

1 Introduced by Council Member Cumber:  
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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

1 BUSINESS PROGRAM), CHAPTER 126 (PROCUREMENT  
2 CODE), *ORDINANCE CODE*, TO MAKE THE PART  
3 CONSISTENT WITH THE CHANGES IN THIS ORDINANCE;  
4 CREATING A NEW PART 6 (CULTURAL SERVICE GRANTS  
5 AND ART IN PUBLIC PLACES), SUBPART A (CULTURAL  
6 SERVICE GRANT PROGRAM) AND SUBPART B (ART IN  
7 PUBLIC PLACES PROGRAM), CHAPTER 118 (CITY  
8 GRANTS), *ORDINANCE CODE*, TO RELOCATE THE ART IN  
9 PUBLIC PLACES PROGRAM PREVIOUSLY UNDER PART 9,  
10 CHAPTER 126, *ORDINANCE CODE*, TO PART 6, CHAPTER  
11 118, *ORDINANCE CODE*; AMENDING SECTION 24.603  
12 (DUTIES OF CHIEF OF PROCUREMENT), PART 6  
13 (PROCUREMENT DIVISION), CHAPTER 24 (FINANCE AND  
14 ADMINISTRATION DEPARTMENT), *ORDINANCE CODE*, TO  
15 ADD ADDITIONAL DUTIES REGARDING CONTRACT  
16 ADMINISTRATION AND OVERSIGHT; CREATING A NEW  
17 PART 4 (CONTRACT ADMINISTRATION AND OVERSIGHT),  
18 CHAPTER 21 (EXECUTIVE BRANCH, GENERALLY),  
19 *ORDINANCE CODE*, TO REQUIRE CONTRACT  
20 ADMINISTRATION AND OVERSIGHT IN CITY CONTRACTS;  
21 ESTABLISHING A PROSPECTIVE DATE OF FEBRUARY 1,  
22 2024, FOR CODE REPEALS, AMENDMENTS, AND NEW  
23 PROVISIONS CONTAINED IN THIS ORDINANCE TO BECOME  
24 EFFECTIVE; DIRECTING THE CHIEF OF PROCUREMENT TO  
25 UPDATE THE PROCUREMENT OPERATING MANUAL  
26 CONSISTENT WITH THIS ORDINANCE PRIOR TO JANUARY  
27 1, 2024; PROVIDING FOR OVERSIGHT BY THE  
28 PROCUREMENT DIVISION, FINANCE AND  
29 ADMINISTRATION DEPARTMENT; PROVIDING FOR  
30 CODIFICATION INSTRUCTIONS; PROVIDING AN  
31 EFFECTIVE DATE.

1           **WHEREAS**, the City of Jacksonville's Procurement Code has not  
2 been comprehensively reviewed and updated by the City Council in over  
3 30 years; and

4           **WHEREAS**, the City desires to streamline and make the City's  
5 procurement process more efficient for City agencies and third-party  
6 entities contracting with the City by adapting the existing Code  
7 procedures to the City's Enterprise Resource Planning (ERP) system,  
8 streamlining the existing procurement awards committees, and  
9 providing greater efficiency and flexibility to the City regarding  
10 procurement methods, modes, and procedures; and

11           **WHEREAS**, additionally, the City desires to increase  
12 transparency, accountability, and ethics in City procurement for the  
13 benefit of City officers, City employees, and the citizens of  
14 Jacksonville; now, therefore

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

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

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

1 Parts 1-3, 5, 7, and 9, Chapter 126, *Ordinance Code*, and Part 6,  
2 Chapter 118, *Ordinance Code*, have been placed **On File** with the  
3 Legislative Services Division.

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

16 **CHAPTER 126 - PROCUREMENT CODE**

17 **PART 1. - GENERAL REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC**  
18 **CONTRACTING**

19 **SUBPART A. - GENERAL REGULATIONS**

20 **Sec. 126.101. - Short title.**

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

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

24 This Jax P-Code shall be construed and applied to promote the  
25 following guiding principles. The guiding principles of this Jax P-  
26 Code are to:

- 27 a) Simplify, clarify, and modernize the local laws governing  
28 the City's procurement process;
- 29 b) Permit the continued improvement and development of the  
30 City's procurement process' policies and practices;
- 31 c) Provide for increased public confidence in the City's

- 1 procurement process' policies and practices;
- 2 d) Ensure the fair treatment of all persons who participate
- 3 in the City's procurement process;
- 4 e) Provide increased economy and efficiency in the City's
- 5 procurement process;
- 6 f) Maximize to the fullest extent practicable the City's
- 7 purchasing value in the City's procurement process;
- 8 g) Foster effective open competition to the fullest extent
- 9 practicable in the City's procurement process while also
- 10 meeting the City's procurement needs;
- 11 h) Adapt the City's procurement policies and practices to the
- 12 City's Enterprise Resource Planning (ERP) system; and
- 13 i) Provide safeguards for the maintenance of quality and
- 14 integrity in the City's procurement process.

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

16 Except as otherwise provided herein, this Jax P-Code shall apply to

17 all City procurements and independent agency procurements in

18 accordance with Section 126.104. Nothing in this Jax P-Code or the

19 Procurement Operating Manual shall prevent any using agency from

20 complying with the terms and conditions of any grant, gift, or bequest

21 where otherwise authorized by law.

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

23 This Chapter is only applicable to independent agencies that are

24 required by ordinance to comply with this Jax P-Code. Independent

25 agencies that are not required to comply with this Jax P-Code may

26 voluntarily procure services under this Chapter.

27 **Sec. 126.105. - Definitions.**

28 The following terms or phrases, wherever used or referred to in this

29 Chapter, shall have the following respective meanings for the

30 purposes of this Chapter, unless different meanings are clearly

31 indicated by the context. Capitalized terms used in this Chapter,

1 but not defined herein, shall have the meanings ascribed to them in  
2 the Procurement Operating Manual. When not inconsistent with the  
3 context, words used in the present tense shall include the future,  
4 and words in the plural shall include the singular and words in the  
5 singular shall include the plural.

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

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

16 *Capital improvement* means permanent addition, construction, or  
17 fixture to publicly owned real property or structures and as  
18 more specifically defined in Chapter 122, Part 6, *Ordinance*  
19 *Code*, as amended.

20 *Chief* means the Chief of Procurement as established in Chapter  
21 24 of the Code or any successor chief position.

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

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

1 design services, or capital improvements as defined herein.

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

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

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

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

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

21 *Formal purchase* means the definition ascribed to this term in  
22 Section 126.301.

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

30 *Procurement* means buying, purchasing, renting, leasing, or  
31 otherwise acquiring any supplies, services, or construction. It

1 also includes all functions that pertain to the obtaining of any  
2 supply, service, or construction, including the description of  
3 requirements, selection and solicitation of sources, preparation  
4 and award of contract and contract administration.

5 *Procurement Operating Manual* means the rules and regulations  
6 promulgated by the Chief, and approved by the Mayor, pursuant  
7 to Section 126.306 of 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, materials, equipment and other  
3 tangible articles or things which shall be furnished to or used  
4 by a using agency, including commercial printing, binding or  
5 publication of stationery, forms, journals, and reports.

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

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

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

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

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

1 **Sec. 126.107. - Access to supplier records; supplier compliance with**  
2 **applicable laws.**

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

17 (b) *Compliance with applicable laws.* Suppliers shall agree by  
18 contract and be deemed to have agreed by doing business with the City  
19 to comply with all applicable federal, state, and local laws, rules,  
20 and regulations as the same exist or as may be amended from time to  
21 time, including, but not limited to the Public Records Law, F.S. Ch.  
22 119.

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

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

- 26 a) Any exempt contractual services or commodities described under  
27 Section 287.057, F.S., as applicable;
- 28 b) Program or agency reviews if the fee for such review services  
29 does not exceed the formal threshold amount applicable to such  
30 services;
- 31 c) Government Collaborative Agreements;

- 1 d) Government Joint Projects;
- 2 e) Active Government Procured Contracts (Piggyback);
- 3 f) Short-Term No Costs Pilot Projects;
- 4 g) Supplies or services to be provided by those specifically
- 5 prescribed within authorizing legislation;
- 6 h) Professional services performed by a nonprofit professional
- 7 organization or the members thereof, when the membership
- 8 includes a significant number of City employees engaged in the
- 9 practice of the particular profession;
- 10 i) Art reproduction services from local suppliers;
- 11 j) Financial Instruments, Investments, and Services; and
- 12 k) Services related to Building Inspection Division work.

13 Unless otherwise provided herein, the exempt services listed above  
14 shall be subject to all other provisions and requirements of this  
15 Chapter. The Chief may promulgate non-competitive procedures  
16 pertaining to the procurement of exempt services listed above.

17 **Sec. 126.109. - Severability.**

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

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

25 **Sec. 126.110. - Definitions.**

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

28 *bid* means any written bid, written proposal, written reply,  
29 written quote or written offering of any kind or description  
30 whatsoever submitted for the purpose of being awarded or entering  
31 a contract, purchase agreement, sales transaction, or other

1 contractual agreement with the City under the provisions of this  
2 P-Code.

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

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

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

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

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

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

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

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

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

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

21 i. Any persons, entities, or affiliates that the City is  
22 prohibited from accepting or awarding bids to or transacting  
23 business with under federal or state laws;

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

31 iii. Any person or entity who is convicted in a court of competent

1 jurisdiction for human trafficking or any human trafficking-  
2 related charge, including sex trafficking, or a sex offender  
3 crime for the duration of any parole period following the  
4 date of such conviction.

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

9 (c) *Collusion prohibited.*

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

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

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

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

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

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

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

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

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

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

27 (3) *Prohibited purchases from Officers or Employees.*  
28 Notwithstanding any waivers or exemptions permitted under Florida  
29 law, purchase of supplies, contractual services or capital  
30 improvements shall not be made from a person who is an officer or  
31 employee subject to F.S. Ch. 112, Pt. III or in which any officer

1 or employee has a private financial interest, direct or indirect,  
2 within the meaning of F.S. Ch. 112, Pt. III.

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

17 (b) *Unauthorized purchases.*

18 (1) *Unauthorized purchases by Officers or Employees.* It shall be  
19 unlawful for an officer or employee of the City or of a using agency  
20 willfully or negligently to order any purchase or to make a contract  
21 in a manner contrary to the provisions of this P-Code. A purchase  
22 ordered or contract or sales transaction made contrary to the  
23 provisions hereof shall be null and void unless and until accepted  
24 and ratified by the appropriate awarding authority, which awarding  
25 authority shall then advise the Chief and the City Council Auditor  
26 as to its disposition. Unless authorized or permitted to do so by  
27 executive order of the Mayor, no one other than those described in  
28 Section 126.106 hereof shall have the authority, whether actual or  
29 apparent, to execute any purchase order, contract, including contract  
30 modifications, or any sales transaction on behalf of the City. The  
31 prohibition contained in this section shall not apply to errors or

1 omissions of the Division in providing advice to using agencies  
2 regarding purchases under this Chapter.

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

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

20 (c) *Bid tampering prohibited.*

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

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

24 (a) *Public access to records.*

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

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

1 The Jax P-Code, the Procurement Operating Manual, and any procurement  
2 policies, procedures, rules, directives, and other procurement  
3 governing documents, including amendments thereto, shall be posted  
4 electronically on the Division's website in a conspicuous manner for  
5 the public to view. Subject to available funds, the Chief may make  
6 procurement documents under this Chapter, including awards,  
7 solicitations documents, purchase orders, etc., electronically  
8 accessible to the public.

9 (c) *Triennial supplier survey.*

10 The Chief shall triennially conduct a survey to obtain feedback from  
11 bidders and suppliers on the City's procurement process. Such survey  
12 shall be on a form approved by City and participation in the survey  
13 shall be open to past, current, and prospective bidders and  
14 suppliers. Survey topics may include, without limitation, various  
15 aspects of the City's procurement process such as information  
16 transparency and accessibility, pre-conferences, bid submittal  
17 packages, evaluations, and awards. The Chief shall review and  
18 consider such survey results and may recommend amendments to the  
19 Procurement Operating Manual for JPAC's approval pursuant to Part  
20 2.

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

22 **Sec. 126.201. - Jacksonville Procurement Awards Committee**  
23 **established.** The Jacksonville Procurement Awards Committee or JPAC  
24 is hereby established for the purpose of awarding contracts pursuant  
25 to this Chapter.

26 **Sec. 126.202. - Composition.** JPAC shall consist of the following  
27 three members: the Director, the Director of Public Works, and the  
28 City Risk Manager, or their respective designees. However, when an  
29 independent agency is using the services of the Division, the chief  
30 administrative officer of the independent agency, or his designee,  
31 shall be a member of the JPAC in lieu of the Director; and further

1 provided, that, when the Downtown Investment Authority ("DIA") is the  
2 using agency, the executive director of the DIA shall be a member of  
3 JPAC in lieu of the Director.

4 **Sec. 126.203. - Evaluation Committees.** For all evaluated competitive  
5 solicitations, the Chief shall designate an evaluation committee  
6 consisting of at least two individuals recommended by the respective  
7 using agency ("Evaluation Committee"). The Evaluation Committee  
8 shall evaluate and score competitive solicitation proposals,  
9 responses or replies in accordance with the competitive solicitation  
10 terms.

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

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

30 However, unless otherwise provided by executive order of the Mayor  
31 regarding the designation or delegation of the Mayor's approval

1 authority, actions by the JPAC shall become final only upon approval  
2 by: (i) the independent agency; or (ii) the Mayor or his designee,  
3 as applicable.

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

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

17 **Sec. 126.207. - Officers.** The Chair and Vice Chair of JPAC shall be  
18 designated by the Mayor. JPAC may elect other officers from among  
19 its members.

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

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

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

28 **PART 3. - PROCUREMENT THRESHOLDS, MODES, METHODS**

29 **AND PROCEDURES**

30 **SUBPART A. - PROCUREMENT THRESHOLDS**

31 **Sec. 126.301. - Formal Purchases.** Unless exempt under Section

1 126.108 of this P-Code, the following purchases shall be formal  
2 purchases:

- 3 i. Supplies, professional services, or contractual services, as  
4 defined herein, where the estimated costs or fees thereof  
5 exceed \$150,000;
- 6 ii. Professional design services, as defined herein, where the  
7 estimated cost for the basic construction of a project exceeds  
8 the threshold amount provided in F.S. § 287.017, for Category  
9 Five, as may be revised from time to time, or where the  
10 estimated fees for a planning or study activity exceed the  
11 threshold amount provided in F.S. § 287.017, for Category  
12 Two, as may be revised from time to time; or
- 13 iii. Capital improvements where the estimated cost thereof exceeds  
14 the threshold amount provided in F.S. § 255.0525(2), as may  
15 be revised from time to time (on a case-by-case basis, the  
16 Chief shall have the discretion to reduce the threshold amount  
17 for capital improvements consistent with the competitive  
18 encouragement threshold amount of F.S. § 255.101(2), as may  
19 be revised from time to time).

20 Unless otherwise exempt under this Chapter, Formal purchases shall  
21 be publicly noticed, advertised, and competitively procured as  
22 provided in the Procurement Operating Manual. No formal purchase  
23 order, contract, or agreement shall be subdivided to avoid this  
24 requirement. A successful bidder who is awarded a formal contract for  
25 equal to or less than the discretionary payment and performance bond  
26 exemption amounts set forth in F.S. § 255.05(1)(d), (the "Statutory  
27 Discretionary Bond Threshold"), may, at the discretion of the JPAC,  
28 upon the request of the using agency and recommendation of the Chief,  
29 be exempted from executing the otherwise required payment and  
30 performance bonds. Final determinations on the need for payment bonds  
31 for projects equal to or less than the Statutory Discretionary Bond

1 Threshold shall be made by the Chief after determining if there is  
2 an alternate form of security or payment method more readily available  
3 or appropriate. For JSEBs, as defined in Chapter 126, Part 6, payment  
4 and performance bonds shall not be required on City projects with a  
5 value equal to or less than the Statutory Discretionary Bond Threshold  
6 or equal to or less than the payment and performance bond waiver  
7 amount permitted in Section 18.11 of the Charter.

8 **Sec. 126.302. - Informal Purchases.** Purchases and sales other than  
9 those defined in Section 126.301 shall be considered Informal  
10 Purchases and made in accordance with the process and procedures for  
11 Informal Purchases detailed in the Procurement Operating Manual.

#### 12 **SUBPART B. PROCUREMENT MODES**

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

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

27 (b) *Electronic Posting.* The City may electronically post  
28 solicitations, decisions and other matters related to procurement  
29 on a centralized Internet website designated by the City for this  
30 purpose.

31 (c) *Electronic Records.* As permitted by law, wherever this Code or

1 the policies and procedures promulgated hereunder require that a  
2 document, record, or notice to be in writing, an electronic format  
3 is authorized.

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

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

8 The use of electronic media, including acceptance of electronic  
9 submittals and signatures, including digital signatures, is  
10 authorized consistent with Chapter 668, F.S., for use of such media,  
11 so long as such guidance provides for:

- 12 i. Appropriate security to prevent unauthorized access to the  
13 competitive solicitation, approval, award, and contracting  
14 process; and
- 15 ii. Accurate retrieval or conversion of electronic forms of such  
16 information into a medium which permits inspection and  
17 copying in accordance with Chapter 119.07 and 119.071, F.S.

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

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

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

- 22 1) A *Request for Information (RFI).* The Chief, in  
23 consultation with the using agency, may issue a Request  
24 for Information solicitation to collect information about  
25 the capabilities of bidders.
- 26 2) A *Request for Qualifications (RFQ).* The Chief, in  
27 consultation with the using agency, may issue a Request  
28 for Qualifications solicitation to solicit information  
29 from bidders to evaluate a bidder's qualifications and  
30 qualify two or more bidders for future solicitations.
- 31 3) A *Intent to Bid (ITB).* The Chief, in consultation with

1 the using agency, may issue an intent to bid which is  
2 intended to provide notice and information to potential  
3 bidders. The publication of an intent to bid does not  
4 obligate the City to make the purchases referred to in the  
5 intent to bid.

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

7 (a) *Procurement Methods.* Unless exempt under Section 126.108 of  
8 this Code, all Formal Purchases shall be awarded by one of the  
9 following methods and governed by applicable laws, including, but not  
10 limited to, the state laws referenced:

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

1           18) Direct Negotiations; and

2           19) Any other procurement method permitted by state law and/or  
3           used by state agencies.

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

9       (c) *Procedures regarding Pre-Selection and Procurement Methods.* The  
10 Chief shall promulgate definitions and procedures customary to public  
11 procurement regarding the listed Pre-Selection and Procurement  
12 Methods authorized in this section. Such procedures shall not be  
13 inconsistent with any applicable governing law, including the  
14 requirements of this Code. Such procedures may include without  
15 limitation, conditions for use of such method, public notice  
16 requirements, solicitation opening, acceptance, evaluation,  
17 corrections, withdrawal, and award.

18       (d) *Procurement Operating Manual.* The Chief shall develop, prepare,  
19 and maintain the Procurement Operating Manual, which shall include  
20 rules, regulations, and procedures relative to the implementation of  
21 this Chapter. Such rules, regulations and procedures shall not be  
22 inconsistent with this Code or any applicable governing state or  
23 federal law. Based on the Chief's recommendations, JPAC shall  
24 recommend to the mayor for approval amendments to the Procurement  
25 Operating Manual. The manual shall at a minimum prescribe rules and  
26 regulations regarding:

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

29           ii. Specifications for standardized items purchased by the City  
30           and using agencies;

31           iii. Procedures for the pre-selection and procurement methods in

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

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

30 (d) *Required Notice Regarding Certain Procurement Methods.* The Chief  
31 shall provide a quarterly report to the Mayor, Council Secretary,

1 Council Auditor, and Office of Inspector General of any single-source  
2 or emergency purchase made pursuant to this Chapter more than the  
3 formal threshold amounts described in Part 3.

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

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

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

31 (b) *City Council's right to accept, reject or modify contract.* In

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

10 **Sec. 126.309. - Selection Procedures for Financial Instruments,**  
11 **Investments, and Services.**

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

1 area of specialization, strategic fit with the overall financial  
2 service goals and objectives.

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

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

22 (a) *Compliance with contract terms and Timing.* All City payments  
23 made pursuant to a contract, including a purchase order, or award  
24 under this Chapter shall be made in accordance with the terms of the  
25 award and/or contract. The City shall endeavor to pay contractors  
26 monthly, upon proper payment application to the applicable City  
27 Department. City Departments are to perform all necessary inspections  
28 and otherwise endeavor to ensure that prompt review and as applicable  
29 approval that certified work is completed. The City shall pay all  
30 approved invoices promptly and in accordance with Chapter 218, Part  
31 7 (Local Government Prompt Payment Act), F.S.

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

13 (c) *Joint Payment.*

14 (1) All contracts in amounts up to \$500,000, where payment or  
15 performance bonds have been waived in accordance with Section  
16 18.11 of the Charter, shall provide for the joint payment of  
17 contractors and subcontractors for services rendered.

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

22 **Sec. 126.311. - Required contract provisions.** All contracts made  
23 pursuant to this Chapter shall include any contract provisions  
24 required by law. The Chief shall detail in the Procurement Operating  
25 Manual all such required contract provisions to be included in  
26 contracts executed pursuant to this Chapter.

27 \* \* \*

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

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

30 It is the policy of the City of Jacksonville that the rehabilitation  
31 of ex-offenders is an essential component in a community fight against

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

13 **Sec. 126.502. - Definitions.**

14 As used in this part:

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

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

22 *Ex-Offender* means a person who has pled guilty, no contest or  
23 nolo contendere to a felony offense; or has been found guilty  
24 of a felony offense by a judge or jury; regardless of  
25 adjudication of guilt.

26 *Ex-Offender Program Provider* shall mean the Jacksonville  
27 Sheriff's Office Jacksonville Re-Entry Center, any entity under  
28 contract with the City to provide job training and/or job  
29 placement services to Ex-Offenders, or any other entity that  
30 specializes in job training and/or job placement services for  
31 Ex-Offenders.

1 **Sec. 126.503. - Contracting requirements for businesses contracting**  
2 **with the City of Jacksonville.**

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

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

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

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

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

21 (2) the number of Ex-Offenders interviewed for employment under  
22 the project;

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

25 (4) whether the contractor maintains an employment policy that  
26 Ex-Offenders will be given full and fair consideration in  
27 employment;

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

31 (6) whether a job opening under the project was available during

1 the reporting period; and

2 (7) a statement from the contractor that the contractor has  
3 contacted an Ex-Offender Program Provider no later than 30  
4 days after the issuance of a notice to proceed under the  
5 project to obtain information regarding available Ex-  
6 Offenders for employment; and

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

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

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

25 **Sec. 126.505. - Webpage Information.**

26 The Chief shall list the address and contact information of the City  
27 Ex-Offender Program Providers on the City's Procurement Division  
28 webpage. To the extent permitted, the City may request the City Ex-  
29 Offender Program Providers to compile a listing of available Ex-  
30 Offenders for employment by skillset and provide contractors with  
31 such listing upon request. The Chief shall also provide the City Ex-

1 Offender Program Providers with the winning bidder's contact  
2 information for each approved construction, remediation, or capital  
3 improvement project award letter in an amount of \$200,000 or greater.

4 **Sec. 126.506. - Reporting.**

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

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

14 (b) Ex-offenders interviewed by contractors;

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

17 (d) Contractors that maintained an employment policy providing  
18 that Ex-Offenders will be given full and fair consideration in  
19 employment;

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

23 (f) Contractors that reported no job opening and no hiring during  
24 the project;

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

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

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

30 \* \* \*

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

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

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

16 **Sec. 126.702. - Definitions.**

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

20 *Bid* means a competitive bid procedure established through the  
21 issuance of an invitation for bid. The term "bid", as used  
22 herein, shall not include requests for proposals (unless  
23 specified in the RFP document), requests for qualifications,  
24 requests for quotes and requests for information.

25 *Buy American preference* means and shall apply to the following  
26 products that are:

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

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

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

3 To qualify for this preference, 51 percent of the components of  
4 the final product manufactured, assembled or produced to be sold  
5 to the City must be made in the United States. The Chief shall  
6 administratively resolve any issues relating to Buy American  
7 preferential status, and that decision on whether a vendor is  
8 eligible for a Buy American preference shall be final.

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

11 **Sec. 126.703. - Exemptions.**

12 The provisions of this Section do not apply to:

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

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

24 (c) Bids for the purchase of, or contract for, the construction/  
25 renovation of public buildings, facilities, public works, or other  
26 public construction projects.

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

29 (e) Purchases made or contracts let under emergency or  
30 noncompetitive situations (single source, or a special  
31 procurements/bid waiver), or for legal services.

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

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

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

8 **126.704. - Preference in purchase of goods.**

9 Except where federal, state, or local laws, regulations, or policies  
10 mandates to the contrary, in the purchase of goods by means of a  
11 competitive bid, a preference will be given to a responsive and  
12 responsible vendor offering American manufactured, assembled or  
13 produced goods, who is within five percent of the lowest responsive  
14 and responsible bidder, by way of an opportunity of providing said  
15 goods for the lowest responsive and responsible bid amount.

16 **126.705. - Preference must be asserted.**

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

22 **126.706. - Comparison of qualifications.**

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

31 **126.707. - Waiver.**

1 The application of the buy American preference to a particular  
2 purchase, contract, or category of contracts for goods may be waived  
3 upon written recommendation of the Chief and approval of the Chief  
4 Financial Officer of the City.

5 **126.708. - Administrative Policy for Implementation.**

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

12 \* \* \*

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

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

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

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

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

- 28 1. State the reason for the action taken; and
  - 29 2. Inform the protestant of its right to administrative review
- 30 as provided in this chapter.

31 (d) *Notice of Decision.* A copy of the decision under subsection (c)

1 of this section shall be mailed or otherwise furnished immediately  
2 to the protestant and any other interested party.

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

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

13 **126.902. - Contractor suspension debarment.**

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

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

1           this Chapter;

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

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

6           ix. has been debarred by another government entity.

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

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

19 (b) *Notice of suspension or debarment.* Upon reaching a decision to  
20 suspend or debar a contractor or vendor, the Chief shall provide said  
21 contractor or vendor with a written notice of suspension or debarment  
22 via certified mail, return receipt requested, and via U.S. Mail or  
23 facsimile, stating the reason for and the proposed period of  
24 suspension or debarment (for less egregious violations, as determined  
25 by the Chief, a period of probation may be proposed, any violations  
26 during which period will subject the contractor or vendor to debarment  
27 of no less than three years). As part of the notice of suspension or  
28 debarment, the Chief shall advise the contractor or vendor that, if,  
29 within ten calendar days after the date of the notice, it fails to  
30 provide the Chief with a written Notice of Protest that states, in  
31 detail, the grounds on which the protest is based, then the action

1 contained in the notice of suspension or debarment shall become final  
2 without further notice, and shall represent final administrative  
3 action.

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

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

21 **Sec. 126.904. - Remedies prior to an award of contract.** If prior to  
22 award it is determined that a competitive solicitation or proposed  
23 award of a contract is in violation of law, the competitive  
24 solicitation or proposed award shall be:

- 25 i. Canceled; or
- 26 ii. Revised to comply with the law.

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

31 **CHAPTER 126 - PROCUREMENT CODE**

1 \* \* \*

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

4 **Sec. 126.401. - Policy.**

5 It is hereby declared to be the City policy to assure equal  
6 opportunities to every person, regardless of race, color, religion,  
7 sex, ~~color~~, sexual orientation, gender identity, familial status,  
8 national origin, age handicap or national origin disability in  
9 securing or holding employment in a field of work or labor for which  
10 the person is qualified, as provided and enforced by Chapter 402.  
11 It is also the City policy that persons doing business with the City  
12 shall recognize and comply with this policy and will not expend  
13 public funds in a manner as will encourage, perpetuate, or foster  
14 discrimination. Nevertheless, it is not the intent or policy of the  
15 City to impose or require quotas or other formulas based on race,  
16 color, religion, sex, ~~color~~, sexual orientation, gender identity,  
17 familial status, national origin, age handicap or national origin  
18 disability for securing or holding employment or awarding City  
19 contracts or to create a presumption of discrimination or  
20 nondiscrimination. This provision shall be automatically updated to  
21 conform to applicable state and federal law on protected categories.

22 **Sec. 126.402. - Definitions.**

23 As used in this part:

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

27 \* \* \*

28 (e) *Policy of nondiscrimination* means a policy of nondiscrimination  
29 ~~against an employee or applicant for employment on account of race,~~  
30 ~~religion, sex, color, national origin, age or handicap, which policy~~  
31 ~~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 5. 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 ~~Chapter are to be resolved.~~

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

9                               **CHAPTER 118 - CITY GRANTS**

10                               \* \* \*

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

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

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

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

22 **Sec. 118.602. - Responsibility.**

23 (a) Cultural Council of Greater Jacksonville City appointments and  
24 terms:

25 (1) Members of the Cultural Council of Greater Jacksonville. The  
26 Cultural Council of Greater Jacksonville is a not for profit  
27 501(C)(3). Pursuant to its bylaws, the Mayor appoints, and the City  
28 Council confirms six members to serve two terms of three years.

29 (b) The Cultural Council of Greater Jacksonville (Cultural Council)  
30 is hereby designated as the agent of the City for the purposes of  
31 determining and authorizing the allocation of a lump sum Cultural

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

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

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

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

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

1 Committee which will recommend a lump sum appropriation to be included  
2 in the proposed budget for the upcoming fiscal year. The Cultural  
3 Council shall include in the request relevant information regarding  
4 cultural services to be provided to the community as a result of the  
5 funding; and shall be responsible for documenting the validity of the  
6 request to the MBRC, the City Council Finance Committee and City  
7 Council throughout the budgeting process.

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

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

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

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

29 (a) The Cultural Council shall be responsible for establishing an  
30 annual Cultural Service Grant Program (CSGP) Committee. The  
31 Composition of the CSGP Committee shall include one non-voting and

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

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

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

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

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

21 (1) Review and evaluation of all applications based on established  
22 criteria;

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

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

26 (4) Participate in the allocations process.

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

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

31 (a) The Cultural Council shall develop and be responsible for the

1 administration of the Cultural Service Grant Program. Administrative  
2 and operating procedures shall be established and amended as necessary  
3 to meet the mission of the program and current needs of the community.  
4 The Cultural Council may classify the cultural organizations in  
5 reasonable classifications for the purpose of this program. The  
6 procedure prescribed herein, as further developed by the Cultural  
7 Council, shall be the only procedure available to cultural  
8 organizations for requesting public support.

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

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

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

29 (3) The Cultural Council (which, for the purposes of this  
30 subsection, includes the duly authorized Cultural Service Grant  
31 committee thereof) shall consider appropriation requests returned by

1 the requesting agencies. The Cultural Council shall afford the  
2 requesting agencies an opportunity to make an oral or written  
3 presentation to justify or explain their respective appropriation  
4 requests, and no requesting agency shall be denied this opportunity  
5 solely because it has never submitted an appropriation request before  
6 or because a previous appropriation request has been denied.

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

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

11 To be eligible for funding an organization must meet the following  
12 criteria.

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

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

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

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

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

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

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

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

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

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

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

31 (k) If a capital allocation is funded at or above \$25,000 the

1 organization must enter into a restrictive covenant agreement with  
2 the City of Jacksonville to ensure dedicated use of the relative  
3 facilities or properties for public proposes and arts-specific  
4 purposes for a period of not less than ten years.

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

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

15 **Sec. 118.608. - Criteria for judging applicants for cultural service**  
16 **grants.**

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

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

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

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

30 (b) Cultural service grant funds must be kept in an individual bank  
31 account, notwithstanding the provision to the contrary in Section

1 118.201, separate from other organization funds. It may be an  
2 interest-bearing account, but the total amount of the grant and the  
3 interest must be spent by the end of the contract period; except that  
4 a remaining balance may be maintained in the cultural service grant  
5 account, notwithstanding the provision to the contrary in Section  
6 118.301(a)(5). This balance must be identified and documented in  
7 quarterly and year end reports and shall not exceed \$500. This balance  
8 shall be returned to the City within the first 90 days of the first  
9 fiscal year in which the recipient no longer receives a Cultural  
10 Service Grant appropriation. The portion of unspent funds that exceed  
11 \$500 shall follow the provisions of Section 118.301(a)(5).

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

13 (a) Upon approval of the annual budget by the City Council, one  
14 contract will be prepared and administered throughout the Finance and  
15 Administration Department, which will reflect the total amount of the  
16 lump sum appropriation for cultural service grants to all cultural  
17 organizations. Funds shall be distributed to the Cultural Council on  
18 a quarterly basis in amounts to be determined annually,  
19 notwithstanding the provision to the contrary in Section  
20 118.201(f)(7), upon receipt by the Finance and Administration  
21 Department of a quarterly financial and programmatic report.

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

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

31 (d) The Cultural Council shall provide the City Auditor's office

1 with an independently prepared or audited financial statement  
2 (depending on grant amount) from all recipients at the conclusion of  
3 the grant period. All application forms, procedures, reporting  
4 requirements, and contract agreements for recipient organizations  
5 (other than the Cultural Council) will be developed by the Cultural  
6 Council and will be between the Cultural Council and the individual  
7 recipient organizations.

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

9 **Sec. 118.611. - Definitions.**

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

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

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

25 *Construction or alterations* means new construction, where  
26 construction costs are \$100,000 or more, and rehabilitation,  
27 renovation, remodeling, or improvements (herein collectively  
28 "alterations") to existing buildings. Alterations to buildings that  
29 are under \$100,000 in cost or are primarily "redecorating" and involve  
30 no actual structural alterations, shall be excluded. Alterations of  
31 a strictly structural or mechanical nature necessary to keep the

1 facility functional, but without altering the aesthetic character of  
2 the facility shall be excluded. Examples of this type of alteration  
3 would be replacing an air conditioning system or major repairs to a  
4 leaking roof or windows. These types of structural items shall be  
5 included when part of a larger renovation project involving aesthetic  
6 changes to facilities.

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

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

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

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

28 (b) The goal of the Art in Public Places Committee of the Cultural  
29 Council of Greater Jacksonville will be to choose art which is  
30 compatible with and which will enhance the architecture and general  
31 environment of the City. In some cases, the work will be site specific

1 (i.e., art which is commissioned especially for the specific space  
2 and becomes integral to the site). Such art may relate to the function  
3 and the users of the facility, to the history or population of its  
4 neighborhood and/or may become a part of its architecture. Planning  
5 of site-specific works will begin early in the project and may be  
6 collaboration between artist and architect.

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

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

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

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

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

31 There is hereby created an Art In Public Places Committee. The

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

17 **Sec. 118.614. - Funding.**

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

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

27 (c) Eighty percent of the allocation percentage shall be dedicated  
28 to the public art, ten percent of the allocation percentage shall be  
29 dedicated to public art maintenance, and up to ten percent of the  
30 allocation percentage shall be dedicated to public art administration  
31 and community education; provided however, the maintenance and

1 administration allocation percentages shall not apply to  
2 appropriations originating from any funds which prohibit expenditures  
3 for maintenance and administration. These amounts shall be used at  
4 the discretion of the Cultural Council in collaboration with the  
5 Finance and Administration Department and any other City department  
6 as appropriate for the public art maintenance and administration and  
7 community education.

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

10 **Sec. 118.615. - Duties.**

11 The duties of the Cultural Council are as follows:

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

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

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

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

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

30 (f) Be responsible, in its discretion, for applying for and  
31 receiving state, federal and private funds related to public art on

1 behalf of the City through appropriate grant applications, and for  
2 the administration thereof.

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

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

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

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

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

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

29 (iii) Direct purchase: Purchase of existing work and all rights  
30 thereto.

31 (iv) Invitational commission: Selecting a specific artist for direct

1 commission.

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

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

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

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

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

25 (1) Photographic reproduction rights (to be shared by artist and  
26 owner);

27 (2) Right to remove/relocate art;

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

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

1 (c) City will retain ownership of proposal models or drawings of  
2 commissioned art.

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

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

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

12 **Sec. 118.620. - School Board; independent authorities authorized to  
13 use program.**

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

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

20 **Sec. 118.621. - Schedule.**

21 The allocation percentage appropriation created in Section 126.904(a)  
22 shall apply as follows:

23 (a) 0.75 percent to any project subject to the provisions of this  
24 Part and adopted by the City Council.

25 **Section 7. Amending Section 24.603 (Duties of Chief of**  
26 **Procurement), Part 6 (Procurement Division), Chapter 24 (Finance and**  
27 **Administration Department), Ordinance Code.** Section 24.603 (Duties  
28 of Chief of Procurement), Part 6 (Procurement Division), Chapter 24  
29 (Finance and Administration Department), *Ordinance Code*, is hereby  
30 amended to read as follows:

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

1 \* \* \*

2 PART 6. - PROCUREMENT DIVISION

3 \* \* \*

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

5 It shall be the duty of the Chief to:

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

9 \* \* \*

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

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

12 (u) Oversee training on procurement methods in accordance with Part  
13 4, Chapter 21, Ordinance Code; and

14 (v) Develop, implement, and administer a contract administration  
15 certification program for City employees, subject to available funds  
16 and staff.

17 \* \* \*

18 Section 8. Creating a new Part 4 (Contract Administration  
19 and Oversight), Chapter 21 (Executive Branch, generally), Ordinance  
20 Code. A new Part 4 (Contract Administration and Oversight), Chapter  
21 21 (Executive Branch, generally), Ordinance Code, is hereby created  
22 to read as follows:

23 CHAPTER 21 - EXECUTIVE BRANCH, GENERALLY

24 \* \* \*

25 PART 4. - CONTRACT ADMINISTRATION AND OVERSIGHT

26 Sec. 21.401. - Contract administrator; contract risk assessment  
27 program. Department directors and/or chief executive  
28 officers/executive directors of using agencies shall assign a  
29 departmental or agency employee (for purposes of this section the  
30 "contract administrator"), to certain contracts identified by the  
31 Office of Inspector General as high-risk contracts. The Chief

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

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

20 **Section 9. Establishing a prospective date of February 1, 2024,**  
21 **for the Code repeals, amendments, and new provisions contained in**  
22 **this ordinance to become effective.** The Code repeals, amendments, and  
23 new provisions contained in this ordinance shall not become effective  
24 until February 1, 2024.

25 **Section 10. Directing the Chief of Procurement to amend the**  
26 **Procurement Operating Manual consistent with this ordinance prior to**  
27 **January 1, 2024.** The Chief of Procurement shall amend the  
28 Procurement Operating Manual (as defined in Chapter 126, Ordinance  
29 Code) consistent with this ordinance on or before January 1, 2024.  
30 The Mayor shall approve the amended Procurement Operating Manual  
31 required under this Section. The Chief of Procurement shall promptly

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

16 **Section 11. Oversight.** The Procurement Division, Finance  
17 and Administration Department, shall have oversight over this  
18 ordinance except for the code amendments pertaining to Chapter 118,  
19 Part 6 and Chapter 21, Part 4, *Ordinance Code*.

20 **Section 12. Codification Instructions.** The Codifier and the  
21 Office of General Counsel are authorized to make all chapter and  
22 division "tables of contents" consistent with the changes set forth  
23 herein. Such editorial changes and any others necessary to make the  
24 Ordinance Code consistent with the intent of this legislation are  
25 approved and directed herein, and changes to the Ordinance Code shall  
26 be made forthwith and when inconsistencies are discovered.

27 **Section 13. Effective Date.** This ordinance shall become  
28 effective upon signature by the Mayor or upon becoming effective  
29 without the Mayor's signature.

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Form Approved:

/s/ Lawsikia J. Hodges

Office of General Counsel

Legislation Prepared By: Lawsikia J. Hodges

GC-#1542105-v2-Cumber\_Procurement\_Code\_(Chapter\_126)\_Rewrite\_Final\_1\_3\_2023.DOCX