

1 Co-Introduced by Council Members Pittman, Freeman and Dennis and  
2 Co-Sponsored by Morgan, Hazouri, Carlucci, Gaffney, Becton, Boylan,  
3 DeFoor and Jackson and Substituted and Amended by the Finance  
4 Committee and Amended on the Floor of Council:  
5

6 **ORDINANCE 2021-117-E**

7 AN ORDINANCE AMENDING CHAPTER 24 (FINANCE AND  
8 ADMINISTRATION DEPARTMENT), PART 6 (PROCUREMENT  
9 DIVISION), SECTION 24.605 (EQUAL BUSINESS  
10 OPPORTUNITY OFFICE FUNCTIONS), *ORDINANCE CODE*;  
11 AMENDING CHAPTER 126 (PROCUREMENT CODE), PART 1  
12 (GENERAL REGULATIONS), SECTIONS 126.102  
13 (DEFINITIONS) AND 126.114 (BUY AMERICAN  
14 PREFERENCE IN CONTRACTS FOR GOODS), *ORDINANCE*  
15 *CODE*; AMENDING CHAPTER 126 (PROCUREMENT CODE),  
16 PART 2 (SUPPLIES, CONTRACTUAL SERVICES, AND  
17 CAPITAL IMPROVEMENTS), SECTION 126.201  
18 (GENERAL), *ORDINANCE CODE*; REPEALING CHAPTER 126  
19 (PROCUREMENT CODE), PART 6A (SMALL BUSINESS  
20 CAPITAL, BONDING, AND OUTREACH PROGRAM) AND PART  
21 6B (JACKSONVILLE SMALL EMERGING BUSINESS  
22 PROGRAM), *ORDINANCE CODE*; CREATING A NEW CHAPTER  
23 126, PART 6 (JACKSONVILLE SMALL AND EMERGING  
24 BUSINESS PROGRAM), SUBPART A (GENERAL  
25 PROVISIONS), SUBPART B (PROGRAM  
26 ADMINISTRATION), SUBPART C (PROGRAM SUPPORT  
27 SERVICES; MARKETING AND OUTREACH; DISPARITY  
28 STUDY UPDATE), SUBPART D (PROGRAM ELIGIBILITY,  
29 PROCEDURES, AND OTHER REQUIREMENTS); CREATING A  
30 NEW SECTION 111.610 (JSEB ACCESS TO CAPITAL  
31 PROGRAM TRUST FUND), PART 6 (ECONOMIC AND

1 COMMUNITY DEVELOPMENT), CHAPTER 111 (SPECIAL  
2 REVENUE AND TRUST ACCOUNTS), *ORDINANCE CODE*;  
3 PROVIDING FOR A TEMPORARY SUSPENSION OF THE JSEB  
4 ADMINISTRATOR'S AUTHORITY TO DECERTIFY A JSEB  
5 DUE TO NONCOMPLIANCE WITH THE JSEB PROGRAM  
6 ELIGIBILITY CRITERON CONTAINED IN SECTION  
7 126.613(C)(2), *ORDINANCE CODE*, PERTAINING TO  
8 PERSONAL NET WORTH LIMITATIONS; REPEALING  
9 ORDINANCE 2019-759-E (AN ORDINANCE APPROVING AND  
10 ADOPTING REVISED UNDERWRITING GUIDELINES FOR THE  
11 JSEB ACCESS TO CAPITAL PROGRAM TO CLARIFY PRE-  
12 QUALIFICATION CRITERIA AND REQUIRED  
13 DOCUMENTATION); PROVIDING FOR CODIFICATION  
14 INSTRUCTIONS; PROVIDING AN EFFECTIVE DATE.  
15

16 **WHEREAS**, the City of Jacksonville ("City") determined in 2004  
17 that growing Jacksonville small and emerging businesses ("JSEBs")  
18 was beneficial to the City and its individual residents; and

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

24 **WHEREAS**, a Special Committee on the Jacksonville Small &  
25 Emerging Business ("Special Committee") was established in August  
26 2020 to review the Program and make improvements and recommendations  
27 to the Program supported by evidence, disparity studies, and  
28 applicable federal and state law; and

29 **WHEREAS**, the Special Committee held multiple meetings and heard  
30 from various guest speakers and presenters, including JSEB vendors,

1 prime contractors, the City's Procurement Division, other interested  
2 parties, and the public; and

3       **WHEREAS**, a copy of the Special Committee's Final Report is  
4 attached hereto as **Exhibit 1**; and

5       **WHEREAS**, based on the Special Committee's review of the Program,  
6 the City desires to further improve certain aspects of the Program  
7 to better assist JSEBs in growing and graduating from the Program;  
8 now therefore

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

10       **Section 1. Amending Chapter 24 (Finance and Administration**  
11 **Department), Section 24.605 (Equal Business Opportunity Office**  
12 **Functions), Ordinance Code.** Chapter 24 (Finance and Administration  
13 Department), Part 6 (Procurement Division), Section 24.605 (Equal  
14 Business Opportunity Office Functions), *Ordinance Code*, is hereby  
15 amended to read as follows:

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

17                                   \* \* \*

18                                   **PART 6. PROCUREMENT DIVISION**

19                                   \* \* \*

20       **Sec. 24.605. - Equal Business Opportunity Office functions.**

21       The Equal Business Opportunity Office ("EBO Office") is hereby  
22 an office under the Procurement Division, and the responsibilities  
23 set forth below shall be managed by the JSEB Administrator. All  
24 employees within the EBO ~~office~~ Office shall be responsible for  
25 deployment and administration of Chapter 126, Part 6, and shall:

26                                   \* \* \*

27       (f) Provide support services to assist ~~certified vendors~~ JSEBs  
28 in their efforts to secure training, bonding and access to  
29 capital pursuant to Chapter 126, Parts ~~6A and 6B~~, Ordinance of  
30 the Code;

31       (g) Provide annual training, ~~together~~ in consultation with the

1 Chief of Procurement, to department heads and divisions chiefs,  
2 or their designees, and applicable staff of City boards and  
3 commissions pursuant to Chapter 126, Part 6B, Ordinance of the  
4 Code; and

5 \* \* \*

6 **Section 2. Amending Chapter 126 (Procurement Code), Part 1**  
7 **(General Regulations), Sections 126.102 (Definitions) and 126.114**  
8 **(Buy American Preference in Contracts for Goods), Ordinance Code.**  
9 Chapter 126 (Procurement Code), Part 1 (General Regulations),  
10 Sections 126.102 (Definitions) and 126.114 (Buy American Preference  
11 in Contracts for Goods), *Ordinance Code*, are hereby amended to read  
12 as follows:

13 **CHAPTER 126 - PROCUREMENT CODE**

14 \* \* \*

15 **PART 2. PROCUREMENT DIVISION**

16 \* \* \*

17 **Sec. 126.102. - Definitions.**

18 As used in this Chapter:

19 \* \* \*

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

27 \* \* \*

28 **Sec. 126.114. - Buy American Preference in Contracts for Goods.**

29 \* \* \*

30 (b) *Exemptions*. The provisions of this section do not apply to:

31 \* \* \*

1 8. Contracts awarded pursuant to the Jacksonville Small and  
2 Emerging Business Program, as provided in Chapter 126, Part 6B,  
3 ~~Chapter 126, Ordinance~~ of the Code, including those contracts  
4 where a low bidder is a prime JSEB contractor on a non-set aside  
5 bid.

6 \* \* \*

7 **Section 3. Amending Chapter 126 (Procurement Code), Part 2**  
8 **(Supplies, Contractual Services, and Capital Improvements), Section**  
9 **126.201 (General), Ordinance Code.** Chapter 126 (Procurement Code),  
10 Part 2 (Supplies, Contractual Services, and Capital Improvements),  
11 Sections 126.201 (General), *Ordinance Code*, is hereby amended to  
12 read as follows:

13 \* \* \*

14 (b) *Bid bond and/or security.* Except as otherwise provided  
15 herein, all bids under this Part 2 shall be submitted in sealed  
16 form to the Chief, who may require that each bid be accompanied  
17 by a bid security in the form of a certified or cashier's check  
18 or bid bond in the amount as shall be prescribed in the  
19 invitation for bid. The purpose of bid security is to discourage  
20 the withdrawal of bids, to encourage that bidders comply with  
21 the instructions and/or requirements of the invitation for bids,  
22 and that the apparent low bidder will enter into a binding  
23 contract to perform the work in accordance with the bid documents  
24 and the apparent low bidder's bid proposal. Bid securities  
25 ensure that a certain amount of money will be paid in the event  
26 that an apparent low bidder fails to abide by the instructions  
27 and/or requirements of the invitation for bids or fails to enter  
28 into a formal contract pursuant to the same. As such, unless  
29 otherwise permitted by the Chief, bid securities shall not be  
30 discharged until a contract has been executed and a performance  
31 bond accepted in lieu of the bid securities. In lieu of the

1 furnishing of surety with each individual transaction, bidders  
2 who regularly do business with the City shall be permitted to  
3 file with the Chief an annual or continuing bid bond in an  
4 amount established by the Chief. For projects with a value under  
5 \$500,000: (i) bid bonds shall not be required for ~~certified~~  
6 ~~JSEBs and MBEs (which, by definition in 6B, includes minority~~  
7 ~~and women-owned businesses)~~, as defined in Chapter 126 Part 6;  
8 and (ii) the Chief shall have the discretion to waive the  
9 requirement for bid bonds where there is a written determination  
10 that the imposition of a bid bond may detract from competition  
11 without adding a material benefit to the City.

12 \* \* \*

13 (g) *Formal contract.* The Mayor may require the successful bidder to  
14 promptly execute a formal contract approved as to its form, terms and  
15 conditions, and legal sufficiency by the Office of General Counsel  
16 and to execute and deliver to the Chief a good and sufficient payment  
17 and/or performance bonds in a form approved by the Office of General  
18 Counsel, in an amount equal to 100 percent of the contract price of a  
19 capital improvement project and in an amount established by the  
20 Chief for all other projects, subject to the discretion of the GGAC  
21 or as otherwise provided herein, and executed by a surety company  
22 authorized to do business in Florida; however, a successful bidder  
23 who is awarded a formal contract forequal to or less than the  
24 discretionary threshold payment and performance bond exemption  
25 amounts indicated set forth in F.S. § 255.05(1)(a), Florida Statutes,  
26 ~~for a county, city, political subdivision, or public authority, or~~  
27 ~~such higher amount as may be permitted by law (the "Statutory~~  
28 ~~Discretionary Bond Threshold")~~, may, at the discretion of the GGAC,  
29 upon the request of the using agency and recommendation of the Chief,  
30 be exempted from executing the otherwise required payment and  
31 performance bonds. Final determinations on the need for payment bonds

1 for projects equal to or less than the Statutory Discretionary Bond  
2 Threshold shall be made by the Chief after determining if there is  
3 an alternate form of security or payment method more readily available  
4 or appropriate. Formal contracts shall not be executed and notices  
5 to proceed shall not be issued for projects, on which successful  
6 bidders are required to provide and/or have not been exempted from  
7 providing payment and performance bonds, until such time as the  
8 requisite payment and performance bonds have been furnished by the  
9 successful bidder. The successful bidder's failure to execute the  
10 formal contract and to secure the payment and performance bonds and  
11 return the same to the City within the time period set forth in the  
12 invitation for bids may result in the successful bidder's forfeiture  
13 of the award and forfeiture of the bid security to the City. The  
14 award may then be made to the next lowest responsive, responsible  
15 bidder or re-advertised as the Chief may elect. For ~~certified~~ JSEBs,  
16 as defined in Chapter 126, Part 6, payment and performance bonds  
17 shall not be required on City projects with a value equal to or less  
18 than the Statutory Discretionary Bond Threshold or equal to or less  
19 than the payment and performance bond waiver amount permitted in  
20 Section 18.11 of the Charter. ~~Final determinations on the need for~~  
21 ~~payment bonds for projects under the Discretionary Bond Threshold~~  
22 ~~shall be made by the Chief after determining if there is an alternate~~  
23 ~~form of security or payment method more readily available or~~  
24 ~~appropriate.~~

25 \* \* \*

26 **Section 4. Repealing Chapter 126 (Procurement Code), Part**  
27 **6A (Small Business Capital, Bonding, and Outreach Program) and Part**  
28 **6B (Jacksonville Small Emerging Business Program), Ordinance Code.**  
29 Chapter 126 (Procurement Code), Part 6A (Small Business Capital,  
30 Bonding, and Outreach Program) and Part 6B (Jacksonville Small  
31 Emerging Business Program), *Ordinance Code*, are hereby repealed in

1 their entirety. Copies of the repealed Chapter 126, Parts 6A and 6B,  
2 are attached hereto as **Exhibit 2**.

3           **Section 5.           Creating a new Chapter 126 (Procurement Code),**  
4 **Part 6 (Jacksonville Small and Emerging Business Program), Subpart A**  
5 **(General Provisions), Subpart B (Program Administration), Subpart C**  
6 **(Program Support Services; Marketing and Outreach; Disparity Study**  
7 **Update), and Subpart D (Program Eligibility, Procedures, and Other**  
8 **Requirements), Ordinance Code.** Chapter 126 (Procurement Code), Part 6  
9 (Jacksonville Smalland Emerging Business Program), Subpart A  
10 (General Provisions), Subpart B (Program Administration), Subpart C  
11 (Program Support Services; Marketing and Outreach; Disparity Study  
12 Update), and Subpart D (Program Eligibility, Procedures, and Other  
13 Requirements), *Ordinance Code*, are hereby created to read as follows:

14                           **CHAPTER 126 - PROCURMENT CODE**

15   \* \* \*

16                   **PART 6. JACKSONVILLE SMALL AND EMERGING BUSINESS PROGRAM**

17                           **SUBPART A.   GENERAL PROVISIONS**

18 **Sec. 126.601 - Legislative Intent.** It is the intent of the City in  
19 enacting this law to provide a comprehensive and robust program to  
20 benefit local small and emerging businesses in the City known as the  
21 "Jacksonville Small and Emerging Business Program".

22 **Sec. 126.602 - Legislative Findings.**

23 The Council finds and declares that:

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

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



1 **Sec. 126.603 - Purpose.** The purpose of the JSEB Program is to support  
2 and assist local small and emerging businesses in obtaining direct  
3 contracting or subcontracting business opportunities with the City.

4 **Sec. 126.604 - Definitions.** The following words and phrases as used  
5 in this Part shall have the following meaning:

6 "*Chief*" shall mean the Chief of Procurement pursuant to Chapter 24,  
7 Part 6 of the Code.

8 "*Director*" shall mean the Director of Finance pursuant to Chapter 24,  
9 Part 1 of the Code.

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

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

15 "*front, broker, or pass-through*" shall mean a JSEB that is not  
16 registered as a supplier or distributor through the Florida Department  
17 of Revenue, or a JSEB subcontractor who does not self-perform 100  
18 percent of the subcontractor work pursuant to the Schedule of  
19 Participation, or a JSEB prime contractor who does not self-perform  
20 at least 40 percent of the work for the project;

21 "*JSEB*" shall mean a person or entity certified as a "Jacksonville  
22 Small and Emerging Business" pursuant to the requirements set forth  
23 in Subpart D of this Part 6.

24 "*JSEB Administrator*" shall mean the individual responsible for  
25 administering and managing the JSEB Program pursuant to Chapter 24,  
26 Part 6 of the Code.

27 "*micro-business JSEB*" shall mean a JSEB who has a personal net worth  
28 of \$300,000 or less and is at least a 51 percent majority owner of  
29 the business.

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

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

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

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

13 **Sec. 126.605. - Minimum Program Funding Requirement.** Subject to  
14 availability of funding, the Program, as provided for in this Part,  
15 shall be funded at a minimum of \$500,000, excluding staff, in the  
16 annual budget appropriation. A minimum of \$200,000 of such \$500,000  
17 minimum funding requirement shall be used to fund the training  
18 programs, community outreach and program marketing set forth in  
19 Section 126.610 herein.

20 **SUBPART B. PROGRAM ADMINISTRATION**

21 **Sec. 126.606. - JSEB Administrator.**

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

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

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

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

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

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

8 (6) Evaluating prime contractors' achievement of Project  
9 Specific Goals or Good Faith Efforts (as defined in Section  
10 126.618 herein) to meet Project Specific Goals;

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

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

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

20 (10) Posting all contracting opportunities on the Equal Business  
21 Opportunity Office website under "JSEB Program";

22 (11) Identifying all JSEBs on the Equal Business Opportunity  
23 Office website within three business days of certification;

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

28 (13) Providing interested JSEBs with timely, adequate  
29 information about the plans, specifications and requirements of  
30

1 the contract to allow them to respond to the solicitation either  
2 directly or by referral to the City department seeking the  
3 procurement;

4 (14) Maintaining a list of JSEBs and posting such list on the  
5 Equal Business Opportunity Office website;

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

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

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

14 (b) *Department Training.* Each City department, office or board shall  
15 identify to the JSEB Administrator the person with the responsibility  
16 of ensuring JSEB participation in such department, office or board.  
17 Such person shall receive diversity training and shall prepare  
18 quarterly reports to the JSEB Administrator identifying for the three  
19 month quarter period the extent of non-JSEB and JSEB participation  
20 in any procurement within its department, office or board.

21 (c) *Courtesy Application Reviews and Meeting Conferences.* The JSEB  
22 Administrator, or his designee, shall provide courtesy reviews of a  
23 small business's JSEB application to confirm whether the application  
24 has complied with the requirements of this Part. The JSEB  
25 Administrator may conduct such courtesy reviews in person or  
26 electronically with the small business upon request and appointments  
27 shall be scheduled on a first come, first serve basis as time allows.  
28 Additionally, the JSEB Administrator, or his designee, may meet  
29 with prospective JSEBs interested in the Program to provide

1 information regarding the Program's support and outreach  
2 services available to JSEBs as set forth in this Part.

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

4 (a) *Establishment; purpose.* There is established a seven-member  
5 JSEB Monitoring Committee ("Committee"), to annually review, in  
6 consultation with the JSEB Administrator: (i) the status of the  
7 Program Goals, including, but not limited to, the percentage, number,  
8 and dollar value of contracts awarded to JSEBs through direct  
9 contracting and subcontracts; (ii) the training programs, the "AC  
10 Program," and the bond enhancement program required herein; (iii)  
11 difficulties or accomplishments of the Program; (iv) a comparison of  
12 the achievements under the Program compared with the Program Goals;  
13 (v) the maximum threshold amounts for personal net worth and annual  
14 averaged gross receipts referenced in Section 126.613(c); and (vi)  
15 the limitation on the number of program participation years in Section  
16 126.613(c) to determine if such amounts and limitation on the number  
17 of years are appropriate for the Program. Based on the Committee's  
18 required Program review, the Committee may recommend to the Mayor or  
19 City Council amendments to the Program in the form of a report.

20 (b) *Composition; appointments.* The Mayor shall appoint three members  
21 of the Committee, and the City Council shall appoint four members.  
22 The Committee shall be comprised as follows:

23 (1) one non-JSEB contractor who is a professional engineer or  
24 architect appointed by the Mayor;

25 (2) one non-JSEB contractor who is a licensed general contractor  
26 appointed by the City Council;

27 (3) two JSEB contractors, one appointed by the Mayor and one  
28 appointed by the City Council;

29 (4) two private citizens, one appointed by the Mayor and one  
30 appointed by the City Council; and

1 (5) one representative from the Northeast Florida Builders  
2 Association, Inc., or similar trade association, appointed by  
3 the City Council.

4 Members shall serve for three-year staggered terms. The two non-JSEB  
5 contractor members must have a current contract with the City or have  
6 had a contract with the City in the past. The Mayor shall appoint a  
7 Chair and the Chair shall serve until such a time as another Chair  
8 shall be appointed by the Mayor. The Mayor and City Council shall  
9 strive to reflect the diversity of Duval County in its appointments;  
10 each of the seven members shall be confirmed by City Council.

11 (c) *Meetings; applicable laws.* The Committee shall meet quarterly  
12 with the JSEB Administrator, who shall then generate a quarterly  
13 report for the Mayor and City Council no later than 14 days after  
14 each quarterly meeting. The JSEB Administrator, or his designee,  
15 shall provide staff support to the Committee. The JSEB Monitoring  
16 Committee shall be governed by Chapters 286 and 112, Part 3, *Florida*  
17 *Statutes*, and Chapters 50 (Boards and Commissions) and 602  
18 (Jacksonville Ethics Code), of the Code.

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

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

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

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

3 (b) Section 126.201(b) of the Code provides that JSEBs are not  
4 required to submit bid bonds for projects under \$500,000. Section  
5 126.201(g) provides that JSEBs shall be exempt from obtaining a  
6 payment and performance bond for projects that are (i) equal to or  
7 less than the "Discretionary Bond Threshold" amount, as defined in  
8 Chapter 126, Part 2 of the Code; and (ii) equal to or less than the  
9 payment and performance bond waiver amount permitted in Section 18.11  
10 of the Charter.

11 **Sec. 126.609. - Access to capital.**

12 (a) Subject to availability of funds, the City has established the  
13 JSEB Access to Capital Program Trust Fund pursuant to Section 111.610  
14 of the Code to assist JSEBs with obtaining access to capital (the "AC  
15 Program"). The JSEB Administrator, or a third-party contractor  
16 engaged through the JSEB Administrator ("Program Manager"), shall  
17 manage the distribution of said funds, in accordance with guidelines  
18 developed and approved by the JSEB Administrator in order to ensure  
19 proper administration and monitoring and to ensure continuity for  
20 the program. Such guidelines may be developed and approved by the  
21 JSEB administrator without further Council approval. All funds  
22 deposited into the Access to Capital Special Revenue Fund shall be  
23 the subject of a permanent and continuing appropriation when used for  
24 the purpose of loans to assist JSEBs with obtaining access to capital.  
25 In the event that the JSEB Administrator, or his designee, serves as  
26 the Program Manager of the AC Program, the Mayor, or his designee,  
27 is authorized to execute on behalf of the City all loan agreements  
28 and related documents authorized pursuant to the AC Program. In the  
29 event a third-party serves as the Program Manager, such third-party  
30 Program Manager shall act as an agent of the City and is authorized

1 to execute on behalf of the City all loan agreements and related  
2 documents authorized pursuant to the AC Program.

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

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

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

13 (e) The JSEB Administrator shall provide a quarterly activity report  
14 for the preceding three months to the JSEB Monitoring Committee for  
15 its use in complying with the reporting requirements pursuant to  
16 Section 126.607 herein.

17 **Sec. 126.610. - Training programs; program marketing; community**  
18 **outreach.**

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

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

25 (2) Subcontracting documentation requirements;

26 (3) Accounting for the small business;

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



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

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

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

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

10 (9) Business development education.

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

16 (b)*Program marketing and community outreach.* The Equal Business  
17 Opportunity Office shall be responsible for developing and  
18 implementing marketing campaigns, recruitment activities, and  
19 scholarship programs to increase the number of JSEBs in the Program.  
20 Any funds appropriated for such activities shall be inclusive of  
21 scholarships. The Equal Business Opportunity Office shall also engage  
22 in community outreach by hosting small business program workshops  
23 regarding the Program and the support services available to  
24 prospective JSEBs. Additionally, the Equal Business Opportunity  
25 Office shall survey JSEBs every two years on a survey form approved  
26 by the JSEB Monitoring Committee to ascertain what education, training  
27 and mentoring programs JSEBs need most. The Equal Business Opportunity  
28 Office shall consider such survey results in determining which  
29 education, training, and mentoring programs to pursue under this  
30 Section.

1 **Sec. 126.611. - Insurance program review.** The City's Risk Manager  
2 shall prepare a report on available insurance programs for Florida  
3 small businesses and make recommendations regarding methods or  
4 programs to assist JSEBs in obtaining requisite insurance. Said report  
5 shall be prepared and submitted every six months to the JSEB  
6 Administrator. The JSEB Administrator and the City's Risk Manager  
7 shall meet quarterly regarding available insurance programs. The  
8 JSEB Administrator shall publish a copy of the report on the Equal  
9 Business Opportunity Office website.

10 **Sec. 126.612. - Disparity Study Update.** Subject to availability of  
11 funds, the Equal Business Opportunity Office shall have completed an  
12 update to the 2013 disparity study regarding the City of Jacksonville  
13 contracts on or before August 31, 2023. Upon receipt and review of  
14 the completed disparity study update, the JSEB Administrator shall  
15 provide a report to the Mayor and City Council regarding the analysis  
16 and results of the disparity study update.

17 **SUBPART D. - PROGRAM ELIGIBILITY, PROCEDURES, AND OTHER**  
18 **REQUIREMENTS**

19 **Sec. 126.613. - Jacksonville Small and Emerging Businesses defined.**

20 (a) All businesses must be certified under the provisions set forth  
21 below. Certifications will be granted only in those areas for which  
22 the business owner(s) has the ability and expertise to manage and  
23 control the firm's operations and work.

24 (b) A JSEB must provide financial statements prepared by a certified  
25 public accountant and participate in one or more training, education,  
26 or mentoring programs during each 24-month period commencing from  
27 the certification date and provide evidence of such to the JSEB  
28 Administrator.

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

1 (1) Either reside currently in Duval County for a minimum twelve  
2 consecutive month period immediately preceding the JSEB  
3 application date or have an established business with a  
4 principal place of business in Duval County for a minimum  
5 eighteen (18) month consecutive period and reside in Duval, St.  
6 Johns, Nassau, Baker, or Clay County for one year total within  
7 the five County area;

8 (2) Have a personal net worth, excluding personal residence,  
9 that is equal to or less than \$1,320,000, such personal net  
10 worth to include business value and assets (measured as book  
11 value), ownership in other businesses, and all other assets  
12 personally owned or held in trust for the individual owner's  
13 benefit; provided, however, that, notwithstanding personal net  
14 worth, certification hereunder shall require that annual gross  
15 receipts, averaged over the immediately preceding three-year  
16 period, not exceed \$12,000,000. The averaged annual gross  
17 receipts and personal net worth maximum threshold amounts shall  
18 be subject to annual analysis by the JSEB Administrator and  
19 reviewed by the JSEB Monitoring Committee pursuant to Section  
20 126.607 herein;

21 (3) Have not been in the program for a total of more than nine  
22 (9) years from the date of the JSEB's first contract as a prime  
23 contractor of the City or as a subcontractor retained by a  
24 prime contractor of the City, whichever is earlier, provided,  
25 however, that participation may be increased by two (2) one-  
26 year periods for good cause as determined by the JSEB  
27 Administrator;

28 (4) Own and control at least 51 percent of the business entity  
29 being certified;

30 (5) Own any license required by local, state, or federal law;

1 (6) Have expertise normally required by the industry for the  
2 field for which certification is sought;

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

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

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

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

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

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

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

23 (ii) In the case of a publicly owned business, at least 51  
24 percent of all classes of the stock of which is owned by one or  
25 more of such persons each of whom meets the personal net worth  
26 criteria set forth above; and

27 (iii) Be a citizen or lawfully admitted permanent resident  
28 of the United States and be compliant with the residency  
29 requirements of this Program.

1 (d) Only a firm that is managed and controlled by a JSEB person(s)  
2 may be certified under this Program. The JSEB owner(s) must actually  
3 exercise control over the firm's operations, work, management and  
4 policy. Indicia of such control are set forth below.

5 (1) A firm must not be subject to any formal or informal  
6 restrictions that limit the customary discretion of such  
7 owner(s). There can be no restrictions through corporate charter  
8 provisions, by-law provisions, contracts or any other formal or  
9 informal devices that prevent the JSEB owner(s), without the  
10 cooperation or vote of a non-qualifying person or entity from  
11 making any business decision of the firm.

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

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

28 (e) Only an independent firm may be certified as a JSEB. An  
29 independent firm is one whose viability does not depend on its  
30 relationship with another firm. Recognition of an applicant as a  
31 separate entity for tax or corporate purposes is not necessarily

1 sufficient to demonstrate that a firm is independent. In determining  
2 whether an applicant is an independent business, the JSEB  
3 Administrator will:

4 (1) Scrutinize relationships with non-JSEBs in such areas as  
5 personnel, facilities, equipment, financial and/or bonding  
6 support, and other resources.

7 (2) Consider whether present or recent family, or  
8 employer/employee relationships between the JSEB owner(s) of  
9 the applicant compromise the applicant's independence.

10 (3) Examine the applicant's relationships with non-JSEB prime  
11 contractors to determine whether a pattern of exclusive or  
12 primary dealings with a prime contractor compromises the  
13 applicant's independence.

14 (4) Consider the consistency of relationships between the  
15 applicant and non-JSEBs with normal industry practices.

16 (5) An owner shall be certified only for specific types of work  
17 for which the owner(s) has the ability and expertise to manage  
18 and control the firm's operations and work.

19 **Sec. 126.614. - JSEB and Program eligibility.**

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

23 (b) The certification status of all JSEBs shall be reviewed every  
24 twenty-four (24) months from the date of initial certification through  
25 a re-certification application. Failure of the firm to seek re-  
26 certification by filing the necessary documentation with the Equal  
27 Business Opportunity Office within 60 days from the date of receipt  
28 of written notification from the Equal Business Opportunity Office  
29 may result in de-certification.

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

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

7 (e) A JSEB may receive no more than five prime contracts set aside,  
8 including prime contracts from participation goals, per year or an  
9 aggregate total prime contracts set aside per year in the amount of  
10 \$4,000,000, which ever is greater.

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

15 **Sec. 126.615. - Jacksonville Small and Emerging Business Program**  
16 **Goals; Other Program Directives.**

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

19 (1) *JSEB Contract goals.* The overall small business goal is at  
20 least 20 percent, such that the City shall award at least 20  
21 percent of total City contracts to JSEBs; provided that such  
22 awards do not violate state or federal law and provided further  
23 that there are JSEBs to perform the work. The Chief, in  
24 consultation with the JSEB Administrator, shall award at least  
25 50 percent of the JSEB contracts through direct contracting.

26 (2) *JSEB CIP goals.* The City shall identify a goal of at least  
27 20% of its work in its CIP program during the annual budget  
28 submission which shall be accomplished with JSEBs, using direct  
29 contracting opportunities and subcontracting goals.

1 (3) *JSEB Project Specific Goals.* The Chief upon the  
2 recommendation of the JSEB Administrator shall establish Project  
3 Specific Goal(s) based on the availability of at least normal  
4 industry practice, as determined in consultation with the user  
5 department, the availability of at least two JSEBs to perform  
6 the functions of those individual contracts and the City's  
7 utilization of such to date. Project Specific Goal(s) shall not  
8 be set on emergency contracts as defined by City Code or for  
9 purchases made in conjunction with the State although JSEBs  
10 shall be considered for such single source or emergency  
11 procurements if qualified.

12 (b) *Department Program commitments; training.* The City, through  
13 each department head, shall commit in its budget to award at least  
14 20 percent of its contracts for services, including contractual  
15 services, professional services, professional design services,  
16 construction services or other services, to JSEBs, provided, however,  
17 that such awards shall comply with local, state, and federal law and  
18 that there exist JSEBs to perform the work. To assist the City in  
19 implementing the Program requirements of this Part, the Equal Business  
20 Opportunity Office, through the JSEB Administrator and in  
21 consultation with the Chief of Procurement shall provide annual  
22 training to department heads and division chiefs, or their designees,  
23 and applicable staff of City boards and commissions regarding the  
24 JSEB program and the requirements set forth in this Part.

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



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

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

26 (f) *Micro-business program.* The JSEB Administrator in consultation  
27 with the Chief shall be responsible for developing and implementing  
28 a micro-business program. The purpose of the micro-business program  
29 shall be to ensure that a micro-business JSEB (as defined in Subpart  
30 A of this Chapter) has an adequate share of direct contracting and  
31 subcontracting opportunities in the Program. Such program may include

1 participation requirements based on tiered levels of personal net  
2 worth and annual averaged gross receipts, not to exceed the maximum  
3 personal net worth and annual averaged gross receipt amounts set  
4 forth in Section 126.613 herein. The JSEB Administrator shall  
5 promulgate rules and guidelines regarding such program with further  
6 Council approval.

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

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

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

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

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

28 (1) Solicit certified subcontractors in the scopes of work of  
29 the contract. The bidder/proposer shall provide interested JSEBs  
30 with timely, adequate information about the plans,

1 specifications, and other such requirements of the contract to  
2 facilitate their quotation. The bidder/proposer must follow up  
3 initial solicitations with interested JSEBs.

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

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

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

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

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

27 (a) The JSEB Administrator shall timely review the Schedule of  
28 Participation prior to award, including the scope of work and the  
29 letters of intent from JSEBs. The JSEB Administrator may request  
30 clarification in writing of items listed in the Schedule of

1 Participation, provided such clarification shall not include the  
2 opportunity to augment listed JSEBs participation or Good Faith  
3 Efforts. The JSEB Administrator shall review all submittals and  
4 document the participation of each submittal.

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

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

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

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

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

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

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

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

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

3 (5) Subcontractor information as requested by forms developed  
4 by the Equal Business Opportunity Office.

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

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

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

20 **Sec. 126.619. - Contract performance compliance procedures.**

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

27 (b) The contractor shall provide a listing of all JSEBs and any other  
28 subcontractors to be used in the performance of the contract, and  
29 subcontractor payment information to the City with each request for  
30 payment submitted to the City. The JSEB Administrator and the user

1 department shall monitor subcontractor participation during the  
2 course of the contract and shall have reasonable access to all  
3 contract-related documentation held by the contractor.

4 (c) The contractor cannot make changes to the Schedule of  
5 Participation or substitute subcontractors named in the Schedule of  
6 Participation without the Chief's prior written approval based on  
7 the Ombudsman's recommendation and JSEB Administrator's compliance  
8 review. Unauthorized changes or substitutions shall be a violation  
9 of this chapter, and may constitute grounds for rejection of the bid  
10 or proposal or cause termination of the executed contract for breach,  
11 the withholding of payment and/or subject the contractor to contract  
12 penalties or other sanctions.

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

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

29 (3) The Chief's final decision whether to permit or deny the  
30 proposed substitution, and the basis therefore, will be

1 communicated to the parties in writing by the Chief, with a  
2 copy to the CAO.

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

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

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

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

19 A JSEB shall apply for re-certification every twenty-four (24) months  
20 from the date of initial certification through a re-certification  
21 application developed by the JSEB Administrator. Failure of the firm  
22 to seek re-certification by filing the necessary documentation with  
23 the Equal Business Opportunity Office within 60 days from the date  
24 of receipt of written notification from the Equal Business Opportunity  
25 Office may result in de-certification.

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

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

3 (c) A firm, or qualifying individuals, who have participated in the  
4 JSEB program for a total of nine (9) years from the date of the  
5 JSEB's first contract as a prime contractor of the City or as a  
6 subcontractor retained by a prime contractor of the City, whichever  
7 is earlier, and subject to the extensions for good cause provided in  
8 Section 126.613, shall graduate from the Program.

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

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

13 (b) A firm that has been denied certification or re-certification or  
14 been decertified may protest the denial or de-certification as  
15 follows:

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

19 (2) An informal hearing shall be held by the JSEB Administrator,  
20 at which the firm may present additional facts and evidence in  
21 support of its eligibility. The JSEB Administrator may request  
22 the attendance of any witness and production of any documents  
23 concerning the applicant's affairs. The applicant's failure to  
24 comply promptly with these requests may be grounds for denial  
25 of the appeal.

26 (3) The JSEB Administrator shall determine the firm's  
27 eligibility on the basis of the information provided at the  
28 hearing. The JSEB Administrator's written decision shall be  
29 communicated to the firm within ten days of the hearing.



1 (4) The applicant may appeal the JSEB Administrator's decision  
2 in writing to the City's Government Awards Committee or the  
3 Professional Services Evaluation Committee within five days of  
4 receipt of the determination. The Committee shall hold a hearing  
5 within ten days of receipt of the written notice of appeal, and  
6 render a final decision within 30 days of the hearing. The  
7 presumption that the decertified firm is eligible shall remain  
8 in effect until the City renders a final decision.

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

12 (c) A third party may challenge the eligibility of an applicant for  
13 certification or a certified firm. The presumption that the challenged  
14 firm is eligible shall remain in effect until the City renders a  
15 final decision. A third party challenge shall be made as follows:

16 (1) The challenge shall be made in writing to the JSEB  
17 Administrator and shall include all information relied upon by  
18 the challenging party.

19 (2) The JSEB Administrator shall notify the challenged firm in  
20 writing of the challenge, identify the challenging party and  
21 provide the challenged firm with a copy of the challenge. The  
22 notice may also require the challenged firm to provide the JSEB  
23 Administrator, within a reasonable time, any information  
24 requested to permit the JSEB Administrator to evaluate the  
25 eligibility of the firm.

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

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

1 between the provisions of Parts 1, 2, 3, or 4 of this chapter are to  
2 be resolved.

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

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

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

17 (c) If a firm ceases to be a certified JSEB during a contract, the  
18 dollar value of work performed under a contract with that firm after  
19 it has ceased to be certified shall be counted in the City's internal  
20 accounting. No contractor shall be penalized in any way as a result  
21 of the failure of a project to achieve its Project Specific Goals  
22 because of the operation of this Section.

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

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

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

1 (a) The following violations of this chapter are unlawful and may be  
2 prosecuted in Municipal Court as Class D offenses:

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

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

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

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

15 (5) Committing any other violations of the provisions of this  
16 chapter.

17 (6) Submitting false documentation for payments.

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

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

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

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

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

5 **Section 6. Creating a new Section 111.610 (JSEB Access to**  
6 **Capital Program Trust Fund), Part 6 (Economic and Community**  
7 **Development), Chapter 111 (Special Revenue and Trust Accounts),**  
8 **Ordinance Code.** A new Section 111.610 (JSEB Access to Capital Program  
9 Trust Fund), Part 6 (Economic and Community Development), Chapter  
10 111 (Special Revenue and Trust Accounts), *Ordinance Code*, is hereby  
11 created to read as follows:

12 **CHAPTER 111 SPECIAL REVENUE AND TRUST ACCOUNTS**

13 \* \* \*

14 **PART 6 (ECONOMIC AND COMMUNITY DEVELOPMENT)**

15 \* \* \*

16 **Sec. 111.610. - JSEB Access to Capital Program Trust Fund.**

17 There is created within the General Trust and Agency Fund a trust  
18 fund account to be known as the JSEB Access to Capital Program Trust  
19 Fund, hereinafter called the "Fund." All donations and contributions  
20 of money, including gifts and grants, and Council appropriations, if  
21 any, shall be deposited into the Fund to be used for the Access to  
22 Capital Program (the "Program") provided in Chapter 126, Subpart C  
23 of the Code. All sums placed into the Fund, which shall include all  
24 interest earned or accrued thereon, are hereby appropriated and shall  
25 carry over fiscal years to be used for the Program purposes,  
26 functions, and goals provided in Chapter 126, Subpart C of the Code.  
27 The Director of Finance and Administration, or his/her designee, is  
28 authorized and directed to make disbursements from the Fund for  
29 Program purposes, functions and goals upon written requisition of  
30 the Chief of Procurement in consultation with the JSEB Administrator,  
31 subject to the availability of funds in the Fund. Nothing in this

1 Section shall prohibit or otherwise limit any appropriations which  
2 may be made by Council to the Fund for use toward attaining the  
3 Program purposes, functions and goals described in Chapter 126,  
4 Subpart C of the Code.

5 \* \* \*

6 **Section 7. Providing for a temporary suspension of the JSEB**  
7 **Administrator's authority to decertify a JSEB due to noncompliance**  
8 **with the JSEB Program eligibility criterion contained in Section**  
9 **126.613(c)(2), Ordinance Code, pertaining to personal net worth**  
10 **limitations.** As of the effective date of this ordinance and until six  
11 (6) months from date that the JSEB Administrator provides the required  
12 disparity study report to the Mayor and City Council in accordance  
13 with Section 126.612, *Ordinance Code*, the JSEB Administrator shall  
14 not decertify a JSEB due to noncompliance with the personal net worth  
15 limitations contained in Section 126.613(c)(2), *Ordinance Code*. This  
16 section shall not prohibit the JSEB Administrator from decertifying  
17 any JSEB in accordance with the JSEB Program rules and procedures for  
18 reasons other than noncompliance with the personal net worth  
19 limitations contained in Section 126.613(c)(2), *Ordinance Code*. This  
20 section shall apply to any unresolved JSEB decertification appeals  
21 existing on the effective date of this ordinance provided that such  
22 decertification was solely due to noncompliance with the personal  
23 net worth limitations contained in Section 126.613(c)(2), *Ordinance*  
24 *Code*.

25 **Section 8. Repealing Ordinance 2019-759-E.** Ordinance  
26 2019-759-E (An Ordinance Approving and Adopting Revised Underwriting  
27 Guidelines for the JSEB Access to Capital Program to Clarify Pre-  
28 Qualification Criteria and Required Documentation) is hereby repealed  
29 as of the effective date of this ordinance. A copy of Ordinance  
30 2019-759-E is attached here to as **Exhibit 3**. The JSEB Access to  
31 Capital Program shall be governed by the program guidelines developed

