

*Code*

ORDINANCE NO. 2008- 89

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, AMENDING AND RESTATING CHAPTER 26.5 CITY OF TAMPA CODE OF ORDINANCES REQUIRING EQUAL EMPLOYMENT OPPORTUNITY, PROHIBITING DISCRIMINATION IN PUBLIC CONTRACTING AND PROCUREMENT, ESTABLISHING PROGRAMS FOR SMALL LOCAL BUSINESS ENTERPRISES (SLBEs), INCLUDING REPORTING REQUIREMENTS AND OTHER RACE- AND GENDER- NEUTRAL MEANS TO ELIMINATE DISCRIMINATION CREATING A STANDBY WOMEN AND MINORITY BUSINESS ENTERPRISE PROGRAM AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, it is the continuing policy of the City of Tampa to prohibit discrimination on the basis of race, ethnicity or gender against those participating in City contracting and procurement, and to eliminate the current effects of past discrimination in its contracting for construction services, construction-related services, professional and non-professional services, and the procurement of goods; and.

**WHEREAS**, in order to achieve a level playing field for all firms seeking to obtain prime contracts and subcontracts on City-funded contracts, to report and monitor the utilization of prime firms and subcontractors, and to implement small business development programs and services to assist small businesses in obtaining City contracts and procurements; and

**WHEREAS**, in order to remedy the effects of past discrimination and to prohibit any ongoing discrimination, the City of Tampa hereby prohibits discrimination in public contracting and procurement by those participating therein; and

**WHEREAS**, the City of Tampa City Council finds these policies to be justified and supported by the following legislative findings:

- (1) Racial, ethnic, and gender discrimination is contrary to the principles of liberty and equality embodied in the Constitution of the United States and the state of Florida;
- (2) Although the City of Tampa does not itself discriminate in the award of public contracts or procurement it has a compelling governmental interest in insuring that the tax dollars it spends for public contracting and procurement are not utilized to passively support such discrimination in the industries and markets from which such providers come;

- (3) In 1990, the City of Tampa commissioned its first disparity study in an effort to assess and document the impact of identifiable instances of past discrimination, if any, on minority and women business enterprises, and to determine the availability of minority and women business enterprises operating in the City of Tampa's relevant market capable of taking advantage of public procurement opportunities ("First Disparity Study");
- (4) The First Disparity Study and related anecdotal evidence was found to have established the existence of a pattern of discrimination against women- and minority-owned business enterprises (WMBEs) in City contracting and procurement. Based on this evidence, the City enacted Chapter 26.5 of the City Code ("WMBE Ordinance") to remedy the discrimination, provide a sunset date thereto and require a follow-up study to evaluate the success of the Chapter 26.5 remedies.
- (5) On October 24, 1996, the City had a second disparity study conducted ("Second Disparity Study"), which determined that some of the purposes of the WMBE Ordinance clearly had been achieved but the data were insufficient to make dispositive findings of discrimination as was necessary for the continuation of the existing remedies in a new WMBE Ordinance;
- (6) As a result of the inconclusiveness of the Second Disparity Study and the age of the data on which it was based, the City of Tampa in 2004 commissioned a third disparity study ("Third Disparity Study");
- (7) The Third Disparity Study, undertaken by Mason Tillman Associates, Ltd. ("MTA"), confirmed that the City's efforts had increased the opportunities for minority- and women-owned businesses to compete for City subcontracting opportunities to provide construction and construction-related services sought by the City government, and the Third Disparity Study found no disparities for such City construction subcontracts in the City's own contracting activities;
- (8) The Third Disparity Study, however, found new disparities between the number of available WMBEs in the market and their utilization as prime contractors in selected areas of City contracting and procurement;
- (9) The Third Disparity Study did not examine whether there were disparities between the number of available WMBEs in the market and their utilization as subcontractors in City contracting and procurement, in industries other than construction;
- (10) The Third Disparity Study did not examine whether there were disparities between the number of available WMBEs in the market and

their utilization as prime contractors and subcontractors on contracts not subject to affirmative action requirements, including in the private sector, as evidence of passive participation by the City in a discriminatory marketplace;

- (11) The Third Disparity Study did not examine whether there were disparities between the rates at which WMBEs form businesses and their earnings from those businesses compared to similar non-WMBEs, as evidence of passive participation by the City in a discriminatory marketplace;
- (12) The Third Disparity Study did not examine whether there were disparities between the access of WMBEs to commercial credit compared to similar non-WMBEs, as evidence of passive participation by the City in a discriminatory marketplace;
- (13) A Citizen's Task Force, representing a cross-section of contractors and service providers, was formed to review the Third Disparity Study findings and recommendations in order to assist the City in developing a comprehensive and lawful program to seek to narrow or eliminate identified disparities and to develop a system for gathering additional evidence of whether discriminatory barriers continue to exist to full and fair participation in the City's contracting and procurement activities and monitoring firms' utilization to evaluate whether the City has strong evidence of its need to utilize race- and gender-conscious remedies to ensure its compelling interest in not acting as a passive participant in a discriminatory marketplace;
- (14) Based upon this evidence, findings, and recommendations contained in the Third Disparity Study, and the recommendations made by the Citizen's Task Force, the City of Tampa City Council finds and declares that the City of Tampa will implement race- and gender-neutral remedies to address the Third Disparity Study's finding of discrimination against prime contractors and possible discrimination against subcontractors;
- (15) Recent judicial decisions have provided additional guidance on the types and quality of evidence that governments should collect and review to determine whether there is a compelling interest in remedying identified discrimination in prime contracting and subcontracting opportunities;
- (16) The Discrimination in the subcontracting portion of City contracting and procurement found by the First Disparity Study was remediated by the City's previous ordinance requirements, which were race and gender conscious, but which will no longer be in effect because the Third

Disparity Study did not find any existing evidence of such Discrimination;

- (17) In order to determine whether that success will continue without a race and gender conscious program, it is necessary for the City to engage in additional evidence gathering activities, including examination of its utilization of minority- and women-owned firms and economy-wide disparities in contracting opportunities, to determine whether there is a strong basis in evidence showing that such Discrimination has returned requiring the implementing of new narrowly tailored race- and gender-conscious remedies to eliminate any such Discrimination; and

**WHEREAS**, the City Council of the City of Tampa has determined that this Ordinance promotes enhanced competition for City contracts and procurements and protects the general health, safety and welfare of the residents of the City of Tampa; and

**WHEREAS**, the City Council has conducted duly noticed public hearings as required by law, at which hearings all parties in interest and citizens were afforded notice and the opportunity to be heard.

**NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF TAMPA, FLORIDA:**

**Section 1.** That the recitals set forth above are hereby incorporated as if fully set forth herein.

**Section 2.** That Chapter 26.5 of the City of Tampa Code of Ordinances is hereby replaced and restated in its entirety as follows:

**CITY OF TAMPA  
CODE OF ORDINANCES  
Chapter 26.5  
EQUAL BUSINESS OPPORTUNITY PROGRAM**

**PART I. IN GENERAL**

- Sec. 26.5-1. Intent and Purpose.
- Sec. 26.5-2. Definitions.
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**PART II. SMALL LOCAL BUSINESS ENTERPRISE PROGRAM**

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- Sec. 26.5-8. Purpose and Declaration of Policy.
- Sec. 26.5-9. Applicability.
- Sec. 26.5-10. Certification.
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- Sec. 26.5-14. Outreach; Notification.
- Sec. 26.5-15. Small Local Business Enterprise Committee.
- Sec. 26.5-16. Sheltered Markets: Eligible Contracts for Construction Services.
- Sec. 26.5-17. Sheltered Markets: Eligible Contracts for Construction Related Professional Services.
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- Sec. 26.5-21. General Bidding and Procurement (Non-sheltered markets).
- Sec. 26.5-22. Subcontracting Goals.
- Sec. 26.5-23. SLBE Goal Setting Committee.
- Sec. 26.5-24. Additional Measures to Assist Small Local Business Enterprises
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#### **ARTICLE IV. Requirements of Bidders and Contractors**

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Sec. 26.5-188. Purpose; Declaration of Policy.

Sec. 26.5-189. Applicability.

Sec. 26.5-190. Certification.

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Sec. 26.5-192 – 26.5-194. Reserved

#### **ARTICLE II. OBJECTIVE AND GOALS**

Sec. 26.5-195. Objectives and Goals.

Sec. 26.5-196. Setting Project Goals.

Sec. 26.5-197. Bid Preferences for Eligible Contracts.

Sec. 26.5-198 – 26.5-200. Reserved.

#### **ARTICLE III. REQUIREMENTS OF BIDDERS AND CONTRACTORS**

Sec. 26.5-201. General Information Requirements.

Sec. 26.5-202. Prohibition on Brokering Services.

Sec. 26.5-203. Goal Achievement.

Sec. 26.5-204. Good Faith Efforts.  
Sec. 26.5-205. Post-award Contract Compliance.  
Sec. 26.5-206. Exceptions and Waivers.  
Sec. 26.5-207. Reports to Council.  
Sec. 26.5-208. Equal Business Opportunity Advisory Committee.  
Sec. 26.5-209 – 26.5-235. Reserved.

## PART I. IN GENERAL

### Sec. 26.5-1. Intent and Purpose.

- (a) It is the intent and purpose of this chapter to encourage equal opportunity in City contracting and procurement and to eliminate discrimination and the effects of past discrimination therein. It shall also be a violation hereof for Ancillary Providers to discriminate in the provision of ancillary services related to City contracting and procurement.
- (b) It is also the intent and purpose of this Chapter to encourage the use of Small Local Business Enterprises (see 25-5.7 et seq), which have the benefit to the City of assisting the local economy with job formation while increasing remedying discrimination against minority- and women-owned business enterprises in City contracting and procurement in a race and gender neutral manner.
- (c) It is also the intent and purpose of this Chapter to develop evidence relevant to whether race- and gender- -conscious programs are necessary to remediate the effects of past or current discrimination, as required by the applicable law.

### Sec. 26.5-2. Definitions.

As used throughout this Chapter 26.5, certain abbreviations, terms, phrases, words and their derivatives shall have the following meanings:

**Ancillary Providers** means those persons and businesses providing services, materials or supplies to persons or businesses competing for City contracts and procurements including but not limited to financing, performance or bid bonds, materials or supplies or other items, products or services used in performing public contracts or meeting public procurement requirements.

**Bid** means and includes a quotation, proposal, solicitation or offer by a bidder or contractor to perform or provide labor, materials, supplies or services to the City for a price.

**Bidder** means any business that submits a quotation, bid, proposal, statement of qualifications or offer to provide labor, materials, supplies or services to the City.

**Certified** means a business that has met the eligibility criteria and been approved as a SLBE by the City of Tampa pursuant to city ordinance.

**Commercially Useful Function** means contractual responsibility for the execution of a distinct element of the work of a contract by a business enterprise and the carrying out of its contractual responsibilities by actually



performing, managing, and supervising the work involved. The determination of whether a business is performing a commercially useful function shall include an evaluation of the amount of work subcontracted; normal industry practices, the skills, qualifications, or expertise of the business to perform the work; whether the business owners perform, manage, or supervise the work involved; and other relevant factors. Acting as a broker is not considered a commercially useful function.

**Compliance Plan** is a report detailing a business' achievement of a goal, or its good faith efforts to meet such goal. The report may be required to be filled out on forms developed by the Manager.

**Construction** is defined as the construction, reconstruction, alteration, repair, and/or maintenance of public improvements or the prosecution or completion of a public work of the City of Tampa. Construction management and design-build services are considered as construction services.

**Construction-related services** are defined as those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping.

**Contract** means and includes any agreement or bid award, and all requirements of the City associated therewith, regardless of what it may be called, between the City and a person to provide or procure labor, materials, supplies or services to, for or on behalf of the City.

**Contractor** means a person other than a materialman or laborer who enters into a contract with the City of Tampa to construct, reconstruct, alter, repair and/or maintain a public improvement or a public work.

**Discrimination** means the denial of any of the rights of any person to the equal protection of the laws occurring within the jurisdiction of the City of Tampa or otherwise in City of Tampa contracting and procurement. It is specifically the intent hereof that such discrimination when used as the basis of race and gender based remedies must have a substantial basis in evidence and be identified with the particularity required by the Fourteenth Amendment and the United States Supreme Court cases interpreting it.

**Diversity Management Initiative (DMI)** is a citywide process to collect, track, and report comprehensive information on vendors, contractors and subcontractors engaged in business with the City of Tampa. Its primary function is to manage data for statistical analysis and reporting.

**Domicile** requires that the majority owner(s) of a business concern be a lawful permanent resident of the State of Florida, is lawfully licensed within the relevant jurisdiction, and have an office located within the relevant jurisdiction.

**Eligible Contract** means any contract or procurement subject to the provisions and requirements hereof and shall mean any and all contracts or

procurements entered into by the City, the issuance of which is not otherwise governed by City of Tampa Charter Section 8.04. Contracts that by City of Tampa Charter are not subject to a bid process are not Eligible Contracts.

**Equal Business Opportunity Advisory Committee (EBOAC)** is a citizen task force of 16 members (9 Mayoral and 7 City Council appointees), representing a cross section of contractors, service providers, and stakeholder organizations. The purpose of the EBOAC is to serve as a citizen advisory committee to promote the participation and use of SLBEs in City contracting and procurement.

**Goods** are defined as all supplies, printing, materials, equipment, machinery, appliances, and other commodities.

**Manager** refers to the Manager of the City of Tampa Small Business Development Program or his or her designee.

**Minority Business Enterprise (MBE)** means a business which is fifty-one (51) percent owned by an individual or individuals who is/are a male member(s) of one of the following groups: African American, Asian, Hispanic or Native American. An **MBE** also means a business which is fifty-one (51) percent owned by an individual or individuals who is/are female member(s) of one of the following groups: African American, Asian, Hispanic or Native American. Such individuals must also control and operate the business, and be domiciled within the State of Florida.

**Non-professional services** are defined as services not related to a specific professional discipline, such as lawn maintenance or painting.

**Professional services** are defined as services relating to a specific profession, such as an attorney, accountant, medical doctor, veterinarian or consultant.

**Small Local Business Enterprise (SLBE)** means that:

- (a) the owner(s) is a resident of the State of Florida;
- (b) the business is domiciled in the Tampa Market Area;
- (c) the business is independently owned and operated;
- (d) the business' annual gross receipts, averaged over the past three years was Two Million Dollars (\$2,000,000.00) or less. The Manager shall include in his annual report any recommended adjustment to this threshold; and
- (e) business is certified as a SLBE by the City of Tampa or another recognized jurisdiction, and is located in the Tampa Area Market.

**Sheltered Market** means a City contract or procurement that is reserved for SLBEs eligible to participate in and respond to the specific procurement.

**Subcontractor** shall mean a sole proprietorship, partnership, corporation, limited liability company or combination thereof having a direct contract with a prime contractor for any portion of the advertised work that is awarded by the City/owner's representative.

**Supplier** shall mean a business enterprise that either directly contracts with a prime contractor/consultant or directly contracts with a subcontractor under such prime contractor/consultant to provide materials, supplies or equipment in connection with a contract awarded by the City/owner's representative. A supplier may be a regular dealer, distributor or manufacturer.

**Tampa Market Area** means the City of Tampa and other contiguous or nearby counties serving as the location for contractors and vendors that predominate in procurements and contracts awarded by the City of Tampa as determined by a statistical analysis.

**Vendor** means anyone selling furniture, fixtures, equipment, materials, supplies or other goods, services or products to the City of Tampa.

**Women business enterprise (WBE)** means a business which is at least fifty-one (51) percent owned by a Caucasian woman or women who also control and operate the business and be domiciled within the State of Florida..

**Women and Minority Business Enterprise (WMBE)** means a WBE or MBE certified as a WMBE by the City pursuant to the requirements set forth herein.

**Sec. 26.5-3. Administrative Authority, Powers and Duties.**

- (a) The provisions of the programs herein shall be administered and enforced by the Manager.
- (b) The Manager's powers and duties include the following:
  - (1) Establish written rules and procedures consistent with this ordinance to implement the programs provided herein;
  - (2) Provide information and assistance to SLBEs to increase their ability to compete effectively for the award of City solicitations for procurements and subcontracts on City procurements and monitor that progress;
  - (3) Keep SLBEs apprised of opportunities for technical assistance and training;
  - (4) Develop procedures and forms for contractors to facilitate monitoring and reporting of the solicitation and utilization of all subcontractors in City procurement and contracting;

- (5) Compile reports and information in order to identify: (a) eligible firms in the Tampa Market Area; (b) the bidding by same on City procurements and contracts and associated subcontracts; and (c) the SLBE AND WMBE utilization on City contracts and procurements and associated subcontracts awarded to the various categories of Bidders for the identified types of contracts and procurements. These reports shall detail the total dollars and total contracts and subcontracts awarded and paid, and shall be provided to City Council and the EBOAC on a semi-annual basis. The first report and disparity analysis with corresponding recommendations shall be provided to City Council no later than 12 months after the enactment of this ordinance.
  - (6) Serve as administrative liaison to the Equal Business Opportunity Advisory Committee (EBOAC).
  - (7) Recommend annual goals for SLBE and WMBE, prime and subcontractor, utilization and report such recommendations to City Council for approval.
- (c) All department heads/directors shall recommend to the Manager all goods and services procurements for SLBE Markets for any Eligible Contract.

**Sec. 26.5-4 – 26.5-6 Reserved.**

## **PART II. SMALL LOCAL BUSINESS ENTERPRISE PROGRAM**

### **ARTICLE I. IN GENERAL**

#### **Sec. 26.5-7. Title.**

This part shall be known and may be cited as the “City of Tampa Small Local Business Enterprise (SLBE) Ordinance.” The program hereby created shall be known as the City of Tampa Small Local Business Enterprise Program.

#### **Sec. 26.5-8. Purpose and Declaration of Policy**

The City of Tampa Small Local Business Enterprise Program is established to encourage equal opportunity, diversity, and equity in the City’s contracting and procurement activities. In a race- and gender-neutral manner, the Program will promote fair and equal opportunities for all SLBEs. It is specifically intended that the encouragement of SLBEs will allow for the development and growth of such enterprises to increase competition for City construction and procurement opportunities. The City shall continue to monitor its contracting and procurement

processes to determine whether subsequent City procurement and contracting or other evidence suggests that the City is a passive participant in a discriminatory marketplace, in which event the City shall adopt remedies narrowly tailored to that evidence. These remedies may include the use of narrowly tailored race- and gender-conscious measures such as outreach to minority- and women-owned business enterprises and subcontracting goals for the participation of such firms as set forth in Part III hereof, but which shall not be applicable unless there is a strong basis in evidence for finding Discrimination in City contracting and procurement as described in Part III below.

**Sec. 26.5-9. Applicability**

The provisions of the Program shall apply to all Eligible Contracts for the procurement of construction services, construction-related services, goods, non-professional services and professional services by the City awarded by bid, request for proposal (RFP), request for qualifications (RFQ) or job order contracting services (JOCS).

**Sec. 26.5-10. Certification.**

The Manager shall be responsible for reviewing and certifying businesses as Small Business Local Enterprises pursuant to an application and review process established by the Manager implementing the following requirements and guidelines:

- (a) Any SLBE, operating as such for at least one year prior to application, wishing to qualify to participate in City contracting and procurement activities as a SLBE must be certified by the Manager. All certifications shall be effective for a period of three years from the date the City provides notification of certification. If, during the certification period, an SLBE experiences changes in ownership, employment, control or location, it shall be the SLBE's responsibility to report said changes to the Manager. Failure to report said changes may result in revocation of certification, or denial of re-certification for a period not to exceed three years.
- (b) A business entity qualified as a Small Local Business Enterprise by Hillsborough County or other jurisdiction, may be recognized as a SLBE hereunder, if the Manager reviews the program for certification in such jurisdiction and confirms it complies with the essential requirements for certification contained herein.
- (c) If the Manager denies or revokes certification as a SLBE because the business is not eligible, or the business fails to maintain the eligibility criteria upon which it was certified by the Manager as a SLBE, the business may reapply to the Manager no sooner than one year after receipt of the notice of denial or revocation.

- (d) Any applicant for SLBE certification which makes any willful misstatement, deceptive or fraudulent statement or misrepresentation to the Manager may, in addition to any other penalties, have its certification revoked, or be denied certification or recertification for a period not to exceed three years.
- (e) A SLBE is expected to perform all contract requirements as directed by the City. If a SLBE fails to so perform as required or violates the requirements of Section 26.5-16(i) or (j) below, the Manager shall place the offending party on probationary status if the failure to perform is not significant in terms of indicating an inability or unwillingness to perform, or disqualify such SLBE for eligibility for sheltered markets or revoke the SLBE's certification if the failure to perform is a significant indication of such SLBEs ability or willingness to perform the requirements. In the event of disqualification or revocation of status, such penalty shall expire on the earlier of one year from commencement of such disqualification or revocation or until the SLBE can demonstrate the capacity to completely and competently perform such contracts. Any probation shall last for one year with a subsequent failure to perform resulting in disqualification or revocation. Any disqualification or revocation prevents the entity from participating in the benefit of any sheltered markets or selective procurement process that otherwise would be applicable.
- (f) All applicants for SLBE certification shall be required to attend a SLBE orientation. The purpose of this orientation is to familiarize applicants with the policies and procedures for doing business with the City. An applicant that previously has conducted business with the City of Tampa or previously submitted bids, proposals or quotes may be exempted by the Manager from attending the orientation, if the Manager is satisfied that it already possesses the information or knowledge that would be obtained from such orientation.

**Sec. 26.5-11 – 26.5-13. Reserved.**

## **ARTICLE II - SMALL LOCAL BUSINESS ENTERPRISE OUTREACH AND SHELTERED MARKETS**

### **Sec. 26.5-14. Outreach; Notification.**

For all procurements subject to a SLBE sheltered market, the user or soliciting department shall consult with the Manager and send written or electronic notification promptly to all SLBEs that perform the type of services or provide the type of goods to be solicited. The user or soliciting department shall send a copy of the notice to the Manager. The notification shall advise the SLBEs:

- (a) Of the specific services or goods the City is soliciting;

- (b) That their interest is being solicited; and
- (c) How to obtain requests for proposals, invitations to bid, or information or specifications for the solicitation.

**Sec. 26.5-15. Small Local Business Enterprise Committee.**

- (a) An SLBE Committee is hereby established to do the following:
  - (1) Identify and designate projects appropriate for a SLBE Sheltered Market based upon the availability of SLBEs to perform such projects provided by the various user departments;
  - (2) Review periodic reports that are prepared by the Manager utilizing information provided by the user or soliciting departments of the City;
  - (3) In conjunction with the user or soliciting department, identify and designate larger procurements that lend themselves to downsizing into smaller procurements;
  - (4) Identify and designate procurements for waiver of payment and/or performance bonds to the extent permitted by applicable law; and
  - (5) Determine the applicability of bid discounts in non-sheltered markets as the same may be permitted elsewhere herein.
- (b) The Committee shall meet as often as is necessary to satisfy such responsibilities. The meetings place, time and date shall be arranged by the Chairperson of the Committee.
- (c) The SLBE Committee shall be composed of seven (7) members:
  - 1) Mayor, who shall serve as the Chairperson;
  - 2) Manager;
  - 3) Purchasing Director;
  - 4) City Attorney;
  - 5) Public Works Administrator;
  - 6) Contract Administration Director; and
  - 7) Administrator for Economic Development.

In the event one or more of the above officials is unable to perform his or her duties in connection with any meeting(s) of the SLBE Committee, he or she shall name a designee to represent him or her.

**Sec. 26.5-16. Sheltered Markets: Eligible Contracts for Construction Services.**

The following requirements shall apply to all Eligible Contracts for Construction Services in the City of Tampa:

- (a) The SLBE Committee may shelter Eligible Contracts for construction projects and construction management services projects for bid only by SLBEs for an estimated contract cost equal to the maximum amount permitted by Florida Statutes Section 255.20(1) for exclusion from the competitive bidding process. Such procurements shall be contracts that SLBEs are capable of performing in an economically feasible manner, i.e., at the customary and usual market rate. Such an amount may be increased by the SLBE Committee to an amount not to exceed the increase to such threshold permitted by Florida Statutes 255.20(2) which allows an increase tied to the percentage change in the Consumer Price Index from January 1, 1994 to January 1 of the year in which the project is to begin. In order to assure necessary competition, at least three SLBEs must be available and capable of performing the scope of the respective construction project to be solicited or the construction project cannot be sheltered.
- (b) By November 15th of each year, all user or soliciting departments that undertake construction projects shall submit a report to the SLBE Committee containing a complete list of all proposed eligible construction projects with an estimated cost of \$200,000.00 or less, or such increased amount pursuant to Section 26.5-16 (a), from which the SLBE Committee will select as appropriate for sheltering. The report shall also indicate which proposed construction projects are recommended by the user or soliciting department for shelter, together with the justifications for such recommendations and, when applicable, which proposed construction projects should be subject to bid, payment and/or performance bond requirements or a waiver from such requirements, together with the justifications for such recommendations. The final decision shall be made by the SLBE Committee. In any event, no waiver of the performance bond requirements shall be in excess of that permitted by Florida Statutes Section 255.05.
- (c) In order to shelter an Eligible Contract for construction, the Manager shall determine and identify for the SLBE Committee at least three SLBEs who are available and capable of performing the type of work within the scope of each proposed construction project contained in such reports.
- (d) At the time of bid solicitation, following: (i) a review of such reports; (ii) the Manager's determinations regarding the availability of at least three SLBEs; and (iii) the nature, scope and complexity of each construction project contained in such reports; the SLBE Committee shall determine



which construction projects among those so recommended will be sheltered for SLBEs, and, in accordance with the procedures provided for herein, whether the construction projects so sheltered may obtain a waiver of payment and/or performance bond requirements.

- (e) If, in the judgment of the user or soliciting department, bids received in response to an invitation for bids for a construction project sheltered pursuant hereto are deemed to be non-responsive, excessive or unreasonable, all bids shall be rejected and a new invitation for bids open to all bidders, *i.e.*, not sheltered, will be issued by the City. Nothing contained within this section shall be deemed to preclude the use of the other SLBE provisions contained herein (e.g. bid discount as authorized in Code § 26.5-22).
- (f) When necessary, all user or soliciting departments that undertake construction projects shall submit a report to the SLBE Committee and the Manager containing any proposed modifications to previously approved sheltered construction projects, together with the justifications for such modifications. The SLBE Committee shall determine whether any proposed modifications to previously approved sheltered construction projects are appropriate, and make any necessary modifications to such previously approved action.
- (g) All user or soliciting departments that undertake such eligible construction projects shall submit a report to the SLBE Committee containing all new or additional proposed construction projects with an estimated cost of \$200,000.00 or less, or such increased amount pursuant to Section 26.5-16(a), not included in the report due by November 15<sup>th</sup> of each year. The procedures set forth in this Section 26.5-16 shall be applied to such projects to determine which projects from such report, if any, will be sheltered.
- (h) Pursuant to Section 255.05(1)(a), Florida Statutes, payment and performance bonds for City construction projects of \$200,000.00 or less currently may be waived. The following procedures shall be followed to determine whether to recommend that payment and performance bonds be waived for a sheltered construction project to the maximum extent allowed by applicable law. The SLBE Committee shall review the nature, scope and complexity of each such construction project to determine the appropriateness of waiving payment and performance bond requirements. The factors to be considered include, but are not limited to:
  - (1) Complexity of the construction project;
  - (2) Contractor's experience with the type of construction project under review;

- (3) Exceptional risk factors; and
  - (4) The recommendations of the user or soliciting departments.
- (i) The following procedures shall apply to such eligible construction projects for which payment and performance bond requirements have been waived:
- (1) Ten percent (10%) of each approved request for payment by the SLBE shall be retained by the City until fifty percent (50%) completion of the construction project, after which the retained amount may be reduced to five percent (5%) of each approved request for payment until the construction project has been completed;
  - (2) The SLBE shall provide an affidavit, in a form acceptable to the Manager and the user or soliciting department, showing in detail all amounts then due and unpaid by the SLBE, or its subcontractors, to all laborers, workmen and mechanics employed by the SLBE under the Contract, for daily or weekly wages, or to other persons for materials, equipment or supplies delivered to the site of the work, during the period covered by the payment under consideration;
  - (3) Prior to final payment, the SLBE shall submit to the City an affidavit that all of its bills for labor, services, materials and subcontractors have been paid and that there are no suits pending in connection with the work provided under the Contract, and waivers from all material suppliers and subcontractors as defined in Section 713.01, Florida Statutes, attesting that they have no claims against the SLBE resulting from completion of the work provided under the contract for the construction project; and
  - (4) Notwithstanding the waiver of payment and performance bond requirements, a bid bond may be waived for a sheltered construction project. The procedures outlined within subsection (h) above shall be followed to determine whether to recommend such waiver.
- (j) SLBEs selected for sheltered market projects shall perform at least fifty-one percent (51%) of the contract, including the cost of materials, goods, and supplies, with their own manpower, resources and equipment, unless a prior written waiver is provided by the Manager and the user or soliciting department. The user or soliciting department shall be responsible for monitoring such performance and shall notify the Manager of a possible violation. A finding of a violation of this

requirement without a showing of good cause may result in a loss of SLBE Certification pursuant to Section 26.5-10 above.

**Sec. 26.5-17. Sheltered Markets: Eligible Contracts for Construction-Related Professional Services.**

The following requirements shall apply to all Eligible Contracts for Construction –Related Professional Services in the City of Tampa:

- (a) Unless precluded by applicable law, the SLBE Committee may shelter procurements of Eligible Contracts for construction-related professional services, including, but not limited to, architectural and engineering services, to which Florida Statutes Section 287.055 do not apply as set out in Florida Statutes Section 287.055(4)(c). Such procurements shall be contracts that SLBEs are capable of performing in an economically feasible manner, i.e., at the customary and usual for market rate. In order to assure necessary competition, at least three SLBEs must be available and capable of providing the services to be solicited or the procurement cannot be sheltered.
- (b) The Manager shall determine and identify for the SLBE Committee at least three SLBEs who are available and capable of providing the services for each proposed procurement contained in such reports.
- (c) Following a review of such reports and the Manager’s determinations regarding the availability and capability of the three SLBEs, the SLBE Committee shall determine which procurements will be sheltered. The SLBE Committee shall also determine whether any proposed modifications to previously approved sheltering of procurements for such construction-related professional services are appropriate, and make any necessary modifications to such previously approved action.
- (d) If, in the judgment of the user or soliciting department, proposals received in response to a request for proposals for sheltered market procurement pursuant hereto are deemed to be non-responsive, excessive or unreasonable, all proposals shall be rejected and a new, non-sheltered request for proposals open to all proposers will be issued by the City. Nothing contained within this section shall be deemed to preclude the use of the other SLBE provisions contained herein (e.g., bid discount as authorized in Code § 26.5-22).

**Sec. 26.5-18. Sheltered Markets: Eligible Contracts for Goods**

The following requirements shall apply to all Eligible Contracts for Goods in the City of Tampa:

- (a) The SLBE Committee may shelter procurements of goods relating to Eligible Contracts with an estimated cost of \$25,000.00 to \$200,000.00 for SLBEs. Such procurements shall be contracts that SLBEs are capable of performing in an economically feasible manner, i.e., at the customary and usual market rate. In order to assure necessary competition, at least three SLBEs must be available and capable of providing the goods to be solicited or the procurement cannot be sheltered.
- (b) The Manager shall determine and identify for the SLBE Committee at least three SLBEs who are available and capable of providing the respective goods for each proposed procurement contained in such reports.
- (c) Following a review of such reports and the Manager's determinations regarding the availability and capability of the three SLBEs, the SLBE Committee shall determine which procurements will be sheltered for SLBEs, and whether the sheltered procurements should be subject to payment and/or performance bond requirements. The SLBE Committee shall also determine whether any proposed modifications to previously approved sheltering of procurements of goods and non-professional services are appropriate, and make any necessary modifications to such previously approved action.

If, in the judgment of the user or soliciting department, bids received in response to an invitation for bids for a sheltered procurement pursuant hereto are deemed to be non-responsive, excessive or unreasonable, based upon the nature or purchase price of similar procurements in the market area, all bids shall be rejected and a new invitation for bids open to all bidders, i.e., not sheltered, will be issued by the City.

- (d) The Purchasing Director and Manager, with notice to the SLBE Committee, may shelter certain Eligible Contracts for procurements of goods with an estimated cost of \$2,000.00 to \$24,999.00: or
  - (1) Upon receipt of requests for procurements of goods with an estimated cost of \$2,000.00 to \$24,999.00 from user departments, the Director of Purchasing shall consult with and cause copies thereof to be provided to the Manager for review and outreach;
  - (2) For projected solicitations, the Director of Purchasing shall submit a report to the SLBE Committee and the Manager of all potential procurements within commodity codes containing at least three SLBEs. Upon concurrence by the Director of Purchasing and the Manager, all such procurements shall be sheltered, whether conducted by a user department or the Purchasing Department, for SLBEs. For each procurement

awarded to a SLBE, the user department shall submit proper documentation to the Purchasing Department in order for a requisition to be released as a purchase order to the SLBE that has received the procurement award; and

- (3) If, in the judgment of the Director of Purchasing, bids received in response to an invitation for bids for a sheltered procurement pursuant hereto are deemed to be non-responsive, excessive or unreasonable, based upon the nature or purchase price of similar procurements in the market area, all bids shall be rejected and a new invitation for bids open to all bidders, i.e. not sheltered, will be issued by the City. In the event all such bids are rejected pursuant hereto, the Director of Purchasing shall cause the Manager to be notified of such rejection.

The SLBE Committee shall have oversight responsibility for procurement under this Section 26.5-18(d) and may at anytime require that all such requests for procurement be approved in advance by the SLBE Committee in order to be eligible for sheltering hereunder.

**Sec. 26.5-19. Sheltered Markets: Eligible Contracts for Non-professional Services.**

The following requirements shall apply to all Eligible Contracts for Non-professional Services in the City of Tampa:

- (a) The SLBE Committee may shelter procurements for non-professional services relating to Eligible Contracts with an estimated cost of \$25,000.00 to \$200,000.00 for SLBEs. Such procurements shall be economically feasible contracts that SLBEs are capable of performing. In order to assure necessary competition, at least three SLBEs must be available and capable of providing the non-professional services to be solicited or the procurement cannot be sheltered.
- (b) The Manager shall determine and identify for the SLBE Committee at least three SLBEs who are available and capable of providing the respective non-professional services for each proposed procurement contained in such reports.
- (c) Following a review of such reports and the Manager's determinations regarding the availability and capability of the three SLBEs, the SLBE Committee shall determine which procurements will be sheltered for SLBEs, and whether the sheltered procurements should be subject to payment and/or performance bond requirements. The SLBE Committee shall also determine whether any proposed modifications to previously approved sheltering of procurements of non-professional

services are appropriate, and make any necessary modifications to such previously approved action.

If, in the judgment of the SLBE Committee, or the user or soliciting department, bids received in response to an invitation for bids for a sheltered procurement pursuant hereto are deemed to be non-responsive, excessive or unreasonable, based upon the nature or purchase price of similar procurements in the market area, all bids shall be rejected and a new invitation for bids open to all bidders i.e. not sheltered, will be issued by the City.

- (d) The Purchasing Director and Manager with notice to the SLBE Committee may shelter certain Eligible Contracts for procurements of non-professional services with an estimated cost of \$2,000.00 to \$24,999.00; or
- (1) Upon receipt of requests for procurements of non-professional services with an estimated cost of \$2,000.00 to \$24,999.00 from user departments, the Director of Purchasing shall cause copies thereof to be provided to the Manager for review and outreach;
  - (2) For projected solicitations, the Director of Purchasing shall submit a report to the SLBE Committee and the Manager of all potential procurements within commodity codes containing three or more SLBEs. Upon concurrence by the Director of Purchasing and the Manager, all such procurements shall be sheltered whether conducted by a user department or the Purchasing Department, for SLBEs. For each procurement awarded to a SLBE, the user department shall submit proper documentation to the Purchasing Department in order for a requisition to be released as a purchase order to the SLBE that has received the procurement award; and
  - (3) If, in the judgment of the Director of Purchasing, bids received in response to an invitation for bids for a sheltered procurement pursuant hereto are deemed to be non-responsive, excessive or unreasonable, based upon the nature or purchase price of similar procurements in the market area, all bids shall be rejected and a new invitation for bids open to all bidders, i.e. not sheltered, will be issued by the City. In the event all such bids are rejected pursuant hereto, the Director of Purchasing shall cause the Manager to be notified of such rejection.

**Sec. 26.5-20. Sheltered Markets: Eligible Contracts for Non-Construction related Professional Services.**

The following requirements shall apply to all Eligible Contracts for Non-Construction related Professional Services in the City of Tampa:

- (a) Unless precluded by applicable law, the SLBE Committee may shelter procurements of professional services, relating to Eligible Contracts, including, but not limited to, consulting services, with an estimated fee or cost of \$200,000.00 or less for SLBEs. Such an amount may be increased by the SLBE Committee to an amount not to exceed \$500,000.00, if the SLBE Committee determines that there are SLBEs available to perform the scope(s) of work of the contract. Such procurements shall be contracts that SLBEs are capable of performing in an economically feasible manner, i.e., at the customary and usual for market rate. In order to assure necessary competition, at least three SLBEs must be available and capable of providing the services to be solicited or the procurement cannot be sheltered.
- (b) The Manager shall determine and identify for the SLBE Committee at least three SLBEs who are available and capable of providing the services for each proposed procurement contained in such reports.
- (c) Following a review of such reports and the Manager's determinations regarding the availability and capability of the three SLBEs, the SLBE Committee shall determine which procurements will be sheltered. The SLBE Committee shall also determine whether any proposed modifications to previously approved sheltered market procurements of professional services are appropriate, and make any necessary modifications to such previously approved action.
- (d) If, in the judgment of the user or soliciting department, proposals received in response to a request for proposals for a sheltered market procurement pursuant hereto are deemed to be non-responsive, excessive or unreasonable, all proposals shall be rejected and a new, non-sheltered request for proposals open to all proposers will be issued by the City. Nothing contained within this section shall be deemed to preclude the use of the other SLBE provisions contained herein (e.g., bid discount as authorized in Code § 26.5-22).

**ARTICLE III. SMALL LOCAL BUSINESS ENTERPRISE  
PARTICIPATION IN GENERAL BIDDING AND PROCUREMENT**

**Sec. 26.5-21. General Bidding and Procurement (Non-sheltered markets)**

The following shall apply to all Eligible Contracts:

- (a) For bid evaluation and quote evaluation purposes only, in a non-sheltered market, the City when procuring services or goods may include in invitations to bid objectively measurable discounts for bids and quotes submitted by SLBEs when the applicability of same is determined by the SLBE Committee.

- (b) When such discounts are established as applicable by the SLBE Committee, the procuring department shall apply up to a five percent discount to bids submitted by SLBEs. The bid discount shall be used for evaluation and quote purposes only. In no event, shall any such discount exceed \$10,000.00.
- (c) The City shall grant a rating preference of up to five additional bonus points to SLBEs when evaluating and rating bids subject to Request for Proposal or Request for Qualifications.
- (d) The City shall consider the reduction or waiver of insurance requirements to the maximum extent possible to ensure the limitation of liability to the City and completion of the service being procured in a professional and/or workmanlike manner. The procuring department, together with the Purchasing Department or as applicable, Contract Administration Department, and the City's Risk Management Department, shall establish the appropriate level of insurance required prior to issuance of the solicitation.

#### **Sec. 26.5-22. Subcontracting Goals**

An annual subcontracting goal for the utilization of SLBEs, for contracts not subject to sheltering under this Chapter, shall be recommended by the Manager in the annual report. The annual subcontracting goal shall be approved by City Council. On contracts not subject to sheltering, the SLBE Goal Setting Committee may set a SLBE subcontracting goal for participation for specific, individual contracts. The contract goal shall be based upon the availability of SLBEs to perform the anticipated subcontractable scope of the contracts. A Bidder or Contractor must make good faith efforts to meet the SLBE subcontracting goal. Good faith efforts means actions undertaken by a Bidder or Contractor to achieve a SLBE contract specific goal that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

The Bidder or Contractor shall submit a Compliance Plan detailing its achievement of the SLBE goal or its good faith efforts to meet the goals. The Compliance Plan shall be due at the time set out in the solicitation documents. Where the Bidder or Contractor cannot achieve the goal, its Compliance Plan shall document its good faith efforts to achieve the goal. The Manager will determine whether the Bidder or Contractor has made such good faith efforts prior to the award of the project.

Good faith efforts include, but need not be limited to:

- (1) Soliciting through reasonable and available means the interest of SLBEs that have the capability to perform the work of the contract. The Bidder or Contractor must solicit this interest within sufficient time to



allow the SLBEs to respond. The Bidder or Contractor must take appropriate steps to follow up initial solicitations with interested SLBEs.

- (2) Providing interested SLBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.
- (3) Negotiating in good faith with interested SLBEs that have submitted bids. Documentation of negotiation must include the names, addresses, and telephone numbers of SLBEs that were solicited; the date of each such solicitation; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached with SLBEs to perform the work. That there may be some additional costs involved in soliciting and using SLBEs is not a sufficient reason for a contractor's failure to meet the goals, as long as such costs are reasonable.
- (4) Not rejecting SLBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The SLBEs standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for rejecting or not soliciting bids to meet the goals.
- (5) Making a portion of the work available to SLBE subcontractors and suppliers and to select those portions of the work or material consistent with the available SLBE subcontractors and suppliers, so as to facilitate meeting the goal.
- (6) Making good faith efforts, despite the ability or desire of a Bidder or Contractor to perform the work of a contract with its own organization. A Bidder or Contractor who desires to self-perform the work of a contract must demonstrate good faith efforts unless the goal has been met.
- (7) Selecting portions of the work to be performed by SLBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate SLBE participation, even when the Bidder or Contractor might otherwise prefer to perform these work items with its own forces.
- (8) Making efforts to assist interested SLBEs in obtaining bonding, lines of credit, or insurance as required by the city or contractor.
- (9) Making efforts to assist interested SLBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, including participation in a city-sponsored mentor-protégé program; and
- (10) Effectively using the services of the City and other organizations that provide assistance in the recruitment and placement of SLBEs.

Bidders or Contractors are not required to accept higher quotes in order to meet the goal. In determining whether a Bidder or Contractor has made good faith efforts, the performance of other Bidders or Contractors in meeting the contract goal may be considered.

Any appeal of the Manager's finding shall be to the SLBE Committee. Any appeal from the SLBE Committee shall be by writ of certiorari filed with the Circuit Court in and for Hillsborough County within 30 calendar days of the SLBE Committee rendering its final decision. The SLBE Committee's decision shall be deemed rendered on the day its written decision is postmarked to the Bidder or Contractor.

**Sec. 26.5-23. SLBE Goal Setting Committee**

The Goal Setting Committees shall be comprised of the Director of Contract Administration, Manager, Director of the procuring or user department, Director of Purchasing and the City attorney or their designees ("Goal Setting Committees")

**Sec. 26.5-24 Additional Measures to Assist Small Local Business Enterprises**

In addition to the above measures, the City shall undertake the following:

- (a) Arranging solicitation times for the presentations of bids, quantities, specifications, and delivery schedules to facilitate the participation of interested contractors and subcontractors.
- (b) Segmenting contracts where feasible to facilitate the participation SLBEs.
- (c) Providing assistance to SLBEs in overcoming barriers such as difficulty in obtaining bonding and financing.
- (d) Providing timely information programs on contracting procedures, bid preparation, and specific contracting opportunities.
- (e) Holding pre-bid conferences, where appropriate, to explain the projects and to encourage contractors to use SLBEs as subcontractors.
- (f) Adopting prompt payment procedures, including requirements by contract that prime contractors pay subcontractors within specified days of receipt of payment from the city and, participating in payment resolution issues.
- (g) Reviewing bonding, insurance and retainage requirements on all Eligible Contracts to eliminate unnecessary barriers to and reduce the burdens of contracting with the City.
- (h) Encouraging prime bidders to include start-up and mobilization costs for SLBEs in submitted bids and in schedules of values submitted by awarded contractors.
- (i) Providing information concerning small business loan programs and other programs providing access to capital for SLBEs.

**Sec. 26.5-25 – 26.5-85. Reserved.**

## ARTICLE IV. REQUIREMENTS OF BIDDERS AND CONTRACTORS

### Sec. 26.5-86. General Requirements. Provision of Information of Subcontractor Use.

- (a) At the time of Bid submittal, all Bidders must submit as part of their bid documentation of the following:
  - (1) schedule of all subcontractors solicited, including the dollar amounts and description of services or supplies;
  - (2) schedule of all anticipated subcontractors, suppliers or joint venturers, including the dollar amounts and description of services or supplies of such participation.
- (b) After Bid award, the winning Bidder shall provide a complete summary of the payments to subcontractors and suppliers, on a schedule and on forms determined by the City.
- (c) At the completion of the contract, but prior to final payment by the City, the Bidder shall provide updated and complete summary of the payments to subcontractors and suppliers, on a schedule and on forms determined by the City.
- (d) A Bidder's failure to submit any information required by this chapter may render the Bid non-responsive or in breach of an awarded contract.
- (e) Notwithstanding the requirement for the documentation indicated within this section, Bidders shall not be required to provide information regarding the solicitation or utilization of *de minimus* suppliers. *De minimus* suppliers are suppliers providing services or goods for less than \$5,000.00.

**Sec. 26.5-87 – 26.5-180. Reserved.**

## ARTICLE V. NON-COMPLIANCE

### Sec. 26.5-181. Non-compliance by Bidders, Contractors or Vendors.

- (a) A determination by the Manager that the Bidder, Contractor or Vendor has failed to comply with any other of the provisions of this Chapter, it shall be subject to any or all of the following penalties:
  - (1) Declaration that the Bid is non-responsive and the Bidder is ineligible to receive the contract;
  - (2) If the Bidder or Contractor/Vendor is a SLBE, denial or revocation of the City certification as a SLBE for a period not to exceed one year;
  - (3) To the extent not prohibited by applicable law, withholding from the Contractor in violation 10 percent of all future payments under the involved project until it is determined that the Contractor is in compliance;
  - (4) Termination by the City of the contract.
- (b) The City may require such reports, information and documentation from bidders, contractors or SLBEs as are reasonably necessary to determine compliance with the requirements of this chapter.
- (c) An appeal by a Bidder, Contractor/Vendor, SLBE or applicant for certification (“aggrieved party”) under this chapter or for relief from the misapplication of the provisions of this chapter will stay the Manager’s actions.

**Sec. 26.5-182. Reserved.**

**ARTICLE VI. APPEALS**

**Sec. 26.5-183. Notification of Noncompliance; Denial or Revocation of Certification.**

Upon a determination of noncompliance with the provisions of this chapter, any City procedures established pursuant hereto, or denial or revocation of certification as a SLBE by the Manager, the Manager shall notify the affected party in writing by certified mail, return receipt requested, setting forth the reasons for the determination of noncompliance or denial or revocation of certification.

**Sec. 26.5-184. Filing Time Limit; Appointment of Hearing Officers.**

- (a) Any aggrieved party, who has been denied SLBE certification or has had its certification revoked or against whom a determination of noncompliance with the provisions of this Ordinance, or City procedures established pursuant thereto, has been found by the

Manager, may appeal the determination of discrimination, non-compliance, denial or revocation of certification by filing a notice of appeal with the SLBE Committee (exclusive of the Manager) within 15 days of receipt of the notice of the determination of noncompliance, denial or revocation of certification.

- (b) Hearing officers or other appropriate body shall be appointed by the Mayor and approved by the City Council for a term not to exceed two years. Unless a hearing officer is a hearing officer under F.S. Ch. 120 or pursuant to any other ordinance of the City of Tampa that allows for compensation of hearing officers, hearing officers shall not be entitled to compensation; however, all hearing officers shall receive reimbursement for parking in City garages and for mileage for any hearing-related business. Such reimbursement shall be consistent with City policy.
- (c) If the hearing officer process is instituted, the Chief of Staff or Supervisor of the Manager, if it is not the Chief of Staff, shall assign a hearing officer or a panel of hearing officers to hear a particular case. No hearing officer shall hear a matter if he or she has participated personally and substantially in the matter on appeal.

**Sec. 26.5-185. Notice of Hearing Date and Hearing.**

The duties of the hearing officer shall be as follows:

- (1) Set a hearing date not more than 7 business days after receipt of the notice of appeal. Notice of the hearing shall be served upon all parties by certified mail, return receipt requested. Such notice shall set forth with particularity the actions appealed from by the aggrieved party and shall include the hearing date, time and place.
- (2) At the hearing, all parties shall be provided a fair and impartial hearing and shall be allowed to produce any and all evidence in either party's possession concerning the determination of noncompliance with the provisions of this chapter, any City procedures established pursuant hereto, or the denial or revocation of certification as a SLBE.
- (3) Strict rules of evidence shall not apply to these proceedings. The parties and their counsel, if any, may submit witnesses and evidence as appropriate to the issue in review. All examinations and cross-examinations shall be conducted by the SLBE Committee or the hearing officer, if instituted. The SLBE Committee (or the hearing officer) may further direct production of documents as necessary. Any decision shall be based on substantial competent

evidence.

**Sec. 26.5-186. Decision and Notice of Decision.**

- (a) The SLBE Committee (or the hearing officer) or other officer or body serving in his stead shall, within 15 days of the hearing, make a written decision on the appeal, which decision shall affirm, alter or reverse the determination of non-compliance, denial or revocation of certification by the Manager. The opinion shall decide whether the determination of noncompliance or denial of certification being appealed was in accordance with this Chapter, relevant laws and the terms and conditions of the solicitation before the contract is awarded or penalties are imposed. If the SLBE Committee (or the hearing officer) finds for the aggrieved party, as appropriate, the business shall be certified as a SLBE and added to the list of SLBEs maintained by the City, or the business shall be found in compliance with the provisions of this chapter and, among other things, permitted to have its bid considered by the City. If the SLBE Committee (or the hearing officer) affirms the administrative decision of the Manager, the Manager shall make recommendations and findings of the final disposition to the Mayor.
- (b) The SLBE Committee (or the hearing officer) shall issue written notice of the decision on the appeal to all parties within fourteen (14) business days of the hearing. The notice of the decision shall be sent to all parties by certified mail, return receipt requested, and shall set forth the reasons for the decision.

**PART III. WOMEN AND MINORITY BUSINESS ENTERPRISE PROGRAM**

**ARTICLE I. IN GENERAL**

**Sec. 26.5-187. Title.**

This Part III shall be known and may be cited as the "City of Tampa Women and Minority Business Enterprises (WMBE) Ordinance." The program shall be known as the City of Tampa Women and Minority Business Enterprise Program ("WMBE Program.")

**Sec. 26.5-188. Purpose; Declaration of Policy.**

The WMBE Program is intended to eliminate Discrimination against WMBEs with respect to Eligible Contracts. The SLBE Program described above is race and gender neutral. If there is a strong basis in evidence sufficient to meet the requirements of applicable law, establishing that there is Discrimination in the

subcontracting portion of City contracting and procurement notwithstanding the SLBE Program, then the City shall implement a narrowly tailored WMBE Program to address the specific Discrimination both with respect to the type of contract or procurement in which the Discrimination has been demonstrated and the race, gender or ethnicity of those subject to the Discrimination.

Upon a showing of such Discrimination, founded upon a strong basis in evidence, the City has a compelling interest in implementing race and gender conscious initiatives to eliminate that specific Discrimination relating to City contracting and procurement.

**Sec. 26.5-189. Applicability.**

The Certification Program provisions pursuant to Sec. 26.5-190, shall apply immediately upon this ordinance becoming effective. The requirement for the provision of reports to City Council and the establishment of an Equal Business Opportunity Committee, pursuant to Secs. 26.5-207 and 26.5-208 respectively, also shall apply immediately upon this ordinance becoming effective. However, the balance of the WMBE Program shall only be operative if Discrimination in City contracting and procurement is shown to exist pursuant to a substantial basis in evidence. In such event, implementation of the WMBE Program shall be narrowly tailored to the specific area of contracting or procurement and the race, gender and ethnicity of those subject to the Discrimination.

The determination that Discrimination in City procurement or contracting exists shall be made by the SLBE Committee based on the data gathered and analyzed by the Manager and any necessary outside consultant and shall be reported to the Mayor for review and approval for a finding of Discrimination. The finding must have a strong basis in evidence and meet all the other requirements of applicable law as necessary to implement narrowly tailored race or gender based remedies. It also must specifically identify the type of contract or procurement subject to Discrimination and the nature of the Discrimination in terms of the race, gender or ethnicity of those subject to such Discrimination.

Upon such findings, the balance of the WMBE Program shall become effective, including the WMBE participation goals, which shall become applicable as provided in this Part III for those identified areas of procurement and contracting shown to evidence such Discrimination in favor of those specifically shown to have been discriminated against.

The recommendation of the narrowly tailored remedies for the specific Discrimination found shall be made by the Mayor to the City Council within 45 days of the semi-annual report wherein the Discrimination was identified. That recommendation shall specify the area of contracting and procurement found to have a strong basis in evidence of Discrimination as well as the group or groups who are subjected to such Discrimination. The Council shall hold a public hearing or hearings,

within 30 days of the Mayor's recommendation, as shall be necessary for it to confirm the substantial basis in evidence of such findings and to insure that the remedies recommended are sufficiently narrowly tailored. Thereafter, the Manager shall implement the Program within 60 days of City Council's confirmation of the evidence and approval of the goals.

**Sec. 26.5-190. Certification.**

- (a) Any woman, Black, Hispanic, Asian or Native American business enterprise, operating as such for at least one (1) year prior to application and subject to other qualifications and requirements, wishing to qualify to participate in projects as a WMBE under this chapter must be certified as WMBE by the Manager. All certifications shall be effective for a period of two (2) years from the date of notification of certification. If, during the certification period, the WMBE experiences changes in ownership, employment, control or location, it shall be the business' responsibility to report said changes to the Manager. Failure to report said changes may result in revocation of certification, or denial of certification or recertification for a period not to exceed two (2) years.
- (b) If the Manager denies or revokes certification as a WMBE because the business is not a woman, Black, Hispanic, Asian or Native American business enterprise, the aggrieved party may reapply to the Manager no sooner than one (1) full year after receipt of the notice of denial or revocation.
- (c) Any applicant for WMBE certification which makes any willful misstatement, deceptive or fraudulent statement or representation in the WMBE certification documents may, in addition to any other penalties, have its certification revoked, or be denied certification or recertification for a period not to exceed three (3) years.

**Sec. 26.5-191. Outreach.**

Upon an appropriate finding of Discrimination on the basis of race, gender or ethnicity for identified areas of contracting and procurement, the following outreach efforts shall be conducted in favor of the groups discriminated against in order to achieve the purposes and policies of this Part III with respect to the specific area and type of procurement subject to the Discrimination:

- (a) Eligible Contracts for Construction or Construction Related Projects. For all Eligible Contracts for Construction or Construction Related Projects that have been found to evidence Discrimination as provided herein the user or soliciting department will send electronic notification in



accordance with approved methods (currently Quote Wire and Demand Star) to all City certified WMBEs who are members of the group subject to such Discrimination and that perform the type of work to be contracted in sufficient time to allow said WMBEs to participate effectively. The notice shall solicit said WMBE's interest in working on the project and shall advise such WMBEs:

- (1) of the specific work the City intends to contract;
- (2) that their interest in the project is being solicited; and
- (3) how to obtain request for proposals or invitations to bid or information or specifications on the proposed contract.

(b) Eligible Contracts for Goods and Non-professional Services. For all Eligible Contracts pertaining to the procurement of goods and non-professional services that have been found to evidence Discrimination as provided herein the Director of the Purchasing Department, or the soliciting department, will notify the Manager and notify all City certified WMBEs who are members of the group subject to such Discrimination and are available to provide all such goods or services. The notification shall advise such WMBEs:

- (1) of the specific work the City intends to contract;
- (2) that their interest in the project is being solicited; and
- (3) how to obtain request for proposals or invitations to bid or information or specifications on the proposed contract.

(c) Eligible Contracts for Professional Services. For Eligible Contracts for the procurement of professional services that have been found to evidence Discrimination as provided herein the soliciting department, will make good faith efforts to promptly identify and notify all City certified WMBEs who are members of the group subject to Discrimination and are available to provide all such goods or services. The notification shall advise WMBEs:

- (1) of the specific work the City intends to contract;
- (2) that their interest in the project is being solicited; and
- (3) how to obtain request for proposals or invitations to bid or information or specifications on the proposed contract.

(d) The Manager shall provide semi-annual reports to City Council with respect to the Outreach efforts described above and the annual goals,

project goals and bid preference contracts. The Equal Business Opportunity Advisory Committee (EBOAC) shall be delivered copies of any and all reports prepared for delivery to the City Council as provided herein. The Manager and the SLBE Committee (with a quorum of members) shall meet with the EBOAC at least annually, in order to update its members on the progress of the programs and remedies that meet the requirements of this Ordinance, and receive any comment there from.

**Sec. 26.5-192 – 26.5-194. Reserved.**

**ARTICLE II. OBJECTIVE AND GOALS**

**Sec. 26.5-195. Objectives and Goals.**

Objective. The objective of Part III of this Ordinance is to eliminate Discrimination in order to ensure equal business opportunity and retain diverse workforce opportunities in City contracting and procurement. Upon an appropriate finding of Discrimination against specified groups for identified areas of contracting and procurement as provided for herein, the Manager shall make recommendations to City Council to approve annual goals for the utilization of such specified groups in order to eliminate such Discrimination. Goals shall be set for the specific areas and type of procurement subject to Discrimination. Such goals will determine the baseline for assessing the success of the programs used to eliminate such Discrimination. The primary method or measurement to assess the success of these efforts will be the Diversity Management Initiative (“DMI”).

Annual WMBE Goals for City Contracting and Procurement. Annual goals shall be set in each area or type of procurement subject to Discrimination for appropriate utilization rates of the certified WMBE providers who were subject to Discrimination for the various categories of the City contracting and procurement. Such annual goals are estimates only and shall be based upon the findings contained within the annual program performance reports and the fiscal year budget. The project goals are the standards by which compliance will be measured. The Manager shall identify the availability of certified WMBE contractors and subcontractors and suppliers (“Available WMBEs”) with respect to City procurement of construction, construction-related services, goods, non-professional services and/or professional services shown to have evidenced Discrimination and Project goals shall be based on the availability of certified WMBEs (“Available WMBEs”) to perform the anticipated subcontractable scopes of the contract. The Manager shall advise all bidders and responders of such information in a readily accessible form.

**Sec. 26.5-196. Setting Project Goals.**

(a) Project Goals. Upon the finding of Discrimination on the basis of race, gender or ethnicity with respect to City contracting or procurement and the adoption of annual goals, specific goals shall be set on a project by project basis in an effort to eliminate such Discrimination. Goals shall be set for Eligible Contracts in each area of contracting or type of procurement found to have been subject to Discrimination. The goals may be set for each race, gender or ethnic group so discriminated against on the basis of their availability.

(b) The Goal Setting Committees shall be comprised of the Director of Contract Administration, Manager, Director of the procuring or user department, Director of Purchasing and the City attorney or their designees (“Goal Setting Committees”).

(c) Construction Project Goals. The respective Goal Setting Committee shall determine appropriate rates of anticipated WMBE participation based on the proportionate availability of the group discriminated against for each type of bid construction project found to have been subject to Discrimination.

(d) Construction-related Projects. To the extent permitted by applicable law, the respective Goal Setting Committee shall determine appropriate rates of WMBE participation based on the proportionate availability of the group discriminated against for each type of construction-related area found to have been subject to Discrimination.

(e) Goods. The respective Goal Setting Committee shall determine appropriate rates of WMBE participation based on the proportionate availability of the group discriminated against for the procurement of goods found to have been subject to Discrimination.

(f) Non-professional Services Projects. The respective Goal Setting Committee shall determine appropriate rates of WMBE participation for each type of non-professional services project found to have been subject to Discrimination.

(g) Professional Services Projects. To the extent allowed by applicable law, the respective Goal Setting Committee shall establish appropriate rates of WMBE participation based upon the proportionate availability of the group discriminated against for the type of Professional Service Projects found to have been subject to Discrimination.

**Sec. 26.5-197. Bid Preferences for Eligible Contracts.**

(a) Each type of Eligible Contracts for Construction, Construction-related Services, Goods, and Professional and Non-professional Services found to have been subject to Discrimination may grant bid preferences of five (5) percent or twenty thousand dollars (\$20,000.00), whichever is less, on construction projects to WMBEs who were the subject of such

Discrimination. Once all bids are received pursuant to this subsection, the bids of each such certified WMBE will be reduced by a dollar amount of five (5) percent or twenty thousand dollars (\$20,000.00), whichever is less, for the purposes of establishing the apparent low bidder. Then, the low responsible, responsive bidder will be awarded the contract at the bid amount submitted; or

- (b) Each type of Eligible Contracts for Construction-Related Professional Services or Professional Services may grant a rating preference, on professional services projects to be put out for RFP or RFQ of an estimated amount of one hundred thousand dollars (\$100,000.00) or more, to WMBEs or firms utilizing WMBEs which were subjected to such Discrimination. Said rating preference will be one (1) to five (5) additional/bonus points, based on the level of WMBE participation in the bid and how such level meets the WMBE program goals, on a ninety-five (95) point scale used when evaluating and rating bids for professional services.

**Sec. 26.5-198 – 26.5-200 Reserved.**

### **ARTICLE III. REQUIREMENTS OF BIDDERS AND CONTRACTORS**

#### **Sec. 26.5-201. General Information Requirements.**

Upon the appropriate finding of Discrimination on the basis of race, gender or ethnicity with respect to specific contract or procurement activities of the City, the following information must be provided with respect to each such contract or procurement activity for each racial, gender or ethnic group subject to such Discrimination:

- (a) At the time of Bid submittal, all Bidders on such an Eligible Contract shall submit, as part of their bid documents, information and documentation adequate to evidence their efforts, at that point in time to obtain participation of the racial, gender or ethnic group discriminated against, to meet the project goal. Such documentation shall include, but need not limited to, the following:
  - (1) schedule of all such WMBE subcontractors solicited;
  - (2) schedule of all such WMBE subcontractors, suppliers or joint venturers anticipated to participate therein, including the dollar amounts and scopes of work of such participation;

- (3) any letters of intent in existence as of submittal from all such participating WMBE subcontractors; and
  - (4) an affidavit declaring the Bidder's intention to fully comply with the provisions of this chapter and all City procedures established pursuant hereto.
- (b) Prior to award of the Bid, any changes to the participation of such a WMBE in a Bidder's Bid, must be provided in writing to the user department and the Manager and approved in writing by the user department and the Manager.
  - (c) After Bid award, the winning Bidder shall provide a complete summary of all deviations in actual use of subcontractors and suppliers including actual payments, on or before thirty (30) days after completion of the contract or procurement.
  - (d) A Bidder's failure to submit any information required by this chapter or by the City's WMBE program procedures may render the Bid non-responsive.

**Sec. 26.5-202. Prohibition on Brokering Services.**

It is prohibited hereunder to use a WMBE provider, contractor or subcontractor as a broker of services, rather than an actual provider thereof. Accordingly, to qualify as a WMBE award the following shall apply:

- (a) WMBEs are required to perform a commercially useful function on contracts let or made pursuant to this chapter.
- (b) Only expenditures to or contracts with WMBEs that perform a commercially useful function in the work of a contract may be counted towards the WMBE utilization. A WMBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and/or supervising the work involved. To determine whether a WMBE is performing a commercially useful function, the City will evaluate all relevant factors such as, for example, the amount of work subcontracted and industry practices.
- (c) Consistent with normal industry practice, a WMBE may enter into subcontracts. If a WMBE subcontracts fifty (50) percent or more of the work of a contract, the WMBE shall be presumed not to be performing a commercially useful function. The WMBE may present evidence to rebut this presumption to the City, with any

decision in that regard being based upon normal industry standards.

**Sec. 26.5-203. Goal Achievement.**

- (a) All contractors, subcontractors and suppliers are subject to the reporting requirements applicable to Eligible Contracts as set forth herein. All WMBE participation goals are intended as an indication of contract and procurement awards reflective of reasonable utilization of competent, available WMBE certified providers. In the event of specifically identified Discrimination established in a manner required by applicable law, the participation goals are mandatory and must be met, unless there is a showing that the goals could not be met notwithstanding good faith effort to do so. The Manager shall hear, review and evaluate the evidence and argument that good faith effort has been made pursuant to the requirements contained herein. Any appeal of the Manager's finding shall be to the SLBE Committee. Any appeal from the SLBE Committee shall be by writ of certiorari filed with the circuit court in and for Hillsborough County within thirty (30) days of the SLBE Committee rendering its final decision on such appeal. The SLBE Committee decision shall be deemed rendered on the day its written decision is postmarked to the contractor, subcontractor or supplier subject thereto.
- (b) All parties seeking City contractors or procurements are responsible for achieving participation goals established to remedy specifically identified Discrimination established in a manner required by applicable law. It shall also be the responsibility of such parties to maintain said goals for the duration of the project.
- (c) If the prime contractor or bidder on a construction project is subject to WMBE participation goals, it may count its own participation towards the goal provided it is a certified WMBE. However, such contractor or bidder shall not be exempt from good faith efforts and the requirement to meet the participation goals for all other applicable WMBE Classifications.

**Sec. 26.5-204. Good Faith Efforts.**

Any Bidder, submitting a bid on Eligible Contracts, which does not meet any mandatory participation project goals established by this chapter to remedy specifically identified Discrimination established in a manner required by applicable law, must provide in its bid, documentation of its good faith efforts to achieve said goals. The ability or desire of a Bidder or Contractor to perform the work of a contract with its own organization does not remove the requirement to make good faith efforts

to meet the goals. Evidence of good faith efforts will include, but not be limited to, the following:

- (1) Attendance at pre-bid conference, if held;
- (2) Soliciting through reasonable and available means the interest of WMBEs that have the capability to perform the work of the contract. The Bidder or Contractor must solicit this interest within sufficient time to allow the WMBEs to respond. The Bidder or Contractor must take appropriate steps to follow up initial solicitations with interested WMBEs.
- (3) Providing interested WMBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.
- (4) Negotiating in good faith with interested WMBEs that have submitted bids. Documentation of negotiation must include the names, addresses, and telephone numbers of WMBEs that were solicited; the date of each such solicitation; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached with WMBEs to perform the work. That there may be some additional costs involved in soliciting and using WMBEs is not a sufficient reason for a contractor's failure to meet the goals, as long as such costs are reasonable.
- (5) Not rejecting WMBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The WMBEs standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for rejecting or not soliciting bids to meet the goals.
- (6) Making a portion of the work available to WMBE subcontractors and suppliers and to select those portions of the work or material consistent with the available WMBE subcontractors and suppliers, so as to facilitate meeting the goals.
- (7) Making good faith efforts, despite the ability or desire of a Bidder or Contractor to perform the work of a contract with its own organization. A Bidder or Contractor who desires to self-perform the work of a contract must demonstrate good faith efforts unless the goal has been met.
- (8) Selecting portions of the work to be performed by WMBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate WMBE participation, even when the Bidder or Contractor might otherwise prefer to perform these work items with its own forces.

- (9) Making efforts to assist interested WMBEs in obtaining bonding, lines of credit, or insurance as required by the City or Contractor, where applicable.
- (10) Making efforts to assist interested WMBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, including participation in a city-sponsored mentor-protégé program, where applicable; and
- (11) Effectively using the services of the City and other organizations that provide assistance in the recruitment and placement of WMBEs.
- (12) So long as the Bidder provides the potential WMBEs with sufficient advance notice of its deadline for accepting bids, the refusal to use a WMBE contractor or provider who does not meet such deadline shall not be a basis for refusing to find a good faith effort has been made.

Bidders or Contractors are not required to accept higher quotes in order to meet the goal. In determining whether a Bidder or Contractor has made good faith efforts, the performance of other Bidders or Contractors in meeting the contract project goal may be considered.

The determination of whether a Bidder has made good faith effort will be made by the Manager prior to the award of the project in compliance with the terms hereof. Any appeal of the Manager's finding shall be to the SLBE Committee. Any appeal from the SLBE Committee shall be by writ of certiorari filed with the circuit court in and for Hillsborough County within thirty (30) days of the SLBE Committee rendering its final decision on such appeal. The SLBE Committee decision shall be deemed rendered on the day its written decision is postmarked to the contractor, subcontractor or supplier subject thereto.

#### **Sec. 26.5-205. Post-award Contract Compliance.**

With respect to all participation goals set to eliminate specifically identified Discrimination established in a manner required by applicable law, all awardees shall provide the Manager a written report and verification of the utilization and solicitation of all subcontractors sufficient for the Manager to ascertain and confirm the amount of utilization of such WMBEs subject to the Discrimination, both in awards and dollar value actually paid. All Contractors shall provide the Manager a written report and verification of all dollars paid to all subcontractors, including the following:

- (a) The Contractor shall submit monthly reports in such form, manner and time as required by the Manager summarizing the ongoing participation of all subcontractors in the project.
- (b) A payment schedule in the form of a signed statement must be submitted by the contractor or awardee with the monthly pay request denoting the amount paid to all subcontractors as providers.



- (c) The Contractor shall bring to the attention of the user department and the Minority Business Development (MBD) program office any situations in which regularly scheduled payments are not made to any subcontractors.
- (d) At the completion of performance on the construction project, the contractor or awardee is required to contract, the Contractor shall submit a final schedule by affidavit of all participating subcontractors to the user department and the MBD office. This document will be an affidavit denoting final contract amount and payments made to all sub-contractors.

**Sec. 26.5-206. Exceptions and waivers.**

- (a) Participation goals shall not apply to projects that by City of Tampa Charter are not subject to a bid process.
- (b) The Manager will waive compliance with mandatory goals when the bidder demonstrates he has made reasonable good faith efforts to meet such goals.
- (c) The Manager shall make a finding that the Bidder has satisfied its obligation to make good faith efforts at meeting mandatory goals under the following circumstances:
  - (1) Whenever the bidder has obtained the list of Available WMBEs from the Manager and provides proof of his efforts to contact such Available WMBEs; and
  - (2) An insufficient number of Available WMBEs submitted a proposal or bid to participate in the project that was either responsive to the request or reasonable in terms of comparable dollar amounts for such work or goods in the Tampa Bay area, and those that did were selected for participation.

**Sec. 26.5-207. Reports to Council.**

The Manager shall prepare semi-annual reports to City Council delineating the utilization rates of WMBEs compared to availability on the basis of procurements and total dollars awarded. When applicable, the reports shall measure goal achievement, compliance, good faith efforts, and exceptions and waivers. The Equal Business Opportunity Advisory Committee (EBOAC) shall be given the opportunity to include a statement within the report to City Council. The goals contained within the reports shall be submitted to City Council for approval.

**Sec.26.5-208. Equal Business Opportunity Advisory Committee.**

- (a) The City shall create the Equal Business Opportunity Advisory Committee (EBOAC), a citizen task force of 16 members (9 Mayoral and 7 City Council appointees), representing a cross section of contractors, service providers, and stakeholder organizations.
- (b) The purpose of the EBOAC is to serve as a citizen advisory committee (i) to promote the participation and use of SLBE and, when authorized by law, WMBE businesses in City contracting and procurement and (ii) to relay concerns of minority contractors, women contractors, non-minority contractors and citizens at-large to the City about the operation of this program.
- (c) The EBOAC shall meet at least quarterly and shall be provided with all reports provided to City Council and may include a statement to City Council within the Manager's semi-annual report.

**Sec. 26.5-209 – 26.5-235. Reserved.**

**Section 3.** That all ordinances and conflicts herewith are appealed to the extent of any conflict.

**Section 4.** That if any part of this ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions at the City of Tampa's election shall remain in full force and effect.

**Section 5.** That this ordinance shall take effect within thirty (30) days upon becoming a law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA, ON JUN 05 2008.

ATTEST:

  
CITY CLERK/DEPUTY CITY CLERK

  
CHAIRMAN/CHAIRMAN PRO-TEM  
CITY COUNCIL

APPROVED BY ME ON JUN 05 2008

  
PAM IORIO, MAYOR

PREPARED BY AND APPROVED  
AS TO LEGAL SUFFICIENCY:

  
DAVID L. SMITH  
CITY ATTORNEY