentence to add that the bill was amended as reflected herein.

Form Approved:

Office of General Counsel

Legislation Prepared By: Mary E. Staffopoulos

GC-#1594161-v2-2023-671_NCSPHS_Amd.docx

CP SALEM AMENDMENT
(Ordinance 2023-723 – Chapter 84 Opioid Settlement Proceeds Grant)

Amend Section 84.304(c)(5) as follows:

- (5) An original and accurate affidavit, as verified by the Manager of Opioid Abatement, in the form provided by the Office of General Counsel, executed by the requesting agency's executive director, chief executive or operating officer, president, vice president or board chairman certifying that: