Chapter 126 PROCUREMENT CODE[1]

PART 1. GENERAL REGULATIONS; ETHICS AND TRANSPARENCY IN PUBLIC CONTRACTING[2]

SUBPART A. GENERAL REGULATIONS

Sec. 126.101. Short title.

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

(Ord. 2023-20-E, § 3)

[1]Editor's note(s)—Ord. 2004-602-E, § 4, amended the Code by repealing former Ch. 126, §§ 126.101—126.110, 126-112, 126.201—126.217, 126.301—126.316; 126.401—126.405, 126.501—126.506, 126.601—126.623, 126.700—126.705, 126.801, 126.802, 126.901—126.911, and adding a new Ch. 126 to read as herein set out. Former Ch. 126 pertained to the Code of 1965, §§ 2-15, 2-16; and the following ordinances: 68-81-64; 68-84-89; 69-139-400; 69-630-653; 69-970-645; 70-164-57; 70-170-92; 70-409-203; 70-650-526; 70-819-387; 70-820-502; 71-1163-493; 71-1165-495; 71-397-181; 71-404-186; 71-831-370; 72-1180-626; 72-1274-618; 73-252-84; 73-253-85; 73-633-288; 73-805-362; 73-1060-516; 73-1106-558; 73-1354-770; 73-1465-819; 74-299-122; 74-955-431; 74-1398-645; 75-18-118; 75-704-354; 75-869-439; 75-870-440; 75-1078-521; 76-539-260; 76-730-345; 76-966-560; 77-277-76; 77-314-120; 78-242-124; 78-786-651; 79-730-381; 79-1086-552; 80-485-233; 80-743-707; 80-860-441; 81-367-274; 81-527-278; 82-59-32; 82-611-327; 82-751-361; 82-953-444; 82-1009-477; 83-173-89; 83-591-400; 83-1374-709; 84-143-53; 84-1021-514; 84-1217-648; 85-1230-732; 85-1327-691; 86-1136-491; 86-1414-877; 86-1467-822; 87-303-134; 87-1312-703; 88-38-111; 88-1369-678; 89-172-72; 89-1003-495; 89-1087-682; 89-1119-536; 89-1184-603; 90-264-121; 91-123-65; 92-962-1098; 92-1001-667; 93-175-70; 93-647-317; 95-392-199; 96-285-298; 96-502-687; 96-1105-677; 98-426-E; 98-584-E; 98-837-E; 98-1054-E; 2000-135-E; 2000-965-E; 2001-444-E; 2002-396-E; 2002-737-E; 2002-951-E; and 2003-629-E.

Cross reference(s)—Procurement Division, § 23.301 et seq.

State law reference(s)—Code of ethics for public officers and employees, F.S. § 112.311 et seq.; Consultants' Competitive Negotiation Act, F.S. § 287.055.

[2]Editor's note(s)—Ord. 2023-20-E, §§ 2 and 3, amended the Code by repealing former Pt. 1, §§ 126.101—126.114, and adding a new Pt. 1. Former Pt. 1 pertained to general regulations, and derived from Ord. 2004-602-E; Ord. 2004-999-E; Ord. 2005-944-E; Ord. 2006-863-E; Ord. 2007-278-E; Ord. 2008-911-E; Ord. 2009-183-E; Ord. 2010-679-E; Ord. 2010-712-E; Ord. 2011-732-E; Ord. 2016-140-E; Ord. 2016-763-E; Ord. 2017-35-E; Ord. 2017-288-E; Ord. 2018-270-E; Ord. 2020-238-E; Ord. 2021-117-E; and Ord. 2023-187-E.

Sec. 126.102. Interpretation; Guiding Principles.

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

(a) Simplify, clarify, and modernize the local laws governing the City's procurement process;

(b) Permit the continued improvement and development of the City's procurement process' policies and practices;

(c) Provide for increased public confidence in the City's procurement process' policies and practices;

(d) Ensure the fair treatment of all persons who participate in the City's procurement process;

(e) Provide increased economy and efficiency in the City's procurement process;

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

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.103. Applicability to City agencies.

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

(Ord. 2023-20-E, § 3)

Sec. 126.104. Applicability to independent agencies.

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

(Ord. 2023-20-E, § 3)

Sec. 126.105. Definitions.

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

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

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

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

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

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

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

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

Department means the Finance Department, or any successor department or City unit.

Director means the Director of the Finance Department or any successor director position.

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

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

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

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

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

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

Professional design services mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of

the State of Florida, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

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

Responsive bidder or proposeror respondent means a bidder or proposer or respondent who has submitted a bid or proposal or reply that conforms, in all material respects, to an invitation for bids, request for proposals, an invitation to negotiate or any other procurement method authorized pursuant to this Chapter.

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

Supplieror Contractor means a person or entity contracting with the City or a using agency to provide services pursuant to this Chapter.

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

(Ord. 2023-20-E, § 3)

Editor's note(s)—Ordinance 2024-175-E, § 25, authorized updated department/division names pursuant to the reorganization.

Sec. 126.106. Execution of contracts.

(a) *Execution of form approved contracts.* Contracts form approved by the Office of General Counsel and executed by the contractor and the City pursuant to this Chapter on behalf of the executive branch shall be executed by the Mayor, or his designee, and the Corporation Secretary. The Corporation Secretary shall maintain copies of executed contracts for the executive branch. Contracts form approved by the Office of General Counsel and executed by the contractor and the City pursuant to this Chapter on behalf of the internal operations of the office of the legislative branch shall be executed by the City Council President or, if authorized by the City Council President, the Vice President, and the City Council Secretary. The City Council Secretary shall maintain copies of executed contracts for the legislative branch.

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.107. Access to supplier records; supplier compliance with applicable laws.

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.108. Exemptions from competitive solicitation.

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

(a) Any exempt contractual services or commodities described under F.S. § 287.057, as applicable;

(b) Program or agency reviews if the fee for such review services does not exceed the formal threshold amount applicable to such services;

(c) Government Collaborative Agreements;

(d) Government Joint Projects;

(e) Active Government Procured Contracts (Piggyback);

(f) Short-Term No Costs Pilot Projects;

(g) Supplies or services to be provided by those specifically prescribed within authorizing legislation;

(h) Professional services performed by a nonprofit professional organization or the members thereof, when the membership includes a significant number of City employees engaged in the practice of the profession;

(i) Art reproduction services from local suppliers;

(j) Financial Instruments, Investments, and Services;

(k) Services related to Building Inspection Division work; and

(l) Any goods, supplies, services, including professional services, relating to cybersecurity matters, including those matters exempt from public records and open meetings pursuant to F.S. § 119.0725.

Unless otherwise provided herein, the exempt services listed above shall be subject to all other provisions and requirements of this Chapter. The Chief may promulgate non-competitive procedures pertaining to the procurement of exempt services listed above in the Procurement Operating Manual, subject to Jacksonville Procurement Awards Committee ("JPAC") and the Mayor's approval.

(Ord. 2023-20-E, § 3)

Sec. 126.109. Severability.

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

(Ord. 2023-20-E, § 3)

SUBPART B. ETHICS AND TRANSPARENCY IN PUBLIC CONTRACTING

Sec. 126.110. Definitions.

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

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

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.111. Integrity in public contracting—Contractors.

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

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

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

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

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

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

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

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

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

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

(c) *Collusion prohibited.*

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

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

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

(e) *Certain ex parte communications prohibited.* Adherence to procedures that ensure a fair open and impartial procurement process is essential to public confidence in the City's procurement process. The Chief shall promulgate and publish rules that prohibit certain ex parte bidder communications during the City's procurement process.

(Ord. 2023-20-E, § 3)

Sec. 126.112. Integrity in public contracting—City officers and employees.

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

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

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

(3) *Prohibited purchases from officers or employees*. The purchase of supplies, contractual services or capital improvements shall not be made from a person who is an officer or employee subject to F.S. Ch. 112, Pt. III or any business entity in which any officer or employee has a material interest within the meaning of F.S. Ch. 112, Pt. III, unless otherwise authorized by F.S. Ch. 112, including any applicable waiver or exemption permitted.

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

(b) *Unauthorized purchases.*

(1) *Unauthorized purchases by officers or employees.* It shall be unlawful for an officer or employee of the City or of a using agency willfully or negligently to order any purchase or to make a contract in a manner contrary to the provisions of this P-Code. A purchase order or contract or sales transaction made contrary to the provisions hereof shall be null and void unless and until accepted and ratified by the appropriate awarding authority, which awarding authority shall then advise the Chief and the City Council Auditor as to its disposition. Unless authorized or permitted to do so by executive order of the Mayor, no one other than those described in Section 126.106 hereof shall have the authority, whether actual or apparent, to execute any purchase order, contract, including contract modifications, or any sales transaction on behalf of the City. The prohibition contained in this Section shall not apply to errors or omissions of the Division in providing advice to using agencies regarding purchases under this Chapter.

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

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

(c) *Bid tampering prohibited.* Procurements made pursuant to this Chapter are subject to the bid tampering prohibition in F.S. § 838.22 (Bid tampering).

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

(Ord. 2023-20-E, § 3; Ord. 2025-10-E, § 2)

Sec. 126.113. Transparency in public contracting.

(a) *Public access to records.* Except as otherwise exempt or confidential by law, the Division's records shall be public records and made available to the public upon request. Such records shall be open to inspection and copying by the public during normal business hours. In accordance with City public records policies, the Division may charge the public reasonable costs for gathering and copying records.

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

(c) *Triennial supplier survey.* The Chief shall triennially conduct a survey to obtain feedback from bidders and suppliers on the City's procurement process. Such survey shall be on a form approved by City and participation in the survey shall be open to past, current, and prospective bidders and suppliers. Survey topics may include, without limitation, various aspects of the City's procurement process such as information transparency and accessibility, pre-conferences, bid submittal packages, evaluations, and awards. The Chief shall review and consider such survey results and may recommend amendments to the Procurement Operating Manual in accordance with this Chapter.

(Ord. 2023-20-E, § 3)

PART 2. JACKSONVILLE PROCUREMENT AWARDS COMMITTEE[3]

Sec. 126.201. Jacksonville Procurement Awards Committee established.

The Jacksonville Procurement Awards Committee or JPAC is hereby established for the purpose of awarding contracts pursuant to this Chapter.

(Ord. 2023-20-E, § 3)

Sec. 126.202. Composition.

JPAC shall consist of the following three members: the Director, the Director of Public Works, and the City Risk Manager, or their respective designees. However, when an independent agency is using the services of the Division, the chief administrative officer/executive director, or other equivalent position, of the independent agency, or his designee, shall be a member of the JPAC in lieu of the Director; and further provided, that, when the Downtown Investment Authority ("DIA") is the using agency, the DIA executive director shall be a member of JPAC in lieu of the Director.

(Ord. 2023-20-E, § 3)

Sec. 126.203. Evaluation Committees.

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

(Ord. 2023-20-E, § 3)

Sec. 126.204. Duties.

JPAC shall have the following duties:

(a) To approve award recommendations for formal purchases in accordance with this Chapter;

(b) To cancel any formal purchase competitive solicitation made in accordance with this Chapter or rejecting any and all bids, proposals, responses or replies, in whole or in part, when the public or City's

[3]Editor's note(s)—Ord. 2023-20-E, §§ 2 and 3, amended the Code by repealing former Pt. 2, §§ 126.201—126.215, and adding a new Pt. 2. Former Pt. 2 pertained to supplies, contractual services and capital improvements, and derived from Ord. 2004-602-E; Ord. 2005-944-E; Ord. 2006-185-E; Ord. 2011-535-E; Ord. 2016-140-E; Ord. 2017-288-E; Ord. 2017-34-E; and Ord. 2021-117-E.

interest will best be served thereby, at the recommendation of the Chief, in consultation with the using agencies;

(c) To approve any procedures promulgated by the Chief regarding bonds and bidder responsibility determinations;

(d) To recommend to the Mayor for approval amendments to the Procurement Operating Manual based upon the Chief's recommendations;

(e) To formulate and adopt standards for supplies and contractual services required by using agencies, at the recommendation of the Chief in consultation with the using agency; and

(f) To hear and make final decisions upon any protests, suspensions, and debarments made pursuant to this Chapter.

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

(Ord. 2023-20-E, § 3)

Sec. 126.205. Meetings; public notice; minutes.

JPAC shall meet at least once a week but may meet more frequently as necessary to accommodate the procurement needs of using agencies. Unless otherwise provided by law, all meetings shall be subject to F.S. § 286.011 (Open Meetings Laws). JPAC shall keep official minutes of its meetings, which shall be maintained on file in the Division as a permanent electronic or physical public record. JPAC, to the extent feasible, shall also keep recordings of the JPAC proceedings, subject to public records retention laws.

(Ord. 2023-20-E, § 3)

Sec. 126.206. Voting; quorum.

JPAC recommendations shall require a concurring vote of a majority of the members present. Three JPAC members shall constitute a quorum for the purpose of meetings and transacting business.

(Ord. 2023-20-E, § 3)

Sec. 126.207. Officers.

The Chair of JPAC shall be the Director and the Vice Chair of JPAC shall be the Director of Public Works. JPAC may elect other officers from among its members.

(Ord. 2023-20-E, § 3)

Sec. 126.208. Rules of procedure.

JPAC may establish rules of procedure necessary to its governing and the conduct of its affairs, consistent with the applicable provisions of the Ordinance Code.

(Ord. 2023-20-E, § 3)

Sec. 126.209. Administrative support.

The Chief and Division shall provide JPAC with administrative support.

(Ord. 2023-20-E, § 3)

Sec. 126.210. Compliance.

JPAC shall be subject to the provisions of F.S. Ch. 112, Pt. III, and Chapters 50, 58 and 602 of the Code, except as may be otherwise set forth in this Chapter.

(Ord. 2023-20-E, § 3)

PART 3. PROCUREMENT THRESHOLDS, MODES, METHODS AND PROCEDURES[4]

SUBPART A. PROCUREMENT THRESHOLDS

Sec. 126.301. Formal Purchases.

Unless exempt under Section 126.108 of this P-Code, the following purchases shall be formal purchases:

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

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

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

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

[4]Editor's note(s)—Ord. No. 2023-20-E, § 3, amended the Code by repealing former Pt. 3, §§ 126.301—126.317, and adding a new Pt. 3. Former Pt. 3 pertained to professional services contracts, and derived from Ord. 2004-602-E; Ord. 2004-990-E; Ord. 2005-944-E; Ord. 2005-1295-E; Ord. 2006-827-E; Ord. 2012-316-E; Ord. 2016-140-E; Ord. 2017-34-E; Ord. 2017-288-E; Ord. 2018-270-E; and Ord. 2023-871-E.

or less than the Statutory Discretionary Bond Threshold or equal to or less than the payment and performance bond waiver amount permitted in Section 18.11 of the Charter.

(Ord. 2023-20-E, § 3)

Sec. 126.302. Informal Purchases.

Purchases and sales other than those defined in Section 126.301 shall be considered Informal Purchases and made in accordance with the process and procedures for Informal Purchases detailed in the Procurement Operating Manual.

(Ord. 2023-20-E, § 3)

SUBPART B. PROCUREMENT MODES

Sec. 126.303. Electronic procurement system.

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

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.304. Electronic media and digital signatures.

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

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

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

(Ord. 2023-20-E, § 3)

SUBPART C. PROCUREMENT METHODS AND PROCEDURES

Sec. 126.305. Pre-selection procurement methods.

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

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

(2) *A Request for Qualifications (RFQ).* The Chief, in consultation with the using agency, may issue a Request for Qualifications solicitation to solicit information from bidders to evaluate a bidder's qualifications and qualify two or more bidders for future solicitations.

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

(Ord. 2023-20-E, § 3)

Sec. 126.306. Procurement methods and selection.

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

(1) Invitation to Bid (ITB) (F.S. Ch. 255);

(2) Request for Proposals (RFP) (F.S. Ch. 255);

(3) Competitive Multi-step Bidding (F.S. Ch. 255);

(4) Consultants' Competitive Negotiation Act (CCNA) (Architectural, Engineering, Landscape Architectural, or Surveying & Mapping Services) (F.S. § 287.055);

(5) Design-Build Contracts (F.S. § 287.055);

(6) Construction Management and Program Management (F.S. § 255.103);

(7) Invitation to Negotiate (ITN);

(8) Single-Source Procurements;

(9) Emergency Procurements;

(10) Guaranteed Energy, Water, and Wastewater Performance Savings Contracting (F.S. § 489.145);

(11) Public Private Partnerships (F.S. § 255.065);

(12) Unsolicited Proposals;

(13) Government Collaborative Agreements;

(14) Government Joint Projects;

(15) Government Auction Purchases;

(16) Government Procured Contracts (Piggyback);

(17) Short-Term No Costs Pilot Projects;

(18) Direct Negotiations; and

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

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

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

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

(i) Procurement operations to be followed by using agencies, the Division, and the business community;

(ii) Specifications for standardized items purchased by the City and using agencies;

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

(iv) Procedures as needed for the purchases, supplies, services, and agreements that are exempt from competitive solicitation under this Chapter;

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

(vi) Any electronic procurement system used and implemented by the City in accordance with this Chapter;

(vii) Bid protest procedures not inconsistent with Part 9 of this Chapter;

(viii) Performance and payment bonds, bid bonds and other security;

(ix) Contracts, including purchase orders, executed pursuant to this Chapter;

(x) Required solicitation, contract, and bond forms, subject to review by the Office of General Counsel;

(xi) Pre-qualifications for bidders not otherwise prohibited by law;

(xii) Value engineering not otherwise prohibited by law;

(xiii) Novation, change of name, change of business status or assignment;

(xiv) A system of contractor performance ratings regarding the Contractor's performance in City contracts;

(xv) Ethics in public contracting;

(xvi) Procedures regarding the owner direct purchase of supplies in accordance with Section 126.306(h);

(xvii) Procedures regarding the Buy American Program and Local Business Participation Policy in Part 7 of this Chapter; and

(xviii) A listing of contract provisions required by law to be included in contracts executed pursuant to this Chapter.

Nothing in this Section shall be construed as limiting or superseding the provisions of this Chapter. The Chief shall issue the Procurement Operating Manual and shall ensure compliance therewith by the using agencies. The regulations and procedures contained in the Procurement Operating Manual shall represent a complete plan of operation for the City's procurement system. Upon the Mayor's approval of amendments to the Procurement Operating Manual, the Chief shall promptly file copies of the amendments with the Council Secretary, Inspector General, and Council Auditor. The Inspector General, and Council Auditor may provide the Chief with comments regarding the amendments prior to the amendments becoming effective.

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

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

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

(h) *Owner Direct Purchases of Supplies.* The City shall use applicable state sales tax exemptions in accordance with F.S. Ch. 212, and any applicable state administrative rules and regulations, by directly purchasing, in lieu of the contractor, the supplies necessary for a capital improvement procurement made pursuant to this Chapter, subject to this subsection. The Chief shall require in every capital improvement solicitation that the contractor include on the schedule of values the total line-item costs by type for each supply purchase necessary for the project. The City shall purchase by type each supply identified on the schedule of values having a cost of $100,000 or more for non-JSEB contracts and $10,000 or more for JSEB set aside contracts. The Chief shall ensure that using agencies adhere to the requirements of this subsection, unless the Chief determines, based on satisfactory written justification provided by the using agency, that the City's purchase of supplies for a capital improvement procurement is not feasible, economical, or beneficial to the City's interests.

(Ord. 2023-20-E, § 3)

Sec. 126.307. Selection procedures for independent audit firm.

In accordance with Section 5.11 of the Charter and the selection procedures set forth in F.S. § 218.391, the annual independent audit shall be performed by an accountant, or an accounting firm selected by City Council. The public notice or advertisement as well as receipts of responses shall be handled by the Division. The Council Auditor shall, within one business day, notify the Chief of the introduction of the proposed ordinance or resolution making the award, and the Chief shall place the title to such ordinance or resolution on the next JPAC agenda for informational purposes. Once the ordinance or resolution making the award becomes effective the Council Auditor's Office shall, within three business days, notify the Chief, and the Chief shall include the awarding of the service on the next JPAC agenda for informational purposes. The notifications set forth in this Section shall not create the requirement for any notices or advertisements not otherwise required by this Chapter 126.

(Ord. 2023-20-E, § 3)

Sec. 126.308. Selection procedures for sports and entertainment facilities promoter and/or manager.

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.309. Selection procedures for financial instruments, investments, and services.

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

(b) *Notice.* Any public notice or advertisement required under procurement procedures developed in accordance with this Section, as well as responses thereto, shall be forwarded to the Division within one business day. Once an award is made pursuant to such procurement procedures, the Director shall notify the Chief within one business day, and the Chief shall include the awarding of the service on the next JPAC agenda for information purposes. When the procedures developed in accordance with this Section are used for awards that are not time-sensitive, the Chief shall be notified prior to public notice or advertisement for solicitations, and the Chief shall place the public notice or advertisement on the JPAC agenda for informational purposes prior to solicitation or advertisement being made. The advanced notification requirement set forth in the preceding sentence shall not apply to time-sensitive bond, investment, cash, and other such related services as set forth in the written procedures developed in accordance with this

Section. The notifications set forth in this subsection (b) shall not create the requirement for any notices or advertisements not otherwise required by this Chapter 126.

(Ord. 2023-20-E, § 3)

Sec. 126.310. Selection Procedures for Federal or State Lobbying or Grant Writing Professional Services Contracts.

(a) Notwithstanding anything to the contrary in this Chapter, no single-source, or other non-competitively awarded, contract with the City of Jacksonville to provide federal or state lobbying or grant writing professional services shall be valid or binding against the City, unless and until approved by the City Council; and no City officer or employee shall execute the same without City Council approval. This Section shall apply to all applicable proposed single-source and other non-competitively awarded contracts for federal or state lobbying or grant writing professional services, whether negotiated and preliminarily approved through the professional services processes promulgated pursuant to this Part, or by any other process.

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

(Ord. 2023-871-E, § 2)

Editor's note(s)—Ord. 2023-871-E, § 2, amended the Code by renumbering former §§ 126.310 and 126.311 as new §§ 126.311 and 126.312, and adding a new § 126.310.

Sec. 126.311. Payment of City contracts.

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

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

(c) *Joint Payment.*

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

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

(Ord. 2023-20-E, § 3; Ord. 2023-871-E, § 2)

Note(s)—Former § 126.310. See editor's note, § 126.310.

Sec. 126.312. Required contract provisions.

All contracts made pursuant to this Chapter shall include any contract provisions required by law. The Chief shall detail in the Procurement Operating Manual all such required contract provisions to be included in contracts executed pursuant to this Chapter.

(Ord. 2023-20-E, § 3; Ord. 2023-871-E, § 2)

Note(s)—Former § 126.311. See editor's note, § 126.310.

Sec. 126.313. Informal purchases and sales transactions for in-kind services.

Prior City Council approval shall be required under this Chapter for in-kind services awards or contracts that require City Council approval pursuant to Section 106.441 and Chapter 113, Part 5 of the Code.

(Ord. 2024-46-E, § 7)

PART 4. NONDISCRIMINATION POLICY; FEDERAL AND STATE GRANT REQUIREMENTS

Sec. 126.401. Policy.

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

(Ord. 2004-602-E, § 4; Ord. 2023-20-E, § 6)

Sec. 126.402. Definitions.

As used in this Part:

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

(b) *Commission* means the Human Rights Commission.

(c) *Executive Director* means the Executive Director of the Human Rights Commission.

(d) *Nondiscrimination provisions* means the contractual provisions set forth in Section 126.404.

(e) *Policy of nondiscrimination* means a policy of nondiscrimination substantially conforming to the City's policy of nondiscrimination.

(Ord. 2004-602-E, § 4; Ord. 2023-20-E, § 6)

Sec. 126.403. Investigation of bidders for City contract for compliance with nondiscrimination policy.

If the Chief or the Mayor shall have reasonable cause to believe that a bidder may not have adopted and maintained a policy of nondiscrimination, the Chief or the Mayor shall request an appropriate investigation be undertaken consistent with the procedures of this Part, which investigation may, in the discretion of the Chief or the Mayor, require the postponement of a contract award, if any, pending the outcome of the investigation.

(Ord. 2004-602-E, § 4)

Editor's note(s)—Ordinance 2007-839-E, § 18, authorized updated department/division names pursuant to reorganization.

Sec. 126.404. Nondiscrimination provisions in all City contracts.

All City contracts shall contain the following provisions:

(a) The contractor represents that he has adopted and will maintain a policy of nondiscrimination as defined by ordinance throughout the term of this contract.

(b) The contractor agrees that, on written request, he will permit reasonable access to his records of employment, employment advertisement, application forms and other pertinent data and records by the Executive Director for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this contract; provided, that the contractor shall not be required to produce for inspection records covering periods of time more than one year prior to the date of this contract.

(c) The contractor agrees that, if any of the obligations of this contract are to be performed by a subcontractor, the provisions of subsections (a) and (b) of this Section shall be incorporated into and become a part of the subcontract.

(Ord. 2004-602-E, § 4)

Sec. 126.405. Investigation and findings procedure of Commission.

(a) When requested by the Chief or the Mayor, it shall be the duty of the Executive Director to undertake an appropriate investigation to determine compliance or noncompliance:

(1) With the policy of nondiscrimination required by this Part with respect to a person seeking the award of a City contract.

(2) With the nondiscrimination provisions of a City contract.

(b) At the conclusion of the investigation, the Executive Director shall issue an order finding compliance or noncompliance, including the facts upon which his findings and conclusions are based, to the bidder or contractor affected and to the Mayor, the Chief and the Awards Committee.

(c) An order finding compliance shall become final upon issuance by the Executive Director. An order finding noncompliance shall become final 20 days after issuance by the Executive Director, unless the order is appealed.

(d) An order finding noncompliance may be appealed by the bidder or contractor affected within 20 days after issuance by the Executive Director by the filing of a notice of appeal with the Commission. The filing of the notice of appeal shall act as a stay of the order until final disposition by the Commission.

(e) Upon the filing of a notice of appeal, the Commission shall afford the bidder or contractor affected an opportunity to be heard before the Commission and shall thereafter enter its order, by a vote of the majority of the entire membership of the Commission, upholding or reversing the order of the Executive Director. The order of the Commission shall become final upon issuance, unless appealed to a court of competent jurisdiction.

(f) In the case of contracts which are funded in part or wholly by funds derived from the United States Government, the Executive Director and his staff shall not disclose employment records or other data obtained from employers and others in the course of investigations, except relevant information pertaining thereto or as reasonably required to be disclosed in connection with an appeal to the Commission. To the extent permitted by law, the members of the Commission, the Director and the Mayor shall also maintain the confidentiality of records and data which may be disclosed to them in the course of an investigation.

(Ord. 2004-602-E, § 4)

Editor's note(s)—Ordinance 2007-839-E, § 18, authorized updated department/division names pursuant to reorganization.

Sec. 126.406. Effect of final order finding noncompliance.

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

(b) With respect to the nondiscrimination provisions of a City contract, a copy of a final order finding noncompliance with the provisions shall be furnished to the Mayor and the Chief. Every order shall afford the bidder or contractor affected an opportunity to demonstrate to the satisfaction of the authority issuing the order which becomes final, within the reasonable time as the issuing authority determines, that the breach of the nondiscrimination provisions has been corrected. At the expiration of the reasonable time, the issuing authority shall enter a further order determining whether or not the breach has been corrected, furnishing copies thereof to the affected person, the Mayor and the Chief. A person failing to correct the breach of the nondiscrimination provisions within the time period permitted shall be deemed an irresponsible bidder, and no City contract shall be awarded to this person. An irresponsible bidder under this subsection shall have the opportunity to submit to the Commission at any time a program adopting and maintaining a policy of nondiscrimination and, upon approval thereof by the Commission, the prohibitions of this subsection shall terminate.

(Ord. 2004-602-E, § 4)

Editor's note(s)—Ordinance 2007-839-E, § 18, authorized updated department/division names pursuant to reorganization.

Sec. 126.407. Federal Uniform requirements.

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

(Ord. 2023-20-E, § 6)

Sec. 126.408. Conflict with grant requirements.

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

(Ord. 2023-20-E, § 6)

PART 5. EX-OFFENDER PROGRAM[5]

Sec. 126.501. Statement of policy.

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

(Ord. 2023-20-E, § 3)

Sec. 126.502. Definitions.

As used in this Part:

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

[5]Editor's note(s)—Ord. 2023-20-E, §§ 2 and 3, amended the Code by repealing former Pt. 5, §§ 126.501—126.506, and adding a new Pt. 5. Former Pt. 5 pertained to extraordinary critical purchasing procedures, and derived from Ord. 2004-602-E and Ord. 2017-288-E.

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.503. Contracting requirements for businesses contracting with the City of Jacksonville.

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.504. Compliance; exemption.

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

(Ord. 2023-20-E, § 3)

Sec. 126.505. Webpage information.

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

(Ord. 2023-20-E, § 3)

Sec. 126.506. Reporting.

The Chief shall provide an annual report to the Mayor, the City Council, and the Jacksonville Journey Forward no later than December 31 of each fiscal year for the previous fiscal year on the information provided by contractors on the Compliance Report pursuant to this Section. Such annual reports shall at a minimum include information and data regarding the number of:

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

(b) Ex-offenders interviewed by contractors;

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

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

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

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

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

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

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

(Ord. 2023-20-E, § 3; Ord. 2024-635-E, § 8; Ord. 2024-768-E, § 2)

Sec. 126.507. Jacksonville Journey Forward Program Review.

Jacksonville Journey Forward shall annually review, in consultation with the Chief, and make recommendations to the City Council as needed regarding the ex-offender program provided in this part no later than December 31, with the first report due no later than December 31, 2025.

(Ord. 2024-635-E, § 9)

PART 6. JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM[6]

SUBPART A. GENERAL PROVISIONS

Sec. 126.601. Legislative Intent.

It is the intent of the City in enacting this law to provide a comprehensive and robust program to benefit local small and emerging businesses in the City known as the "Jacksonville Small and Emerging Business Program".

(Ord. 2021-117-E, § 5)

Sec. 126.602. Legislative Findings.

The Council finds and declares that:

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

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

(Ord. 2021-117-E, § 5)

Sec. 126.603. Purpose.

The purpose of the JSEB Program is to support and assist local small and emerging businesses in obtaining direct contracting or subcontracting business opportunities with the City.

(Ord. 2021-117-E, § 5)

[6]Editor's note(s)—Ord. 2021-117-E, § 4, amended the Code by repealing former Parts 6A and 6B, §§ 126.601—126.622, and adding a new Part 6. Former Part 6A pertained to the Small Business Capital, Bonding, and Outreach Program, and derived from Ords. 2004-602-E, 2005-944-E, 2006-826-E, 2012-364-E, 2013-209-E, 2016-140-E, 2016-365-E, 2016-486-E, 2017-288-E, and 2018-576-E. Former Part 6B pertained to the Jacksonville Small Emerging Business Program, and derived from Ords. 2004-602-E, 2005-944-E, 2013-209-E, 2016-140-E, 2017-34-E, 2017-288-E, and 2020-311-E.

Sec. 126.604. Definitions.

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

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

EBO Office shall mean the Office of Equal Business Opportunity - Business Compliance established pursuant to Chapter 26, Part 2 of the Code.

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

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

JSEB Administrator shall mean as described in Section 126.606 herein.

Micro-business JSEB shall mean as described in Section 126.615 herein.

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

Project Specific Goals shall mean specific JSEB subcontractor participation goals, as set by the JSEB Administrator and Chief of Procurement, that a prime contractor must adhere to in a City-awarded contract.

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

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

(Ord. 2021-117-E, § 5; Ord. 2023-20-E, § 7; Ord. 2023-765-E, § 1; Ord. 2024-175-E, § 15; Ord. 2025-148-E, § 1; Ord. 2025-411-E, § 2)

Sec. 126.605. Minimum Program Funding Requirement.

Subject to availability of funding, the Program, as provided for in this Part, shall be funded at a minimum of $750,000, excluding staff, in the annual budget appropriation. A minimum of $200,000 of such $750,000 minimum funding requirement shall be used to fund the training programs, community outreach and program marketing set forth in Section 126.610 herein.

(Ord. 2021-117-E, § 5; Ord. 2025-411-E, § 2)

SUBPART B. PROGRAM ADMINISTRATION

Sec. 126.606. JSEB Administrator.

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

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

(2) Unbundling or breaking larger contracts into smaller components where such actions will facilitate competition and provide opportunities under the Program;

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

(4) Certifying businesses as JSEBs and maintaining certification records;

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

(6) Evaluating prime contractors' achievement of Project Specific Goals or Good Faith Efforts (as defined in Section 126.618 herein) to meet Project Specific Goals;

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

(8) Receiving, reviewing, and acting upon complaints and suggestions concerning the Program and creating a complaint form as part of this process that identifies both parties;

(9) Providing quarterly open houses to answer questions from Program participants or prospective participants regarding Program operations;

(10) Posting all contracting opportunities on the EBO Office website under "JSEB Program;"

(11) Identifying each JSEB on the EBO Office website within three business days of certification;

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

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

(14) Maintaining a list of JSEBs and posting such list on the EBO Office website;

(15) Adjusting the annual averaged gross receipts for good cause shown, subject to the appeals procedure set forth in Section 126.621 herein;

(16) Performing onsite inspections of the JSEB local offices and business locations;

(17) Facilitating and coordinating all aspects of the Program so as to provide Program participants and prospective participants with a primary Program contact; and

(18) Reporting on the expenditure of City funds paid to certified companies to the City Council Finance Committee semi-annually, with the first report to include the first six months of the fiscal year due by May 15 and the second report to include the full fiscal year's activity due by November 30; such report shall include the number of contracts awarded to JSEBs compared to the total number of contracts awarded by City annually, either directly or as subcontractors, and the dollar-amount of contracts awarded to JSEBs compared to the total dollar-amount of contracts awarded by City annually.

(b) *Department Training.* Each City department, office or board shall identify to the JSEB Administrator the person with the responsibility of ensuring JSEB participation in such department, office or board. Such person shall receive diversity training and shall prepare quarterly reports to the JSEB Administrator identifying for the three month quarter period the extent of non-JSEB and JSEB participation, including the number and dollar value of contracts awarded to JSEBs and City funds actually disbursed to JSEBs, either directly or as subcontractors, in any procurement within its department, office or board.

(c) *Courtesy Application Reviews and Meeting Conferences.* The JSEB Administrator, or his designee, shall provide courtesy reviews of a small business's JSEB application to confirm whether the application has

complied with the requirements of this Part. The JSEB Administrator may conduct such courtesy reviews in person or electronically with the small business upon request and appointments shall be scheduled on a first come, first serve basis as time allows. Additionally, the JSEB Administrator, or his designee, may meet with prospective JSEBs interested in the Program to provide information regarding the Program's support and outreach services available to JSEBs as set forth in this Part.

(Ord. 2021-117-E, § 5; Ord. 2025-411-E, § 2)

Sec. 126.607. JSEB Monitoring Committee; Program Review; Reports.

(a) *Establishment; purpose; reports.* There is established a seven-member JSEB Monitoring Committee ("Committee"), to review, in consultation with the JSEB Administrator: (i) the status of the Program Goals, including, but not limited to, the percentage, number, and dollar value of contracts awarded to JSEBs through direct contracting and subcontracts, to set annual, achievable goals to grow and improve the Program; (ii) the training programs, and the "AC Program"; (iii) difficulties or accomplishments of the Program; (iv) a comparison of the achievements under the Program compared with the Program Goals; (v) the maximum threshold amount for annual averaged gross revenue referenced in Section 126.613(c); and (vi) the limitation on the number of program participation years in Section 126.613(c) to determine if such amounts and limitation on the number of years are appropriate for the Program; (vii) the need for legislation. The Equal Business Opportunity Office shall present to the JSEB Monitoring Committee on the status of continuing education, training and mentoring programs, and program marketing and community outreach, as described in Section 126.610, including recommended goals, methods to measure goals, and the achievement or otherwise or previously set goals, as to each topic. At the quarterly spring and fall Committee meetings, at a minimum, the City's Risk Manager shall present to the Committee regarding the available insurance programs for Florida small businesses and make recommendations regarding methods or programs to assist JSEBs in obtaining requisite insurance, as described in Section 126.611. Based on the Committee's required Program review, the Committee shall generate a quarterly report for the Mayor no later than 14 days after each quarterly meeting. The Committee shall generate an annual report for the Mayor and City Council by April 30. The Committee may recommend to the Mayor or City Council amendments to the Program in a report or through proposed legislation. All reports issued by the Committee shall be posted to the EBO Office website.

(b) *Composition; appointments.* The Mayor shall appoint three members of the Committee. The City Council shall appoint three members. The Council President shall annually designate a City Council Member to serve as a member of the Committee. The Committee shall be comprised as follows:

(1) One non-JSEB contractor who is a professional engineer, general contractor or architect appointed by the Mayor;

(2) One member of the Council designated by the Council President;

(3) Two JSEB contractors, one appointed by the Mayor and one appointed by the City Council;

(4) Two private citizens, one appointed by the Mayor and one appointed by the City Council; and

(5) One representative from the Northeast Florida Builders Association, Inc., or similar trade association, or from the Food & Commercial Workers International Union, or similar trade association, appointed by the City Council.

Members shall serve for three-year staggered terms. The non-JSEB contractor member must have a current contract with the City or have had a contract with the City in the past. The Mayor shall appoint a Chair and the Chair shall serve until such a time as another Chair shall be appointed by the Mayor. The Council President shall appoint a Vice Chair and the Vice Chair shall serve until such a time as another Vice Chair shall be appointed by the Council President. The Mayor and City Council shall strive to reflect the diversity of Duval County in its

appointments; the six appointed members shall be confirmed by City Council. Any member appointed to the Committee for two consecutive full terms shall not be eligible for the next succeeding term. Terms shall conclude on April 30. The Chair shall preside at all meetings of the Committee. The Vice Chair shall preside if the Chair is absent.

(c) *Meetings; applicable laws*. The Committee shall hold regular meetings at least quarterly at such times and places as it may designate and may hold more frequent meetings as determined by the Chair. The Committee shall meet at least quarterly with the JSEB Administrator. In addition to regular meetings, the Chair may call special meetings of the Committee. The Office of Economic Development shall provide staff support to the Committee. Committee meetings shall be staffed by the Office of General Counsel. The JSEB Monitoring Committee shall be governed by F.S. Chs. 286 and 112, Pt. 3, and Chapters 50 (Organization of Boards and Commissions) and 602 (Jacksonville Ethics Code), of the Code.

(d) *Attendance at meetings; quorum*. Committee members shall make a good effort to attend each quarterly meeting. An appointed member who has unexcused absences at two consecutive meetings shall be replaced by the entity that appointed the member. The presence of four members shall constitute a quorum of the Committee. The affirmative vote of at least a majority of those members present and voting shall be necessary to take action.

(e) *Filing of complaints.* At any regularly scheduled or special meeting, the Committee may vote to authorize the Chair to file a complaint regarding the JSEB program, in part or in whole, with the Jacksonville Ethics Commission, Office of Inspector General, or any other applicable party, for good cause and by an affirmative vote of five members. Any such complaint filed with the Jacksonville Ethics Commission or Office of Inspector General must, in substance and form, comply with Chapter 602, Ordinance Code.

(Ord. 2021-117-E, § 5; Ord. 2023-765-E, § 1; Ord. 2024-437-E, § 1; Ord. 2025-148-E, § 2; Ord. 2025-795-E, § 1)

SUBPART C. PROGRAM SUPPORT SERVICES; MARKETING AND OUTREACH; DISPARITY STUDY UPDATE

Sec. 126.608. Bid Bonds.

Section 126.201(b) of the Code provides that JSEBs are not required to submit bid bonds for projects under $500,000. Section 126.201(g) provides that JSEBs shall be exempt from obtaining a payment and performance bond for projects that are (i) equal to or less than the "Discretionary Bond Threshold" amount, as defined in Chapter 126, Part 2 of the Code; and (ii) equal to or less than the payment and performance bond waiver amount permitted in Section 18.11 of the Charter.

(Ord. 2021-117-E, § 5; Ord. 2023-20-E, § 7; Ord. 2024-437-E, § 2)

Sec. 126.609. Access to capital.

(a) Subject to availability of funds, the City has established the JSEB Access to Capital Program Trust Fund pursuant to Section 111.610 of the Code to assist JSEBs with obtaining access to capital (the "AC Program"). The JSEB Administrator, or a third-party contractor engaged through the JSEB Administrator ("Program Manager"), shall manage the distribution of said funds, in accordance with guidelines developed and approved by the JSEB Administrator in order to ensure proper administration and monitoring and to ensure continuity for the program. Such guidelines may be developed and approved by the JSEB administrator without further Council approval. All funds deposited into the Access to Capital Special Revenue Fund shall be the subject of a permanent and continuing appropriation when used for the purpose of loans to assist

JSEBs with obtaining access to capital. In the event that the JSEB Administrator, or designee, serves as the Program Manager of the AC Program, the Mayor, or designee, is authorized to execute on behalf of the City all loan agreements and related documents authorized pursuant to the AC Program. In the event a third-party serves as the Program Manager, such third-party Program Manager shall act as an agent of the City and is authorized to execute on behalf of the City all loan agreements and related documents authorized pursuant to the AC Program.

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

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

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

(e) The JSEB Administrator shall provide a quarterly activity report for the preceding three months to the JSEB Monitoring Committee for its use in complying with the reporting requirements pursuant to Section 126.607 herein. Such reports will be posted on the EBO Office website and the JSEB website.

(Ord. 2021-117-E, § 5; Ord. 2025-148-E, § 3; Ord. 2025-411-E, § 2)

Sec. 126.610. Training programs; program marketing; community outreach.

(a) *Continuing education, training and mentoring programs.* The EBO Office shall be responsible for developing and implementing continuing education, training, and mentoring programs. Such continuing education, training, and mentoring programs may include, but not be limited to, the following topic areas:

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

(2) Subcontracting documentation requirements;

(3) Accounting for the small business;

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

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

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

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

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

(9) Business development education.

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

(b) *Program marketing and community outreach.* The EBO Office shall be responsible for developing and implementing marketing campaigns, recruitment activities, and scholarship programs to increase the number of JSEBs in the Program. Any funds appropriated for such activities shall be inclusive of scholarships. The EBO Office shall also engage in community outreach by hosting small business program workshops regarding the Program and the support services available to prospective JSEBs. Additionally, the EBO Office shall survey JSEBs every two years on a survey form approved by the JSEB Monitoring Committee to ascertain what

education, training and mentoring programs JSEBs need most. The EBO Office shall consider such survey results in determining which education, training, and mentoring programs to pursue under this Section.

(Ord. 2021-117-E, § 5)

Sec. 126.611. Insurance program review.

The City's Risk Manager shall prepare a report on available insurance programs for Florida small businesses and make recommendations regarding methods or programs to assist JSEBs in obtaining requisite insurance. Said report shall be prepared and submitted every six months to the JSEB Administrator. The JSEB Administrator and the City's Risk Manager shall meet quarterly regarding available insurance programs. The JSEB Administrator shall publish a copy of the report on the EBO Office website.

(Ord. 2021-117-E, § 5; Ord. 2025-411-E, § 2)

Sec. 126.612. Disparity Study Update.

Subject to availability of funds, the Equal Business Opportunity Office shall have completed an update to the 2013 disparity study regarding the City of Jacksonville contracts on or before September 30, 2024. Upon receipt and review of the completed disparity study update, the JSEB Administrator shall provide a report to the Mayor and City Council regarding the analysis and results of the disparity study update.

(Ord. 2021-117-E, § 5; Ord. 2023-765-E, § 1)

SUBPART D. PROGRAM ELIGIBILITY, PROCEDURES, AND OTHER REQUIREMENTS

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

(a) Each JSEB must provide financial statements prepared by a certified public accountant and participate in one or more training, education, or mentoring programs during each 36-month period commencing from the certification date and provide evidence of such to the JSEB Administrator.

(b) A business may not be in the program for a total of more than 15 years from the date of the JSEB's first contract as a prime contractor of the City or as a subcontractor retained by a prime contractor of the City, whichever is earlier, provided, however, that participation may be increased by two one-year periods for good cause as determined by the JSEB Administrator.

(c) To be certified as a JSEB,

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

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

b. The business must have annual gross revenue not exceeding $12,000,000. For a business in existence for one to three years, the annual gross revenue shall be the average of the preceding year(s). For a business in existence for four years or more, the annual gross revenue shall be the average of the immediately preceding three years. The averaged annual gross revenue maximum threshold amount shall be subject to annual analysis by the JSEB Administrator and reviewed by the JSEB Monitoring Committee pursuant to Section 126.607 herein;

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

1. Meets the residency requirements as follows:

i. Is a resident of Duval County for a minimum 12 consecutive month period immediately preceding the JSEB application date, or

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

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

3. Has held such ownership interests in the business for at least one year;

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

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

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

e. The business must have expertise normally required by the industry for the field for which certification is sought;

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

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

h. A business must not be subject to any formal or informal restrictions that limit the customary discretion of the managing JSEB eligible person. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices that prevent the managing JSEB eligible person, without the cooperation or vote of a non-qualifying person or entity, from making any business decision of the business.

i. A business must be in the business of the commercially useful function for which certification is sought for a minimum 12 consecutive month period immediately preceding the JSEB application date. This requirement is retroactive to the enactment of Ordinance 2021-117-E. Any business that was denied certification solely on the basis of not being in business for one year at the time of the application may re-apply for certification within 12 months of the effective date of this subsection as soon as the business meets the 12-month in-business requirement notwithstanding Section 126.621 (b)(5).

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

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

b. The business must maintain an incorporation status as "active" by the Florida Department of State, Division of Corporations;

c. The business must be in compliance with all applicable requirements of Florida Statutes, including, but not limited to, F.S. Ch. 496 (the Solicitation of Contributions Act, requirements for entities who solicit donations from a location in Florida or from people in Florida);

d. The business must have annual gross revenue, averaged over the immediately preceding three-year period, not exceeding $2,000,000. The averaged annual gross revenue maximum threshold amount shall be subject to annual analysis by the JSEB Administrator and reviewed by the JSEB Monitoring Committee pursuant to Section 126.607 herein;

e. The business has a principal place of business in Duval County for a minimum 12 consecutive month period immediately preceding the JSEB application date;

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

g. The business must have expertise normally required by the industry for the field for which certification is sought;

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

i. The business must not be a front, broker, or pass-through as defined in Subpart A of this Chapter;

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

k. The business must have, and renew annually, written approval of the governing board to participate as a member of the JSEB program, subject to annual analysis by the JSEB Administrator.

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

(1) The business managers may delegate various areas of the management or daily operations of the business to hired or appointed persons who are not JSEB eligible persons only if such delegation is typical in the industry for such businesses. Such delegations of authority must be revocable, and the business managers must retain the power to direct and discharge any such hired or appointed person.

(2) The business managers cannot engage in outside employment or other business interests that conflict with the management of the JSEB business or prevents the business managers from devoting sufficient time and attention to the affairs of the JSEB business to manage and control its activities unless such activities would be appropriate with commensurate businesses, in order to avoid sham or fraudulent certifications.

(e) Only an independent business may be certified as a JSEB. For the purpose of this Part, an *independent business* means one whose viability does not depend on its relationship with another business. Recognition of an applicant business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a business is independent. Issues to be considered to determine business independence include:

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

(2) The extent to which present or recent family, or employer/employee relationships between the JSEB business managers compromise the JSEB's independence.

(3) The extent to which a pattern of exclusive or primary dealings with a prime contractor demonstrates compromised independence of the JSEB.

(4) The consistency of relationships between the JSEB and non-JSEBs with normal industry practices.

(f) A business shall be certified only for specific types of work for which the business has the capacity and expertise and the business managers have the management and control of the business operations over the type of work.

(Ord. 2021-117-E, § 5; Ord. 2023-765-E, § 1; Ord. 2024-437-E, § 3; Ord. 2025-148-E, § 4; Ord. 2025-795-E, § 2)

Sec. 126.614. JSEB and Program eligibility.

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

(b) The certification status of all JSEBs shall be reviewed every 36 months from the date of initial certification through a re-certification application. Failure of the business to seek re-certification by filing the necessary documentation with the EBO Office within 60 days from the date of receipt of written notification from the EBO Office may result in de-certification.

(c) It is the responsibility of the JSEB to notify the JSEB Administrator of any change in its circumstances affecting its continued eligibility for the Program. Failure to do so may result in de-certification.

(d) The JSEB Administrator shall decertify a business that does not meet the eligibility criteria.

(e) A JSEB may receive no more than five prime contracts set aside, including prime contracts from participation goals, per year or an aggregate total prime contracts set aside per year in the amount of $4,000,000 for for-profit JSEBs or $1,000,000 for non-profit JSEBs, whichever is greater.

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

(Ord. 2021-117-E, § 5; Ord. 2024-437-E, § 4; Ord. 2025-148-E, § 4; Ord. 2025-411-E, § 2)

Sec. 126.615. Jacksonville Small and Emerging Business Program Goals; Program Directives; Micro-business Program.

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

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

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

(3) *JSEB Project Specific Goals.* The Chief upon the recommendation of the JSEB Administrator shall establish Project Specific Goal(s) based on the availability of at least normal industry practice, as determined in consultation with the user department, the availability of at least two JSEBs to perform the functions of those individual contracts and the City's utilization of such to date. Project Specific Goal(s) shall not be set on emergency contracts as defined by City Code or for purchases made in

conjunction with the State although JSEBs shall be considered for such single source or emergency procurements if qualified.

(b) *Department Program commitments; training.* The City, through each department head, shall commit in its budget to award at least 20 percent of its contracts for services, including contractual services, professional services, professional design services, construction services or other services, to JSEBs, provided, however, that such awards shall comply with local, State, and federal law and that there exist JSEBs to perform the work. To assist the City in implementing the Program requirements of this Part, the EBO Office, through the JSEB Administrator and in consultation with the Chief of Procurement shall provide annual training to department heads and division chiefs, or their designees, and applicable staff of City boards and commissions regarding the JSEB program and the requirements set forth in this Part.

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

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

(e) *Joint checks; Semi-monthly payments to JSEBs.* The City may issue joint checks upon the request of the JSEB in order to facilitate bonding, financing, or other requirements of contracting with the City. The City shall pay JSEBs semi-monthly, upon proper payment application to the applicable City department. City departments are to perform all necessary inspections and otherwise endeavor to ensure that prompt review and as applicable approval of JSEB work is completed within four days of receipt of invoice. The City shall pay all approved invoices from JSEBs within three business days of receipt by the Finance and Administration Department. City departments shall provide monthly statements to the Director identifying the timing of JSEB payments for contracts within their departments. These statements are to be organized and provided to the Mayor, with a copy to the City's Chief Administrative Officer ("CAO"), quarterly by the Director. Prime contractors shall be obligated to pay subcontractors within three days of receipt from the City of funds, and must confirm payment to the City. Subcontractors will be notified by the City when a payment application from a prime contractor has been submitted reflecting work performed by a subcontractor.

(f) *Micro-business program*. The JSEB Administrator shall be responsible for developing and implementing a micro-business program. The purpose of the micro-business program shall be to ensure that a micro-business JSEB has an adequate share of direct contracting and subcontracting opportunities in the Program. To qualify as a micro-business, a for-profit JSEB shall have an annual gross revenue, averaged over the immediately preceding three-year period, not exceeding $3,000,000. Such program may include participation requirements based on tiered levels of annual averaged gross revenue. The JSEB Administrator shall promulgate rules and guidelines regarding such program without further Council approval.

(Ord. 2021-117-E, § 5; Ord. 2023-765-E, § 1; Ord. 2025-411-E, § 2)

Sec. 126.616. Contract pre-award compliance procedures.

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

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

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

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

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

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

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

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

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

(Ord. 2021-117-E, § 5; Ord. 2025-148-E, § 4)

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

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

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

(c) The JSEB Administrator may, in consultation with the Chief, promulgate Program rules to ensure equitable distribution of work by prime contractors among JSEBs that are certified to do the subcontract scope of work.

(Ord. 2021-117-E, § 5)

Sec. 126.618. Good faith efforts in lieu of meeting Program goals.

For a contract with JSEB subcontracting goals, a contractor must comply by either meeting the goal or demonstrating Good Faith Efforts to achieve it that are consistent with the requirements set forth in this Part. In determining whether a bidder/proposer has made Good Faith Efforts, in lieu of achieving the stated goals, the JSEB Administrator shall consider all relevant factors, which include:

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

(1) A contact log showing the name, address, and contact number (phone or fax) used to contact the proposed JSEB certified in the scope of work, nature of work requested for quote, date of contact, person making the effort;

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

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

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

(5) Subcontractor information as requested by forms developed by the EBO Office.

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

(c) For construction related professional services contracts, the highest ranked proposer must deliver at the time of fee and contract negotiations signed letters of intent between the proposer and any JSEBs the proposer intends to use on the project.

If the JSEB Administrator finds that a bidder/proposer did not make sufficient Good Faith Efforts, the JSEB Administrator shall communicate this finding to the user department and recommend that the bid/proposal be rejected. A bidder/proposer may protest this determination pursuant to the City's bid protest procedures.

(Ord. 2021-117-E, § 5; Ord. 2025-411-E, § 2)

Sec. 126.619. Contract performance compliance procedures.

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

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

(c) The contractor cannot make changes to the Schedule of Participation or substitute subcontractors named in the Schedule of Participation without the Chief's prior written approval based on the Ombudsman's recommendation and JSEB Administrator's compliance review. Unauthorized changes or substitutions shall be a violation of this Chapter, and may constitute grounds for rejection of the bid or proposal or cause

termination of the executed contract for breach, the withholding of payment and/or subject the contractor to contract penalties or other sanctions.

(1) All requests for changes or substitutions of the subcontractors named in the Schedule of Participation shall be made to the Ombudsman with a copy to the JSEB Administrator in writing, and shall clearly and fully set forth the basis for the request. A contractor shall not substitute a subcontractor or perform the work designated for a subcontractor with its own forces unless and until the Chief approves such substitution in writing. A contractor shall not allow a substituted subcontractor to begin work until the Chief has approved the substitution based on the recommendation of the JSEB Administrator.

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

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

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

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

(e) Changes to the scopes of work shall be documented by the user department at the time they arise, to establish the reasons for the change and the effect on achievement of the Project Specific Goal(s).

(Ord. 2021-117-E, § 5)

Sec. 126.620. Continuing obligations of JSEBs, graduation, JSEB Prime Members and Prime Mentors.

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

(a) It is the responsibility of the JSEB to notify the EBO of any changes in its circumstances affecting its continued eligibility for the Program. Failure to do so may result in the JSEB's decertification and preclusion from future participation.

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

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

(d) JSEBs that have participated in the JSEB program for a total of 15 years from the date of the JSEB's first contract as a prime contractor of the City or as a subcontractor retained by a prime contractor of the City, whichever is earlier, and subject to the extensions for good cause provided in Section 126.613, shall graduate from the Program. However, a JSEB Prime Member that serves as a mentor to other

Program participants for at least two consecutive years immediately prior to reaching the 15-year participation limit shall be eligible for an additional term of up to nine years in the Program, designated as a "Prime Mentor." To remain eligible, a Prime Mentor must maintain Program eligibility as described in this Part and actively continue to mentor JSEB participants during the extended term. Prime Mentors are not eligible for contracts set aside including contracts from participation goals whether as prime contractor or subcontractor.

(Ord. 2021-117-E, § 5; Ord. 2024-437-E, § 5; Ord. 2025-148-E, § 4; Ord. 2025-411-E, § 2)

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

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

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

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

(2) Within 30 days of receipt of an objection, an informal hearing shall be held by the JSEB Administrator, at which the business may present additional facts and evidence in support of its eligibility. The JSEB Administrator may request the attendance of any witness and production of any documents from the objecting business reasonably necessary to evaluate the eligibility of the business. The business' failure to produce requested witness(es) or documents within a reasonable time may be grounds for denial of the objection.

(3) The JSEB Administrator shall determine the eligibility of the business on the basis of the information available at the hearing. The JSEB Administrator's written decision shall be communicated to the business within ten days of the hearing. The decision must articulate with specificity the facts upon which the decision relies and must notify the business that the business has 15 days to appeal the decision.

(4) Within 15 days of receipt of the JSEB Administrator's decision on eligibility, the business may appeal the JSEB Administrator's decision, in writing, to the Jacksonville Procurement Awards Committee. The Committee shall hold a hearing within 30 days of receipt of the written notice of appeal, and render a final decision within ten days of the hearing. The presumption that the decertified business is eligible shall remain in effect until the City renders a final decision.

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

(c) A third party may challenge the eligibility of a business certified as a JSEB. The presumption that the challenged JSEB is eligible shall remain in effect until the City renders a final decision. A third party challenge shall be made as follows:

(1) The challenge shall be made in writing to the JSEB Administrator and shall include all information relied upon by the challenging party. A challenge to the eligibility of a certified JSEB cannot be made anonymously. Such a challenge must articulate specific facts, sworn to under the penalty of perjury, that could reasonably support a finding of the ineligibility of the challenged certified JSEB.

(2) The JSEB Administrator shall notify the challenged JSEB in writing of the challenge, identify the challenging party and provide the challenged JSEB with a copy of the challenge. The notice may also require the challenged business to provide the JSEB Administrator, within a reasonable time, any

information reasonably necessary to permit the JSEB Administrator to evaluate the eligibility of the business.

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

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

(5) Within 15 days of receipt of the JSEB Administrator's decision of ineligibility, the challenged business may appeal the JSEB Administrator's decision, in writing, to the Jacksonville Procurement Awards Committee. The Committee shall hold a hearing within 30 days of receipt of the written notice of appeal and render a final decision within ten days of the hearing. The presumption that the challenged business is eligible shall remain in effect until the City renders a final decision.

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

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

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

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

(Ord. 2021-117-E, § 5; Ord. 2025-148-E, § 4)

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

Except as provided in this Part to implement the Program, the provisions of this Chapter 126, shall apply.

(Ord. 2021-117-E, § 5; Ord. 2023-20-E, § 7)

Sec. 126.623. Counting subcontracting participation of JSEBs.

(a) The entire amount of that portion of a construction subcontract that is performed by the JSEB's own forces shall be counted, including the cost of supplies and materials obtained by the JSEB for the work of the subcontract, and supplies purchased or equipment leased by the JSEB. Supplies and equipment purchased or leased by a JSEB from the prime contractor or its affiliate shall not count as JSEB participation.

(b) The entire amount of fees or commissions charged by a JSEB for providing a bona fide service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a contract shall be counted, provided the fee is reasonable and not excessive as compared with fees customarily charged for similar services.

(c) If a business ceases to be a certified JSEB during a contract, the dollar value of work performed under a contract with that business after it has ceased to be certified shall be counted in the City's internal

accounting. No contractor shall be penalized in any way as a result of the failure of a project to achieve its Project Specific Goals because of the operation of this Section.

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

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

(Ord. 2021-117-E, § 5; Ord. 2025-148-E, § 4)

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

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

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

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

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

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

(5) Submitting false documentation for payments.

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

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

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

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

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

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

(Ord. 2021-117-E, § 5; Ord. 2025-148-E, § 4)

PART 7. BUY AMERICAN PROGRAM AND LOCAL BUSINESS PARTICIPATION POLICY[7]

SUBPART A. BUY AMERICAN PROGRAM

Sec. 126.701. Statement of policy and purpose.

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

(Ord. 2023-20-E, § 3)

Sec. 126.702. Definitions.

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

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

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

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

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

[7]Editor's note(s)—Ord. 2023-20-E, §§ 2 and 3, amended the Code by repealing former Pt. 7, §§ 126.701—126.705, and adding a new Pt. 7. Former Pt. 7 pertained to design-build contracts, and derived from Ord. 2004-602-E; Ord. 2005-944-E; and Ord. 2017-288-E. Ord. 2023-20-E, § 15, provides: "The provisions of Subpart B (Local Business Participation Policy), Part 7 (Buy American Program and Local Business Participation Policy), Chapter 126 (Procurement Code), Ordinance Code, shall sunset on April 1, 2027, unless, prior to the sunset date, the City Council shall pass legislation to extend the Local Business Participation Policy. Upon the sunset and repeal of the Local Business Participation Policy, the following amended Sections of the Code shall immediately be adopted and become effective with no further action by the Council and as amended shall read as follows:", amends the title of Part 7, eliminates the "Subpart A" designation of §§ 126.701—126.710, and removes entirely Subpart B, §§ 126.711—126.715.

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.703. Exemptions.

The provisions of this Section do not apply to:

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

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

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

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

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

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.704. Preference in purchase of goods.

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

(Ord. 2023-20-E, § 3)

Sec. 126.705. Preference must be asserted.

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

(Ord. 2023-20-E, § 3)

Sec. 126.706. Comparison of qualifications.

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

(Ord. 2023-20-E, § 3)

Sec. 126.707. Waiver.

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

(Ord. 2023-20-E, § 3)

Sec. 126.708. Administrative policy for implementation.

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

(Ord. 2023-20-E, § 3)

Sec. 126.709. Reporting.

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

(Ord. 2023-20-E, § 3)

SUBPART B. LOCAL BUSINESS PARTICIPATION POLICY

Sec. 126.710. Definitions.

For purposes of this Subpart and subject to Section 126.714, "Local business" means a business that is:

(1) A registered JSEB pursuant to Part 6 of this Chapter; or

(2) Meeting the following criteria:

(i) Has all required business occupational licenses to operate in one of the following counties: Baker, Clay, Flagler, Nassau, St. Johns, Putnam, or Duval County (individually, a "Northeast Florida County"),

(ii) Is a business entity registered with the State of Florida, Division of Corporations, indicating a principal office located in a Northeast Florida County or presents other verifiable documents to substantiate business location in a Northeast Florida County that is satisfactory to the Chief,

(iii) Has maintained a permanent, physical business address located within the limits of a Northeast Florida County from which the business operates or performs business for a minimum 12 consecutive month period immediately preceding the submission of a response to solicitation under this Chapter, and

(iv) Has at least three full-time employees or one principal officer at a Northeast Florida County office location.

(Ord. 2023-20-E, § 3)

Sec. 126.711. Local business participation required.

For capital improvement procurements of $7,000,000 or more that are awarded to a non-local business, the non-local business shall be required to use Local business to perform or supply at least 40 percent of the project based on the initial award amount (the "Local Participation Requirement"). The Chief shall ensure that the Local Participation Requirement is included in each competitive solicitation, as applicable, unless the Chief determines, based on satisfactory written justification provided by the using agency overseeing the project, that the Local Participation Requirement is not feasible or economical to the City's interests. In such instances where the Local Participation Requirement is not feasible or economical, the Chief, in consultation with the using agency, may establish a lower local participation percentage requirement that is not less than 20 percent. JSEB participation, as required by the JSEB Administrator pursuant to Part 6 of this Chapter, shall count toward meeting the Local Participation Requirement established pursuant to this Section.

(Ord. 2023-20-E, § 3)

Sec. 126.712. Exemptions.

The Local Participation Requirement shall not apply to the following:

(i) Any procurement procedures required by state law that prohibit the application of a local participation policy;

(ii) Purchases or contracts which are funded, in whole or in part, by a government or other entity in which the laws, regulations or policies governing such funding prohibit application of local participation policy; and

(iii) Emergency purchases permitted under this Code.

(Ord. 2023-20-E, § 3)

Sec. 126.713. Additional rules.

The Chief may promulgate additional rules and regulations in the Procurement Operating Manual consistent with this Subpart, including, but not limited to, rules regarding the local business participation policy as applied to procurement methods authorized in this Chapter and good faith efforts by non-local businesses to comply with the requirements of this Subpart.

(Ord. 2023-20-E, § 3)

Sec. 126.714. Reciprocity.

This local participation policy shall not extend to any Northeast Florida County with an existing local preference or participation policy that does not extend to Duval County.

(Ord. 2023-20-E, § 3)

Sec. 126.715. Reporting requirement.

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

(i) Projects where the local business participation was required pursuant to this Subpart (including number of projects and project amounts);

(ii) Local businesses participating in projects pursuant to this Subpart; and

(iii) Bid protests filed regarding the local business participation policy.

(Ord. 2023-20-E, § 3)

PART 8. FEDERAL AFFIRMATIVE ACTION COMPLIANCE

Sec. 126.801. Intent.

It is the intent of the City Council that to the extent that federal affirmative action compliance is required to be implemented by the City in conjunction with the bidding and awarding of City contracts that the City shall assure such compliance. This compliance shall include but not be limited to the provisions of Presidential Executive Order 11246, and those federal laws and regulations set forth in Section 400.103, Ordinance Code.

(Ord. 2004-602-E, § 4; Ord. 2017-288-E, § 7)

Sec. 126.802. Enforcement.

It shall be the responsibility and duty of the Mayor to carry out the intent of the City Council as expressed in Section 126.801 herein.

(Ord. 2004-602-E, § 4; Ord. 2017-288-E, § 7)

PART 9. PROTESTS, SUSPENSION, AND DEBARMENT[8]

Sec. 126.901. Authority to resolve protests.

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

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

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

(1) State the reason for the action taken; and

(2) Inform the protestant of its right to administrative review as provided in this Chapter.

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.902. Contractor suspension debarment.

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

(i) Is more than 60 calendar days in default or breach of a contract with the City;

(ii) Has failed to perform or has unsatisfactorily performed the terms and conditions of one or more contracts with the City, which failure to perform or unsatisfactory performance was the result of circumstances within the contractor or supplier's control;

[8]Editor's note(s)—Ord. 2023-20-E, §§ 2 and 3, amended the Code by repealing former Pt. 9, §§ 126.901—126.911, and adding a new Pt. 9. Former Pt. 9 pertained to art in public places, and derived from Ord. 2004-602-E; Ord. 2006-289-E; Ord. 2006-1084-E; Ord. 2014-730-E; Ord. 2016-140-E; Ord. 2017-3-E; Ord. 2017-288-E; and Ord. 2019-888-E.

(iii) May be precluded from contracting with the City under this Chapter;

(iv) Has failed to abide by the federal, state and local prompt payment requirements or contractual terms and conditions regarding the same;

(v) Has failed to abide by or honor commitments made pursuant to Part 6 regarding the JSEB Program;

(vi) Has violated any federal, state, or local laws, including this Chapter;

(vii) Has engaged in conduct prohibited hereunder or that is a serious threat to the integrity of the public procurement and contracting process, as determined by the Chief;

(viii) Has violated the ethics provisions under this Chapter; or

(ix) Has been debarred by another government entity.

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

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

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

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

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

(Ord. 2023-20-E, § 3)

Sec. 126.903. Remedies prior to an award of contract.

If prior to award it is determined that a competitive solicitation or proposed award of a contract is in violation of law, the competitive solicitation or proposed award shall be:

(i) Canceled; or

(ii) Revised to comply with the law.

(Ord. 2023-20-E, § 3)