

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

REVISED OWNER DIRECT PURCHASE LANGUAGE

- 1) Insert new Section 126.306(h) as follows:

(h) *Owner Direct Purchases of Supplies.* The City shall use applicable state sales tax exemptions in accordance with Chapter 212, F.S., 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 costs of supplies for the project. The City shall purchase the supplies identified on the schedule of values at 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.

- 2) Add cross-reference to Section 126.306(d) (Procurement Operating Manual) to enable the Chief to promulgate rules regarding the new Section 126.306(h).

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

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

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

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

SUBPART B. LOCAL BUSINESS PREFERENCE POLICY

Sec. 126.709. – Local business preference.

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

- (b) *Definitions.* For purposes of this subpart and subject to the subsection (e) below, "Local business" means a business that (1) has all required business occupational licenses to operate in Baker, Clay, Flagler, Nassau, St. Johns, Putnam, or Duval County (individually, a "Northeast Florida County"), as applicable, and 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, (2) 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 at least one year prior to the submission of a response to solicitation under this Chapter and, (3) has at least five full-time employees or one principal officer at a Northeast Florida County location.
- (c) *Local business preference policy.* The Chief shall develop and implement a local business preference policy to be included in the Procurement Operating Manual. The policy shall be accordance with best procurement practices in Florida. Such policy shall include the following provisions in addition to such other provisions as deemed necessary and appropriate by the Chief:
- (1) *Competitive sealed bids.* For procurements secured through competitive sealed bids or quotes, local preference will be given to the lowest responsive and responsible local business when its bid or quote is within a percentage amount, as determined by the Chief for each bid or quote, not more than ten percent of the lowest responsive and responsible bid or quote submitted by a non-local business by allowing the local business three business days to submit a revised bid or quote that is less than the non-local business bid or quote. If the lowest responsive and responsible local business submits a revised bid or quote that is less than the total price submitted by the lowest responsive and responsible non-local business, then the award shall be made to the local business. If the lowest responsive and responsible local business fails to submit a revised bid or quote that is less than the lowest responsive and responsible non-local business, the award shall be made to

the lowest responsive and responsible bidder, regardless of local business status.

- (2) *Evaluated solicitations.* For procurements secured through evaluated solicitations such as competitive sealed proposals, the solicitation shall include a weighted criterion for a local business, with points to be determined by the Chief. The allocation of local business points shall be clearly defined in each solicitation.
- (3) *Exemptions.* Preference for local business shall not apply to the following:
 - (i) Contracts for professional services subject to the Consultants' Competitive Negotiation Act (F.S. § 287.055);
 - (ii) Purchases or contracts which are funded, in whole or in part, by a government or other entity in which the laws, regulations or policies governing such funding prohibit application of local preference;
 - (iii) Set asides and participation goals set by the JSEB Administrator for JSEBs pursuant to Part 6 of this Chapter;
 - (iv) Purchases under emergency or noncompetitive procurement exemptions permitted under this Code; and
 - (v) Contracts for services that are subject to specific procurement procedures required under state law.
- (d) *Additional rules.* The Chief may promulgate additional rules and regulations in the Procurement Operating Manual consistent with this Subpart regarding the local business preference as applied to procurement methods authorized under this Chapter. Such additional rules may include without limitation reciprocity provisions based on the local business preference policies authorized for non-local businesses in other Florida counties and local business preference provisions regarding subcontractors performing work on City contracts.
- (e) *Reciprocity.* This local preference shall not extend to any Northeast Florida County with an existing local preference policy that does not extend to Duval County.

- (f) *Reporting.* The Chief shall provide an annual report to the Mayor and the City Council no later than December 31 of each fiscal year for the previous fiscal year regarding the local business preferences given pursuant to this subpart. The first such report shall be due no later than December 31, 2025. Such annual report shall at a minimum include information and data regarding the number of:
 - (i) Local business preferences given pursuant to this subpart;
 - (ii) Non-local businesses submitting replies, responses, or proposals to solicitations issued under this Chapter; and
 - (iii) Bid protests filed regarding local business preferences given pursuant to this subpart.

- (g) *Sunset.* The provisions of this subpart shall sunset, be repealed, and be of no further effect on December 31, 2026.

II. Amend Section 126.306 (d) of the Code regarding the Procurement Operating Manual to authorize the Chief to promulgate rules regarding the local business policy.

CM GAY AMENDMENT #3
(NCSPHS Committee – Substitute 2023-20)

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

Sec. 126.70___. – Local business participation goal.

Local Business Participation Goal. There shall be a forty (40%) percent local business participation requirement in the solicitation for capital improvement projects \$7,000,000 or more, unless the Chief determines, based on satisfactory written justification provided by the using agency overseeing the project, that the participation goal is not feasible, economical, or beneficial to the City's interests.

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